

Executive Summary Direct Investigation Report

Leisure and Cultural Services Department's Allocation of Swimming Lanes in Public Swimming Pools and Its Monitoring Mechanism

Introduction

Among the 44 public swimming pools currently managed by the Leisure and Cultural Services Department (“LCSD”), the main pools, secondary pools, training pools, teaching pools and diving pools in 42 swimming pools are available for hire by organisations during designated sessions. For fair allocation of swimming lanes in public swimming pools to different organisations (including Government departments, schools, relevant national sports associations (“NSAs”) and their affiliated clubs, non-governmental organisations, etc.), LCSD has established the mechanism and priorities for booking of those swimming lanes by organisations.

2. To promote water sports in a holistic manner, LCSD has implemented the Central Lane Allocation Scheme (“CLAS”) since 2005 for the main pools of public swimming pools, whereby major relevant NSAs are assisted to hire the main pool swimming lanes for long-term sports development and training. Under CLAS, LCSD first coordinates with the NSAs on the allocation of number and sessions of swimming lanes in the main pools. Subsequently, each NSA, based on a set of fair and reasonable mechanism and procedures, should coordinate and nominate its own affiliated clubs to hire the allocated sessions. Such applications should then be submitted to LCSD for approval.

3. However, some swimming clubs and members of the sector pointed out that the internal allocation mechanism of certain NSAs are unfair. Yet, LCSD has not regulated how the NSAs allocate the swimming lanes. After allocation of swimming lanes, some clubs would subsequently cancel a large number of bookings for those lanes. Notably, there were media reports that some clubs allegedly used the allocated public swimming lanes for organising profit-making swimming courses. The current operation of CLAS warrants our attention.

Our Findings

4. In sum, we have identified the following five inadequacies in LCSD's mechanism for allocation of swimming lanes in public swimming pools.

(I) Unclear Use of Public Swimming Lanes Allocated under CLAS

5. LCSD introduced CLAS to coordinate the demands for main pool swimming lanes among the NSAs/swimming clubs, thereby providing stable venues for long-term training of swimmers. LCSD stressed that training in swimming covers a wide range of levels. Since the implementation of CLAS, LCSD has not given a clear definition of "training" use (such as solely for training purpose by swimming squads). At present, LCSD relies on the Terms and Conditions of Hire of Public Swimming Pools ("Hire Terms"), which stipulates that non-swimmers and beginners are not allowed to participate in any event in the main pool at depth exceeding 1.5 metres, to regulate the use of swimming lanes.

6. According to the Hire Terms, other than activities for beginners, it is in principle permissible to conduct all kinds of aquatic activities, ranging from training for full-time athlete swimmers to coaching lessons for non-beginners, in the swimming lanes allocated under CLAS. Our investigation has revealed that many swimming clubs would subsequently cancel bookings for the swimming lanes allocated under CLAS. If those clubs actually using the swimming lanes for long-term training, they are unlikely to frequently cancel bookings for the allocated swimming lanes. If they merely use the allocated swimming lanes for holding similar swimming courses as those provided by other private clubs or organisations, members of the public and other stakeholders would query why CLAS is unique and essential. As such, LCSD has to differentiate the use of swimming lanes allocated under CLAS from ordinary swimming courses.

7. We consider it necessary for LCSD to liaise with the NSAs and stakeholders and review the use of swimming lanes allocated under CLAS (for instance, whether the swimmers/swimming squads using those lanes are subject to any eligibility criteria, such as cumulative attendance rate in training programmes or reaching certain levels of swimming techniques). LCSD should also draw up relevant guidelines and hire terms which are compatible with the current training needs of the sector and public expectations.

8. Meanwhile, after clearly stipulating the use of main pool swimming lanes allocated under CLAS, LCSD should scrutinise jointly with the NSAs the number of swimming lanes required, and proactively consider reducing the number of lane hours available under the scheme. In particular, more swimming lanes in popular sessions should be released for booking by other organisations outside CLAS through the established procedures in an open and fair manner, or for public use.

(II) Failing to Monitor Allocation of Swimming Lanes by NSAs

9. Under the current mechanism of CLAS, LCSD first coordinates with the NSAs on the allocation of number and sessions of swimming lanes in the main pools. The NSAs then distribute those allocated lanes among their affiliated clubs based on their internal mechanisms. LCSD generally refrains from interfering in matters within the scope of internal administration and professional knowledge of the NSAs. In other words, LCSD will not interfere in the specific arrangement for allocating swimming lanes to affiliated clubs by the NSAs based on their internal mechanisms.

