

Investigation Report

Complaint against Agriculture, Fisheries and Conservation Department and Hospital Authority for improper handling of a dog biting incident in which the complainant was injured

This Office received a complaint from Ms A (“the complainant”) alleging that the Agriculture, Fisheries and Conservation Department (“AFCD”) and the Hospital Authority (“HA”) had failed to handle properly an incident in which she was bitten and injured by a dog on the street.

The Complaint

2. At around 10 pm on 28 May 2017 (initially claimed to be 10:38 pm, later amended as 10:45 to 11 pm), the complainant was bitten and injured on the thigh by a dog on the street. She then sought medical treatment at a hospital under HA (“the Hospital”) and reported the incident to the Police at the police post there. The case was referred to AFCD for follow-up action.

3. The complainant subsequently enquired of AFCD’s staff several times about case progress via the telephone and the smart phone application WhatsApp. AFCD issued a written reply to her on 15 August 2018.

4. On 27 February 2018, the complainant expressed her discontent over the medical reports issued by the Accident and Emergency Department (“A&E”) of the Hospital. The Hospital issued two written replies to her on 3 May and 9 July separately.

5. The complainant’s allegations against AFCD and HA were summarised as follows:

- (1) **AFCD** had delayed in informing the complainant of its decision not to institute prosecution against anyone; as a result, she could not submit other evidence (such as the sick leave certificate issued on the day of the incident specifying “dog bite over left thigh”, wound assessment record, police report record, wound-dressing certificate and the Hospital’s reply to her appeal) before the time bar for prosecution had lapsed for AFCD’s re-consideration. It was not until 8 February 2018 when the complainant telephoned two AFCD officers (“Officer B” and “Officer C”) to enquire about the case that she was informed of AFCD’s decision not to institute prosecution due to insufficient evidence.
- (2) **AFCD**’s written reply on 15 August 2018 (“the Reply”) did not fully tally with what actually happened. For instance:
 - (a) the Reply stated that AFCD officers told her in November 2017 that

the Hospital's medical reports were not sufficient proof that her injury was caused by dog bite. The complainant said it was not the case. She had telephoned AFCD several times that month, but neither Officer B nor Officer C told her that no prosecution would be instigated. AFCD had not issued any written notification to her either. It was not until 8 February 2018 when she called Officer B and Officer C again that she was informed of AFCD's decision not to institute prosecution due to insufficient evidence. Besides, Officer C admitted in his WhatsApp communication with the complainant on 17 July 2018 that there had been "omissions" and "unsatisfactory handling" on his part.

- (b) The Reply claimed that the complainant learned from the Prosecutions Unit of AFCD in January 2018 that there would not be any prosecution against anyone due to insufficient evidence. The complainant said it was not true.
 - (c) The Reply also claimed that the CCTV footage that the complainant had mentioned was found to be insufficient evidence upon investigation by AFCD because the CCTV was located at a spot where it could not capture how the incident took place. The complainant questioned the veracity of this claim because Officer B and Officer C had very early on refused to assist her to view the CCTV footage at the scene of the incident, let alone conducting any investigation with regard to the footage. Besides, she had asked the property management company, which could have provided the footage, and learned that AFCD had never contacted the company.
- (3) **AFCD** and **HA** shifted responsibility to each other, thereby affecting evidence collection for the case. The Hospital stated clearly in its written reply to the complainant on 3 May 2018 that the medical reports provided to AFCD did mention that she had been bitten and injured by a dog. AFCD, however, refused to accept the medical report issued on 12 June 2017 and requested the Hospital to reiterate again that the complainant's wounds were caused by dog bite. The complainant considered the request superfluous. The Hospital's subsequent reply to AFCD was unclear and even stated that her wounds were not caused by dog bite. This was contradictory to the Hospital's written reply on 3 May 2018.
- (4) **HA** recorded the time of the incident incorrectly. The Hospital's medical report signed on 12 June 2017 indicated that the complainant was bitten and injured by a dog at 22:00 (i.e. 10 pm), which was not correct. The complainant had alleged that the incident took place between 10:45 to 11:00 pm.

Our Findings

Response from AFCD

Relevant Guidelines

6. Upon receipt of a police referral of a dog bite case, the Animal Management (Operations) Division of AFCD would conduct an investigation, including contacting the victim, searching for and confirming the dog involved and contacting the dog keeper (if any) for recording a statement. The information collected would then be forwarded to AFCD's Prosecutions Unit for it to determine whether to institute prosecution or not.