10. However, during our investigation, many swimming clubs and coaches told us that the internal allocation mechanisms of certain NSAs are unfair. Some swimming clubs are able to use their competitive edge (such as with longer club history) over other affiliated clubs within their NSA to obtain more swimming lane resources. Taking the Hong Kong Amateur Swimming Association (“HKASA”) as an example, in 2017/18 the aggregate lane hours obtained by the ten affiliated clubs of HKASA with the most swimming lanes allocated represented nearly half of the total lane hours allocated to HKASA under CLAS. Evidently, substantial swimming lane resources are controlled through CLAS by a handful of clubs within HKASA. This may hamper the development of small-scale or newly established swimming clubs.

11. We consider that LCSD, as the administrator of swimming lanes in public swimming pools, should not only ensure that the swimming lanes allocated under CLAS are properly used, but also oversee that the swimming lanes are allocated under a fair mechanism to stakeholders in need, so as to prevent any NSAs/swimming clubs from taking advantage of CLAS to gain overwhelming control over swimming lane resources.

12. We recommend that LCSD consider setting up an independent panel/committee to review the objective mechanism/criteria for allocation of swimming lanes. The Department can consult the NSAs, swimming clubs, members of the sector and stakeholders to collectively draw up the objective mechanism and criteria for

allocation of swimming lanes, thereby enhancing the transparency and fairness of the mechanism, and balancing the demands of various stakeholders.

13. Moreover, LCSD should explore setting an upper limit on the number of lanes allocated to each club to prevent the allocation of swimming lanes from being overly concentrated in certain swimming clubs, especially for the peak hours or swimming lanes in popular main pools. This will give other interested swimming clubs or organisations more opportunities to hire the swimming lanes in those sessions and venues.

(III) Failing to Effectively Verify Whether Swimming Clubs Have Used Public Swimming Lanes for Profit-making Purposes

14. LCSD requires the swimming lanes in public swimming pools hired at normal rates to be used for non-profit purposes only (including swimming lanes allocated under CLAS). Nevertheless, LCSD has not established any stringent verification mechanism to ensure strict compliance with the relevant requirement by the NSAs and swimming clubs. LCSD currently accepts that NSA-affiliated clubs use the swimming lanes hired under CLAS solely for non-profit purposes, simply on the ground that the Articles of Association of the NSAs require their affiliated clubs to be non-profit-making organisations.

15. In response to media reports that certain affiliated clubs of HKASA allegedly used public swimming lanes to hold swimming courses for profit-making purposes, we note that HKASA, during its investigation, could not obtain the financial reports of the affiliated clubs concerned regarding the income and expenditure of their swimming courses. It shows that the NSAs are not in a position to regulate or individually scrutinise whether their affiliated clubs have derived profits from organising activities. It is based on wishful thinking that LCSD accepts all activities organised by swimming clubs are not for profit simply on the grounds that they are non-profit-making organisations. This also reflects that LCSD has failed to effectively verify and enforce the provision that swimming clubs should only use public swimming lanes for non-profit activities.

16. On preventing swimming clubs from using the swimming lanes for profit-making purposes, we are aware that LCSD has introduced improvement measures to strengthen the declaration and review systems of relevant swimming clubs, including stipulating that LCSD has the right to require the clubs to submit their audited accounts

or statement of accounts audited by a certified public accountant for scrutiny. We urge LCSD to step up monitoring the effectiveness of those improvement measures (such as diligently scrutinising the accounts of swimming clubs) and conduct timely reviews of those measures, thereby ensuring that all activities organised by swimming clubs under CLAS are non-profit in nature.

(IV) Too Lenient in Regulating Cancellation of Bookings for Public Swimming Lanes by Swimming Clubs

17. Under CLAS, the NSAs and their affiliated clubs should have conducted internal “coordination” before applying to LCSD for hiring of swimming lanes for long-term training of swimmers. Consequently, after allocation of swimming lanes, there should not be frequent changes or cancellations by swimming clubs.

18. However, we found the opposite after scrutinising the situation of bookings and cancellations of swimming lanes allocated under CLAS in five public swimming pools¹. Of the five swimming pools, three recorded cancellation rates at higher than 10% in 2017 and 2018, with the highest at 34%. The cancellation rates of certain clubs were as high as 100%. Another club was allocated swimming lanes via different NSAs, only to cancel bookings for those lanes subsequently.

19. Moreover, although some swimming clubs cancelled a large number, or even all, of their bookings for the allocated swimming lanes, we have not seen any rejection of their applications by LCSD. Nor has LCSD adopted any follow-up measures, such as restricting their subsequent applications. In other words, swimming clubs can cancel bookings at no extra cost or consequence.