7. AFCD's Guidelines on Handling Dog Bite Cases ("the Guidelines") stipulate clearly the responsibilities of staff of different ranks as follows:

- (1) The duties of Field Officers ("FOs") of all Animal Management Centres ("AMCs") include:
 - (a) to explain to the victim and dog keeper the handling procedures to avoid misunderstanding;
 - (b) to clearly record on the "Checklist for animal biter/attack case" all relevant information (including where and when, information of the reporter, the biter and the keeper, as well as the particulars and condition of the victim). The Checklist also contains separate tables for "investigators" to fill in details about "contacts with the victim" and "contacts with the keeper", including the dates and times of contacts, the results of telephone calls or face-to face meetings, etc.;
 - (c) to ensure that the victim has filled in and signed the document of "Biter/Attack Case - Victim/Victim's Guardian Investigation Information", and has signed the "Medical Consent" for AFCD to obtain a copy of the medical report of the victim from the hospital/clinic concerned. A "Witness Statement" should also be taken if the victim is willing to testify at court;
 - (d) to inspect every day the "Biter Case Register" and detailed information on unfinished cases to arrange for appropriate follow-up actions;
 - (e) to consider all information obtained in the course of investigation, and make recommendations on whether to institute prosecution;
 - (f) to refer all cases recommended for prosecution and related documents to the Prosecutions Unit in a timely manner, with the necessary documents attached. The relevant information should also be entered into the "Animal Licencing and Enforcement System" for

record; and

(g) to issue, upon completion of investigation, to the victim a “Notice of investigation result of a suspected animal attack case” so that the victim would know the investigation outcome.

(2) All cases should be examined by supervisors of the grade FOI of AMCs and reviewed by a Senior FO. Veterinary Officers should also conduct random sampling checks every month to ensure proper handling of cases.

8. For prosecution cases, AFCD’s Prosecutions Unit must initiate the prosecution procedures within six months of the incident as required by the law.

9. AFCD clarified that while the six-month time bar for prosecution is a statutory requirement with which prosecution officers must comply, it is not standard information that must be conveyed to those involved in a case. As such, AFCD officers would normally only mention the time bar for prosecution upon enquiry, rather than disclosing it to them proactively.

Sequence of Events

10. The sequence of main events in AFCD’s handling of the case is at **Annex**.

Communication Records

11. An FOII (i.e. Officer B) of one of the AMCs (“the AMC”) under AFCD made a testimony on 20 November 2018 in which he stated that he met with the complainant on 9 June 2017 and took a statement for her. Between late September 2017 and 3 July 2018, he had handled four telephone enquiries by the complainant.

12. Yet, AFCD could only provide this Office with the record of the telephone enquiry by the complainant on 3 July 2018, but not those of the other three enquiries. The above record showed that during the telephone conversation on 3 July 2018, the complainant had asked AFCD to obtain the CCTV footage of the incident from the property management office concerned so that she could file a civil claim for damages. The complainant’s view was that although the footage did not capture the moment she was bitten by the dog, it could show how she sought help and treatment from the building nearby after being bitten and injured. Officer B replied to her that the footage was irrelevant to her case as it had failed to capture how she was bitten and injured, and AFCD could not help her obtain the footage for filing a civil claim.

13. Another FOII (i.e. Officer C) of the AMC made a testimony on 18 July 2018. He stated that he had contacted the complainant thrice on the telephone between early November 2017 and 1 March 2018. Documents also showed that Officer C had met with the complainant in the AMC on 11 February 2018 and provided her with the personal particulars of the dog keeper at her request. Officer C also said that he had

sent the letter issued by AFCD to the Hospital via WhatsApp to the complainant on 9 March 2018. In the letter, AFCD asked the Hospital to clarify whether her wounds were caused by dog bite. Nevertheless, AFCD could not provide this Office with any records of the telephone or WhatsApp communications between Officer C and the complainant.

14. In addition, Officer B admitted that he had received supplementary information from the complainant several times on 11, 13 and 29 June 2017 via the email account of the AMC. The information included a number of photographs of her wounds, a wound assessment record of a hospital, the prescription and vaccination record of the A&E of the Hospital, record of vaccination against rabies, as well as a sick leave certificate issued by a medical centre. Officer B later just forwarded the emails to Officer C, but both of them failed to print out and file the email information. Consequently, the information had not been forwarded to the Prosecutions Unit for examination.

15. According to the internal email record of Officer D of the Prosecutions Unit on 9 November 2018, he had talked with the complainant over the telephone in January 2018, but could not recall the exact date and did not keep any record of the conversation. Officer D claimed that his telephone conversation with the complainant only involved general matters (including principles of prosecution and judiciary formalities) and did not touch on details of the case. He therefore considered that there was nothing important about this conversation to put on record. Nevertheless, AFCD considered that part of Officer D's explanation to the complainant was related to the case and he should have informed the case officer for filing a case record. The units concerned would strengthen communication with each other in the future in this regard.