20. To ensure that CLAS is effective and fair in allocation of swimming lanes for use by swimming clubs, we consider that LCSD should impose stringent restrictions on swimming clubs for cancellation of allocated swimming lanes. Any clubs apply to cancel their approved bookings must provide substantive and reasonable justification, or LCSD should reject such applications and require them to pay the hire charges in full. Further, LCSD should raise the cost of cancellation (such as charging an administration fee) to deter swimming clubs from obtaining swimming lanes under CLAS and cancelling them subsequently.

¹ They are the Victoria Park Swimming Pool, Kowloon Park Swimming Pool, Morrison Hill Swimming Pool, Tseung Kwan O Swimming Pool and Lai Chi Kok Park Swimming Pool.

21. In the long run, LCSD should also liaise with the NSAs to jointly devise a specific mechanism for cancelling the bookings of swimming lanes allocated under CLAS, including stipulating the maximum number of swimming lanes allowed to be cancelled by their affiliated clubs, the number of cancellations allowed and the procedures for cancellation. As a deterrent, LCSD should take decisive action to impose more rigorous penalties on swimming clubs found to have lightly cancelled the allocated swimming lanes.

(V) Inadequate Regulatory Action against Unauthorised Transfer of Swimming Lanes

22. According to the Hire Terms, hirers are prohibited from transferring the hired swimming lanes to other organisations. To prevent unauthorised transfer of swimming lanes, LCSD staff will verify the identity of users and relevant coaches upon admission of an organisation to the hired venue. Moreover, LCSD requires the trainees of organisation hirers to wear swimming caps or other identifiers of their organisations for easy identification. Swimming pool staff will also conduct poolside inspection from time to time.

23. Nevertheless, we received a number of comments about swimming clubs evading the inspection of LCSD by various means (such as asking trainees to wear the swimming cap of another club, or hiring swimming lanes in the name of another club with higher ranking, and then using the lanes in the capacity of that club). To address the unauthorised sharing or transfer of swimming lanes by swimming clubs, we consider it essential for LCSD to strengthen the relevant regulatory efforts and measures.

Conclusion

24. We have to emphasise that this direct investigation is not against any NSAs, nor do we require LCSD to interfere in their internal affairs or to scrap CLAS. However, this investigation has revealed that the current problems of CLAS stem from LCSD's over-reliance on the NSAs to allocate swimming lanes and monitor on their own. Even when problems emerged, LCSD could only accept the information and explanations provided by the organisations concerned. Having difficulty in probing directly and deeply into the organisations' internal administration and operation or taking substantive follow-up action, LCSD was unable to effectively rectify the problems.

25. Through our improvement recommendations, including clearly defining the use of swimming lanes, devising an objective and transparent mechanism for allocation of swimming lanes, and improving the mechanism for cancellation of bookings, we hope that LCSD can be prompted to improve CLAS, leading to more effective and fair allocation of precious swimming lane resources to stakeholders in need, and higher transparency of the allocation mechanism for better monitoring by the public.

Recommendations

26. In the light of the above, The Ombudsman makes the following eight recommendations to LCSD:

- (1) to liaise with the NSAs and representatives of the sector for stipulating clearly the use of main pool swimming lanes allocated under CLAS (for instance, the swimmers/swimming squads using those lanes are subject to some eligibility criteria, such as cumulative attendance rate in training programmes or certain levels of swimming techniques), and draw up relevant guidelines and hire terms;
- (2) to stringently review the number of lane hours in the main pools allocated under CLAS, especially for those popular sessions, thereby releasing more swimming lanes for booking by other organisations through established procedures, or for public use;
- (3) to consider establishing an independent panel/committee and consulting the NSAs, swimming clubs, members of the sector and stakeholders to collectively draw up the allocation mechanism and criteria in an objective and transparent manner;
- (4) to explore setting an upper limit on the number of main pool swimming lanes allocated to each swimming club, especially for the peak hours or swimming lanes in popular main pools, so as to give other interested swimming clubs or organisations more opportunities to hire the swimming lanes in those sessions;

- (5) to step up monitoring the effectiveness of the improvement measures regarding the declaration and review systems of swimming clubs, and conduct timely reviews of those measures, thereby ensuring that all activities organised by swimming clubs under CLAS are non-profit making;
- (6) to impose restrictions on swimming clubs for cancelling their bookings of main pool swimming lanes allocated under CLAS, and explore ways to raise the cost of such cancellations by swimming clubs;
- (7) in the long run, to liaise with the NSAs to jointly devise a specific mechanism for cancellation of main pool swimming lanes allocated under CLAS, and impose more rigorous penalties on those swimming clubs found to have lightly cancelled their bookings; and
- (8) to strengthen the regulatory efforts and measures against unauthorised transfer of swimming lanes by swimming clubs.

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