16. The testimony made by an FOI (i.e. Officer E) of the AMC on 6 August 2018 stated that the complainant had called him on 5 July 2018 to request AFCD to help her obtain the CCTV footage for filing a civil claim for damages. On 10 July, he received another telephone enquiry from the complainant. Officer E subsequently reported to his supervisor via email and entered a record in the Complaint Register of the AMC.

17. Officer C said that he issued the "Notice of investigation result of a suspected animal attack case" to the complainant in early February 2018, but did not file a copy of the Notice for record and was, therefore, uncertain of the date of issue. AFCD learned from the information provided by the complainant that she acknowledged receipt of the Notice via WhatsApp to Officer C on 22 February 2018.

Recorded Telephone Conversations and WhatsApp Dialogues Provided by the Complainant

18. Both Officer C and Officer B confirmed that a recorded telephone conversation provided by the complainant was between the complainant and themselves separately. Officer D of the Prosecutions Unit confirmed that two other recorded telephone conversations were between the complainant and him. However, none of the three officers were sure of the date of these conversations. AFCD could not find any

messages from those recorded conversations showing that between September 2017 and 8 February 2018, Officer C or Officer B had failed to notify the complainant of the investigation result.

19. Officer C also confirmed that the recorded WhatsApp dialogues provided by the complainant were the content of dialogues between him and the complainant. He, however, failed to keep a record of the dialogues in the case file.

Allegation (1)

20. AFCD pointed out that in the course of handling dog biting incidents, its staff would ask the victims to try their best to provide all related information and evidence, and ask them if they have any supplementary information during the course of taking verbal statements from them. According to the meeting record of 9 June 2017, Officer B had asked the complainant very clearly “whether she had any supplementary information” and the complainant replied that she did not.

21. Normally, AFCD would formally notify victims of the investigation result only after the Prosecutions Unit has reached a conclusion upon assessment of all information and evidence. Since the complainant’s case was still under assessment between September and late November 2017, AFCD would not issue a Notice of the investigation result to her during this period. AFCD eventually issued a “Notice of investigation result of a suspected animal attack case” to the complainant in early February 2018.

22. In the recorded WhatsApp dialogue provided by the complainant, she mentioned that Officer B had told her that she would be notified of the investigation result six months later. He had also mentioned the time limit for claiming damages. Furthermore, in the letter attached to her email to AFCD on 8 July 2018, she mentioned that (prior to 2018) she made on average three telephone calls every month to AMC staff to enquire about case progress. Under such circumstances, it would have been impossible that AFCD’s staff had delayed in informing her of the prosecution progress.

Allegation (2)(a)

23. According to Officer C’s testimony on 18 July 2018, he had informed the complainant in early November 2017 that the diagnosis contained in the medical report provided by the Hospital failed to indicate clearly that she had been bitten by a dog. Based on his testimony, AFCD indicated to the complainant in the Reply that its staff had told her in November 2017 that the medical report provided by the Hospital could not prove that her injury was caused by dog bite.

24. Officer C’s account of events showed that he had informed the complainant of the investigation result of the case in early February 2018 (see **para. 17**).

Allegation (2)(b)

25. In the letter attached to the email to AFCD on 8 July 2018, the complainant indicated that she only learned of the investigation result (that the dog keeper would not be prosecuted) when she telephoned AFCD between late January and early February 2018. Officer D of the Prosecutions Unit, on the other hand, said that the complainant had contacted him in January 2018 (see **para. 15**). As such, AFCD indicated to the complainant in the Reply that the complainant learned from the Prosecutions Unit in January 2018 that AFCD would not prosecute anyone due to insufficient evidence.

Allegation (2)(c)

26. Officer B replied to the complainant by telephone on 3 July 2018, saying that the CCTV footage was irrelevant to the case because it failed to capture how she was bitten and injured by the dog. Besides, AFCD could not assist her in obtaining the CCTV record to facilitate her civil claim (see **para. 12**). On this, AFCD indicated in the Reply that “upon investigation, (AFCD) found that the CCTV at the scene did not capture the course of the incident, and was, therefore, not sufficient evidence.”

27. Upon review, AFCD considered that the expression “upon investigation” was inaccurate. It should have said “upon judgement” instead.

Allegation (3)

28. Regarding the complainant’s case, the medical report issued by the Hospital on 12 June 2017 (“the first medical report”) read: “*She (the complainant) sustained dog bite at 22:00, claim by unknown street dog outside of construction site... On examination, there were multiple small laceration wounds < 1 cm over left thigh.*” AFCD explained that the first part of the description was a statement, the second part was a professional judgement made by the doctor after examining her wounds, which, however, fell short of indicating definitely that her wounds were caused by dog bite. Consequently, the Prosecutions Unit decided not to institute prosecution.

29. On 22 September 2017, AFCD requested the Hospital to provide an updated medical report and elaborate clearly whether the complainant’s wounds were caused by dog bite. The Hospital issued another medical report on 27 October 2017 (“the second medical report”) which stated that “*she (the complainant) claimed dog bite injury by unknown street dog outside construction site...*” The report revealed that the complainant claimed to have been bitten and injured by an unknown dog, but it fell short of reflecting the clinical diagnosis regarding the complainant’s wounds.

30. According to AFCD’s “Prosecution Code”, the prosecution must have sufficient evidence legally to support prosecution and the prosecution staff must first make judgement on any doubts concerning the acceptability and/or reliability of the evidence; and consider whether there are any reasonable chance of conviction according to those evidence. As such, if the medical reports just indicated that the complainant “claimed to have sustained dog bite injury”, instead of the doctor’s professional judgement upon examination of her wounds, the reports would be doubtful

evidence and AFCD had no basis to consider prosecution.

Improper Handling by Staff

31. AFCD admitted to the following improper behaviour by its staff in handling this case:

- (1) Officer C and Officer B had failed to file the complainant's email information. As a result, the Prosecutions Unit could not consider those information (see **para. 14**).
- (2) Officer C's WhatsApp dialogues with the complainant about official matters also contained private conversations irrelevant to the case.
- (3) Officer C should not have sent documents and information (in particular confidential and sensitive information) to the complainant via WhatsApp (see **para. 13**). Instead, he should have sent them to her either by post or in person.
- (4) The recorded telephone conversation provided by the complainant revealed that Officer C had told her that he could let her inspect the case documents. AFCD was of the view that while there was no proof that he had let her do so, his suggestion would lead to misunderstanding by the public that its staff could wilfully disclose information obtained in the course of investigation to a third party.

32. On misconduct (1) above, AFCD would consider disciplinary action against Officer B and Officer C in accordance with established procedures. On (2) to (4), AFCD had cautioned and issued instructions to Officer C.

Response from HA

Allegation (3)

33. HA explained that its doctors would make records of incidents based on patients' descriptions when they sought medical treatment at A&E. Since the complainant claimed that she was bitten and injured by a dog at that time, the doctor assessed her injury, dressed her wounds and prescribed treatment accordingly. The information on the medical certificate issued on the day she sought treatment tallied with the doctor's judgement.

34. In response to AFCD's request, the Hospital subsequently provided the first medical report on 12 June 2017, in which it was stated clearly that "*she (the complainant) sustained dog bite*". Regarding AFCD's repeated request to the Hospital to confirm whether the complainant's wounds were caused by dog bite, the Hospital opined that since the doctor was not at the scene where the complainant was injured, he could only

write up the second medical report dated 27 October 2017 according to the record of A&E, and revised the descriptions therein to become “*she (the complainant) claimed dog bite injury*” to reflect as far as possible the circumstance when the complainant sought medical treatment.

35. Records showed that the complainant lodged a complaint with the Hospital between 27 February and 12 March 2018, claiming that AFCD had told her that the first medical report it provided did not mention that she had been bitten by a dog. As a result, AFCD had asked the Hospital again in September (2017) to provide another medical report. Nevertheless, both reports made no mention that she had been bitten by a dog. The complainant was dissatisfied that neither report mentioned this point, and queried why the doctor did not directly answer AFCD’s question as to whether her wounds were caused by dog bite.

36. On 3 May 2018, the Hospital replied to the complainant, confirming that it did mention in the medical reports that she had been bitten and injured by a dog.

37. On 28 May 2018, the complainant lodged another complaint with the Hospital, expressing doubts that the Hospital had not responded directly to AFCD’s request and confirmed whether her wounds were caused by dog bite.

38. On 9 July 2018, the Hospital wrote to the complainant again, indicating that “*on 28 May 2017, the doctor, upon examining (the complainant), made a clinical diagnosis that it was a dog bite... Subsequently, (AFCD) applied (to the Hospital) for the (complainant’s) medical report. (The Hospital) then indicated in the report that (the complainant) had been bitten by a dog according to A&E’s record.*”

Allegation (4)

39. HA indicated that the original A&E record made on the day the complainant sought treatment read “*Dog bite ~ 10 pm*” (around 10 o’clock at night). It was an instantaneous record made by the doctor according to the complainant’s descriptions when she sought treatment, and medical reports issued by the Hospital were based on the A&E record. In the absence of an independent third party or other information as corroborative evidence, the Hospital could not negate or amend the real-time record made by A&E merely because the complainant subsequently altered her account of events.

Our Comments

Allegation (1)

40. Information provided by AFCD revealed that AFCD did not point out specifically the exact date when the investigation of the case was completed. From the sequence of events (see **Annex**), there had been no further investigative action by AFCD since early November 2017 and the time bar for prosecution of the case was 27

November 2017 (i.e. six months after the complainant had allegedly been bitten and injured by a dog). As such, AFCD should have completed the investigation by late November 2017; otherwise, further investigation would only be wasted efforts. AFCD eventually issued a “Notice of investigation result of a suspected animal attack case” to the complainant in February 2018, without filing a copy of the Notice (see **para. 17**).

41. AFCD issued a formal notice of investigation result to the complainant two months after the investigation had been completed. We consider that a very glaring delay. **Allegation (1) was, therefore, substantiated.**

42. As to whether AFCD’s delay would have led to the complainant’s failure to provide evidence, we are of the view that the complainant need not have waited for AFCD’s notification of prosecution decision because she could have provided supplementary information to the Department any time. Records also showed that she had provided supplementary information via email several times in June 2017 (see **para. 14**). Nevertheless, it was a serious mistake that the information had not been forwarded to the Prosecutions Unit for consideration (see **para. 62(1)**).

Allegation (2)(a)

43. Both Officer C and Officer B confirmed that the recorded telephone conversation provided by the complainant was between the complainant and themselves. Yet, neither were sure of the date of the conversation (see **para. 18**). The complainant claimed that the date of the conversation was 8 February 2018.

44. After listening to the recorded telephone conversation, we summarised the main points as follows:

- (a) the complainant, while talking with Officer B, mentioned that it was “early February”, Officer B made no response to this;
- (b) the complainant asked Officer B when he had received the document on the decision not to institute prosecution and why he had not notified her. Officer B said he had to check the records. He then replied that according to the records, (the AMC) received the document in late September. The complainant asked Officer B to forward the telephone call to Officer C;
- (c) after Officer C picked up the phone, the complainant said that she had contacted him between late September and November. According to Officer B, AFCD had already decided not to institute prosecution by then. Officer C explained that his latest reply to the complainant was based on the computer record, which did not show any investigation result at that time;
- (d) the complainant asked Officer C why he had previously suggested that she wait until a prosecution decision was made before filing a claim for

damages against the dog keeper. Officer C replied that he learned from experience that most keepers would not plead guilty if they received a civil claim for damages while they were being prosecuted. Consequently, he **advised** her not to file a civil claim against the dog keeper while prosecution was still in progress. He also indicated that the time bar for filing a civil claim was six years;

- (e) Officer C asked the complainant to meet him at his office on “**Sunday**” so that he could provide to her the information about the dog keeper. He further indicated that he would bring along related files and “**study**” with her the materials written by the Prosecutions Unit. Officer C stated that such behaviour contravened regulations and asked the complainant to pretend that she did not know; and
- (f) Officer C told the complainant that her case was just one among many. **A lot of cases** involved bizarre decisions not to institute prosecution.

45. This Office considered that the above recorded telephone conversation showed that:

- (a) the conversation took place in early February 2018;
- (b) Officer C admitted that he had not informed the complainant of the investigation result in his previous replies to her; and
- (c) Officer C asked the complainant to meet him at his office on a “Sunday”, and AFCD record showed that the date of the meeting was 11 February 2018, Sunday (see **para. 13**).

46. This Office considered that the content of the above conversation implied that neither Officer B nor Officer C had informed the complainant of AFCD’s decision not to institute prosecution in (or by) November 2017. They only informed her of the decision when they talked with her on the telephone in early (before 11) February 2018.

47. We, therefore, considered **allegation (2)(a) substantiated**.

Allegation (2)(b)

48. AFCD explained that based on the information provided by the complainant and the response of Officer D, it indicated in the Reply that the complainant learned from the Prosecutions Unit in January 2018 of its decision not to prosecute anyone due to insufficient evidence (see **para. 25**).

49. We considered AFCD’s explanation reasonable and **allegation (2)(b) was, therefore, unsubstantiated**. Nevertheless, it was inappropriate of Officer D to have failed to communicate with the relevant units regarding his telephone conversation with

the complainant for their proper handling (see **para. 62(3)**).

Allegation (2)(c)

50. AFCD already admitted that the expression “upon investigation” used in the Reply was inaccurate (see **para. 27**). In fact, it had never asked for the relevant CCTV footage for conducting investigation. **Allegation (2)(c) was substantiated.**

51. Overall, we considered **allegation (2) partially substantiated.**

Allegation (3)

52. AFCD already elaborated why it had requested further clarification from the Hospital regarding the first medical report of the complainant (see **paras. 28 and 29**).

53. This Office considered that AFCD’s request for clarification from the Hospital of the A&E doctor’s clinical diagnosis (on whether the complainant’s wounds were caused by dog bite) involved professional judgement by AFCD regarding collection and assessment of evidence. We had no intention to comment in this regard.

54. Meanwhile, HA had explained why the contents of the first and the second medical reports were different (see **paras. 33 and 34**).

55. However, the Hospital stressed in its two replies to the complainant that it did mention that she “had been bitten by a dog” (see **paras. 36 and 38**) in both medical reports it sent to AFCD. In fact, the second medical report read “*She (the complainant) claimed dog bite injury by unknown street dog outside construction site...*” meaning that the complainant claimed to have been bitten by an unknown dog. The report fell short of stating clearly and confirming the clinical diagnosis that her wounds were caused by dog bite. We considered the written reply by the Hospital somewhat misleading.

56. In sum, we considered **allegation (3) unsubstantiated, but there was inadequacy on the part of HA.**

Allegation (4)

57. We agreed to HA’s explanations as set out in **paragraph 39** above.

58. In addition, according to the information provided to us by AFCD, there were discrepancies in the following records regarding the time the complainant was injured:

- (1) Police record on 28 May 2017 showed that the complainant reported that she was bitten and injured by a dog at 11 pm;
- (2) the “Biter/Attack Case - Victim/Victim’s Guardian Investigation Information” signed by the complainant on 29 May 2017 showed that she

was bitten by a dog at 10:45 pm.

59. The time of the incident given to this Office by the complainant had also been inconsistent (see **para. 2**).

60. Given that the complainant had provided different versions as to the time of the incident, we considered that the possibility of her having told the A&E doctor that the incident happened at 10 pm (see **para. 39**) could not be ruled out. Besides, we did not see any motives for the A&E doctor to have recorded an inaccurate time of the incident. We, therefore, considered **allegation (4) unsubstantiated**.

61. In any case, regarding this allegation, the Public Complaints Committee of HA had replied to the complainant on 16 January 2019 that if she considered anything to be incorrect in her medical report, she could request the Hospital to follow up in accordance with the established procedures for amending information on medical reports.

Our Concluding Comments

62. This Office considered that there were inadequacies in AFCD's management of dog bite cases, as follows:

- (1) failing to monitor the proper handling of emails relating to a case by the AMC, reflecting loopholes in the relevant procedures. As a result, it could not discover early the failure of the staff to print out and file the email information provided by the complainant leading to the Prosecutions Unit could not take the information into account (see **para. 14**). This was a serious mistake;
- (2) failing to monitor the timely issue of the "Notice of investigation result of a suspected animal attack case" regarding the case by the AMC. The officer concerned also failed to file a copy of the Notice upon issue (see **paras. 17 and 40**). This was indeed improper;
- (3) Officer B and Officer C of the AMC failing to file in record their communications with the complainant (see **paras. 12 and 13**). This reflected that failure by AFCD staff to follow guidelines (see **para. 7(1)(b)**) and record all information about communications in the "Checklist for animal biter/attack case" was commonplace, and that monitoring by the management was lax. Communication between the Prosecutions Unit and other sections was also inadequate (see **para. 15**); and
- (4) failing to monitor the proper handling of enquiries on a case by the AMC staff. Officer C inappropriately offered advice on when the complainant should file a civil claim for damages in the course of handling her enquiries, inappropriately mentioned how AFCD had handled other cases, and even indicated that he could let her inspect the materials of the Prosecutions Unit

(see **para. 44 (d) to (f)**).

63. This Office considered that the case reflected that the AMC staff had been very sloppy in handling cases, and repeatedly failed to follow guidelines. AFCD should implement improvement measures in these aspects.

Conclusion

64. In sum, The Ombudsman considered the **complaint against AFCD partially substantiated**, and the **complaint against HA was unsubstantiated but there was other inadequacy found**.

Recommendations

65. This Office made the following recommendations to **AFCD**:

- (1) to take suitable disciplinary action (including giving instructions) against the officers concerned for their inappropriate behaviour (see **para. 62**);
- (2) to review the case handling and filing procedures of AMCs to ensure that all case-related information and evidence would be forwarded to the Prosecutions Unit for consideration (see **para. 62(1)**);
- (3) to review the letter issuing and filing procedures of AMCs regarding cases and strengthen monitoring of compliance by staff (see **para. 62(2)**);
- (4) to set up a mechanism for ensuring that its staff file the records of all communications relating to a case (see **para. 62(3)**); and
- (5) to step up monitoring of frontline staff to ensure that they respond properly to case-related enquiries. AFCD can prepare standard materials for issuing written replies to general enquiries (such as those about case handling procedures and procedures for filing civil claims for damages) and for providing information to enquirers (see **para. 62(4)**).

HA's Response to Paragraphs 55 and 56 of the Draft Investigation Report

66. Records of the Hospital showed that the complainant sought medical treatment at A&E at night on 28 May 2017. The doctor entered a record in the document based on her claim that she had sustained dog bite injury, and conducted a clinical examination and an injury assessment. The **Examination** confirmed bruises and multiple small wounds on her left thigh. Since she claimed she had been bitten by a dog and the **clinical judgement** also found her injury consistent with dog bite, the doctor provided treatment accordingly. The third and fourth sentences of the second medical report issued by the Hospital on 27 October 2017 spelt out clearly the **result of clinical diagnosis** for the complainant ("*On examination there were multiple small lacerations*

and bruising over left thigh”) and the medical treatment she thus received. The treatment provided to the complainant that day and the related documents issued subsequently were based on the case being a dog biting incident.

67. HA pointed out that the complainant lodged a complaint with the Hospital between February and March 2018 against the failure of the A&E medical reports to mention that she had been bitten by a dog. In this connection, the Hospital replied on 3 May 2018, stating that “(the complainant) had been bitten by a dog”. The complainant later expressed discontent with the reply and requested follow-up action. She considered the doctor to have failed to respond directly to AFCD’s request to confirm whether her wounds were caused by dog bite. Consequently, in its reply on 9 July 2018, the Hospital explained in detail the medical reports already issued. The second paragraph of the reply stated that “*at that time, (the complainant) told the medical staff (of the Hospital) that she was injured in the left lower limb by a dog. Upon examination by the doctor, (the complainant’s) clinical diagnosis was dog bite.*” In sum, the medical reports issued to AFCD by the Hospital in 2017 and the two replies to the complainant in 2018 were based on the real time clinical records of A&E. There was nothing misleading, contradictory or inaccurate in their contents.

AFCD’s Response to the Draft Investigation Report

68. On allegation (3), AFCD opined that the first medical report issued by the Hospital on 12 June 2017 had failed to state clearly whether the complainant’s wounds were caused by dog bite. AFCD then wrote to the Hospital on 22 September 2017, requesting clarification. The Hospital then provided an updated medical report on 27 October 2017. Although both medical reports contained the words “dog bite”, they fell short of confirming her wounds were caused by dog bite or consistent with dog bite. Furthermore, the Hospital had changed the wordings in the second medical report from “*she **sustained** dog bite at 22:00, claim by unknown street dog...*” used in the first report to “*she **claimed** dog bite injury by unknown street dog...*” It further confirmed that “dog bite” as mentioned in the report was **not** a result of clinical diagnosis by the doctor; rather, it was just a doctor’s record of the complainant’s narration.

69. In view of the reasonable doubt in the two medical reports as to whether the complainant had been bitten and injured by a dog, AFCD could not have prosecuted the dog keeper based on those reports.

70. On the other hand, AFCD indicated that it would accept all our recommendations (see **para. 65**).

Our Further Comments on HA’s response

71. We considered that while the Hospital’s second medical report on 27 October 2017 stated the **result of clinical diagnosis** (“*On examination there were multiple small lacerations and bruising over left thigh*”), it did not clearly indicate that the **clinical judgement** being “the injury was consistent with dog bite”.

72. Regarding the Hospital's allegation in its written reply to the complainant on 9 July 2018 that "*at that time, (the complainant) told the medical staff (of the Hospital) that she was injured in the left lower limb by a dog, upon examination by the doctor, (the complainant's) clinical diagnosis was dog bite*" and that "*(the) Hospital... wrote a medical report stating that (the complainant) had been bitten by a dog*", this Office considered that this was obviously inconsistent with the two medical reports it had issued. As a matter of fact, neither of the medical report contained any words or sentences that meant "*upon examination by the doctor, (the complainant's) clinical diagnosis was dog bite*", or the doctor confirmed the complainant had been bitten by a dog.

73. In the light of the above, we maintained our conclusion set out in **paragraph 56**.

**Office of The Ombudsman
July 2019**

**Sequence of Main Events in Handling the Case by
Agriculture, Fisheries and Conservation Department**

Date	Event
2017	
29 May	<p>(1) An Animal Management Centre (“AMC”) of the Agriculture, Fisheries and Conservation Department (“AFCD”) received Police referral of the complainant’s case of suspected dog bite and injury;</p> <p>(2) Officer B of AMC telephoned the complainant and asked her to conduct site investigation with him in the afternoon that day;</p> <p>(3) Complainant signed the “ Biter/Attack Case - Victim/Victim’s Guardian Investigation Information” and the “Medical Consent”.</p>
30 May	AFCD wrote to the hospital concerned (“Hospital”), requesting a copy of the complainant’s medical report.
9 June	Officer B took statement for the complainant at AMC and indicated that if the dog keeper was found to have violated the law, AFCD would collect related evidence and forward them to the Prosecutions Unit (“PU”) for considering whether to prosecute the keeper. In the process, the complainant asked questions concerning case handling and claims for compensation.
12 June	Hospital issued the first medical report of the complainant.
18 August	AMC referred the case to PU and recommended that prosecution be instituted against the dog keeper pursuant to section 25 (1) of the Rabies Ordinance.
18 September	PU informed AMC that the complainant’s medical report did not clearly confirm that her wounds were caused by dog bite.
22 September	Officer B issued letter to Hospital, requesting clarification of the complainant’s medical report regarding whether her wounds were caused by dog bite.
Late September	Complainant called to enquire about case progress. Officer B informed her that PU raised a query on the case: the medical report did not indicate that her wounds were caused by dog bite. Consequently, PU considered not to institute prosecution. AMC had sent letter to Hospital to request clarification of the medical report.

Date	Event
27 October	Hospital issued second medical report of the complainant, stating that she claimed to have been bitten by a dog. The report did not mention the clinical diagnosis of the complainant's wounds.
Early November	Officer C of AMC informed the complainant of the result of medical report and suggested that she could provide further information, if any, to AFCD.
2018	
January	Complainant telephoned PU of AFCD to enquire of progress in prosecution.
11 February	Officer C met with the complainant and, at her request, provided the dog keeper's personal particulars for her to claim compensation.
Early February	Officer C issued "Notice of investigation result of a suspected animal attack case" to the complainant, indicating insufficient evidence for instituting prosecution.
22 February	Complainant called Officer C, telling him she had contacted PU and learned that the reason for not instituting prosecution was Hospital's medical reports did not mention she had been bitten by a dog.
1 March	<p>(1) Complainant called Officer C, requesting a copy of the medical reports.</p> <p>(2) Officer C posted a copy of the medical reports to the complainant.</p>
3 July	<p>(1) Complainant called AFCD and requested assistance to obtain the CCTV footage of the incident from the property management office concerned so that she could file a civil claim for damages. Complainant said that although the footage did not capture the moment she was bitten by the dog, it could show how she sought help for treatment from the building nearby.</p> <p>(2) Officer B explained to the complainant that since the CCTV footage did not capture how the dog had bitten her, the information was irrelevant to the case and AFCD could not help her obtain the footage for filing a civil claim. Besides, the time bar for initiating prosecution for the case had already lapsed.</p>

Date	Event
5 July	<p>(1) Complainant called Officer E of AMC, indicating that Officer B and Officer C had failed to handle her case properly such that the medical reports failed to prove that she had been bitten by a dog and AFCD decided not to prosecute its keeper.</p> <p>(2) Furthermore, the complainant wanted to file a civil claim for damages and requested AFCD again to help her obtain the CCTV footage at the time of the incident from the property management office concerned.</p> <p>(3) Officer E told her that her case was already concluded and AFCD could not accede to her request.</p>
8 July	Complainant emailed AFCD, with a complaint letter and supplementary information, alleging that Officer B and Officer C had failed to handle her case properly.
27 July	Complainant emailed AFCD and asked for explanation why it requested the doctor concerned to state explicitly her wounds were caused by dog bite when the first medical report already mentioned that she had been bitten by a dog.
15 August	AFCD wrote to notify the complainant of the investigation result regarding her complaint on 8 July.
16 August	<p>(1) Complainant emailed AFCD to express discontent against Officer B and Officer C's failure to inform her of the prosecution result and reasons for not prosecuting the dog keeper before 8 February 2018; and</p> <p>(2) Complainant telephoned AFCD to express her discontent regarding one point in its reply: that AFCD staff had already told her in November 2017 that the medical reports could not sufficiently prove that she had been bitten and injured by a dog. Complainant claimed that she had telephoned AFCD repeatedly between November 2017 and 8 February 2018 to enquire about her case and she was certain that she had never learned the above information from AFCD staff. She had record of her telephone conversation with its staff on 8 February 2018 which showed that they did not mention anything about it. She requested that AFCD re-examine her documents and clarify her doubts.</p>
20 August	AFCD replied to the complainant via email, indicating that it had completed investigation on her case and issued replies to her. She could provide further information, if any, to AFCD.

Date	Event
11 September	AFCD replied to the complainant via email, indicating that upon a review of her case regarding her enquiries between 21 August and 8 September, it was revealed that AFCD decided not to institute prosecution due to insufficient evidence. It had nothing to add.

- END -