

**Handling by**  
**Food and Health Bureau, Food and Environmental Hygiene Department,**  
**Lands Department and Highways Department of unauthorised display and**  
**affixing of bills and graffiti in public places**

**Investigation Report**

This Office has received complaints from various members of the public (“the Complainants”) against the Food and Health Bureau (“FHB”), Food and Environmental Hygiene Department (“FEHD”), Lands Department (“LandsD”) and Highways Department (“HyD”).

**The Complaint**

2. According to the Complainants, considerable amounts of bills, publicity materials and graffiti intending to express political views and demands started to appear in public places (including pedestrian subways, footbridges, roads and road signs) across the territory from July 2019, creating the so-called “Lennon Walls”. Those materials and graffiti contained political slogans and even abusive languages. As the problem of “Lennon Walls” and graffiti persisted, the cityscape was adversely affected, and there were occasional clashes near “Lennon Walls”. The Complainants were dissatisfied with FHB, FEHD, LandsD and HyD for failing to deal with the problem of “Lennon Walls” and graffiti. Their allegations could be summarised as follows:

- (1) **FHB** had failed to instruct FEHD to clean up the “Lennon Walls” in public places. On 21 September 2019, the Secretary for Food and Health (“SFH”) made inappropriate remarks in her response to media enquiries, saying that the “Lennon Walls” had not caused serious environmental hygiene problems, so that the “Lennon Walls” were then not cleaned up. Some of the Complainants considered it improper to differentiate environmental hygiene problems as “serious” or “not serious”.
- (2) **FEHD** had failed to take enforcement action against bills displayed or affixed in public places without permission and also failed to clean up the “Lennon Walls” or institute prosecutions against offenders. FEHD had only indicated that it would deal with those bills that caused serious hygiene problems. Neither had it removed the graffiti in public places.

According to the Complainants, there were rumours about FEHD having issued internal instructions asking staff not to clean up “Lennon Walls” that involved politics.

- (3) **LandsD**, responsible for verifying whether non-commercial publicity materials displayed have been approved, had not taken any action to clean up “Lennon Walls”. For example, in July 2019, LandsD did not clean up the “Lennon Walls” in the pedestrian subways near Tai Po Market MTR Station during its operation to remove bicycles. Also, LandsD had failed to remove the graffiti in public places.
- (4) **HyD** had not cleaned up the “Lennon Walls” or removed the graffiti in public places.

## **The Investigation**

3. We considered it necessary to examine from an overall perspective whether the aforesaid Government bureau and departments had properly handled the problem, given that “Lennon Walls” and graffiti appeared in various places across the territory. Hence, this investigation report would not focus on whether a particular “Lennon Wall” or graffiti had been properly followed up on.

## **Our Findings**

### ***Emergence of “Lennon Walls” and Graffiti***

4. “Lennon Walls” started to appear outside the Government Headquarters and its vicinity since June 2019, following the social incidents related to oppositions against amendment of the Fugitive Offenders Ordinance. More “Lennon Walls” and graffiti on public facilities sprung up in various locations across the territory. Those “Lennon Walls” and graffiti had caused public discontent, and when people tried to remove bills from some “Lennon Walls”, they clashed with others who were in support of “Lennon Walls”. Between 30 June and mid-July, there were numerous clashes which required Police intervention (clean-up operations by FEHD commenced on 14 July 2019 – see the table in para. 11 below). Separately, the Police had carried out its own operations in the early hours of 10 and 13 July 2019 to remove bills from some “Lennon Walls”.

## ***Relevant Legislation***

### Unauthorised Display of Bills or Posters

5. Section 104A(1)(a) of the Public Health and Municipal Services Ordinance (“PHMSO”) provides that except with the written permission of the owner or occupier of the land, any person who displays or affixes a bill or poster commits an offence. Where there is substantive evidence, the enforcement staff of FEHD can give a fixed penalty notice to an offender under the Fixed Penalty (Public Cleanliness and Obstruction) Ordinance or issue a summons to him/her to institute prosecution.

6. Pursuant to section 104C of the PHMSO, FEHD may remove any bills or posters that are displayed in contravention of the Ordinance.

### Graffiti

7. The Police may take enforcement action against graffiti under the Crimes Ordinance and the Summary Offences Ordinance.

## ***FEHD’s Response***

8. Since June 2019, FEHD had deployed manpower and resources to promptly clean up locations where a large amount of rubbish, miscellaneous objects, dirt and suspected chemical residues appeared after public activities (e.g. assemblies, protests or rallies) in order to maintain environmental hygiene. FEHD had received since the end of June 2019 complaints about bills being displayed or affixed in public places on Government land without permission. Initially, FEHD closely monitored the situation in various districts, and did deal with serious environmental hygiene problems caused by “Lennon Walls”. FEHD explained that it had not turned a blind eye to the unauthorised display of bills but had to give priority to those causing serious environmental hygiene problems.

9. Where necessary, FEHD would organise clean-up operations with the departments concerned, which included the Police, HyD and the Transport Department (“TD”), to remove bills displayed or affixed without permission. Other departments such as the Housing Department and Leisure and Cultural Services Department were responsible for removing bills displayed without permission in places under their management.

10. Apart from the “Lennon Walls” along footbridges and pedestrian subways, FEHD would also organise clean-up operations to remove those “Lennon Walls” displayed on roadside railings (e.g. bills displayed or affixed on wooden boards attached to such railings without permission) after verifying that the railings were not roadside designated spots under the Management Scheme for the Display of Roadside Non-commercial Publicity Materials (“the Management Scheme”), or the displays had not been approved by LandsD.

11. Between July and August 2019, FEHD noticed serious environmental hygiene problems caused by some “Lennon Walls” and immediately carried out operations to clean up the spots. Below are some examples.

1.	14 July	North	Footbridge adjacent to Fanling MTR Station	Environmental hygiene problems caused by arson
2.	17 July	Eastern	Footbridge adjacent to Exit B, Sai Wan Ho MTR Station	Environmental hygiene problems caused by arson
3.	1 August	Kwun Tong	The vicinity of Kwun Tong MTR Station	Environmental hygiene problems caused by a tropical cyclone
4.	19 August	Kwai Tsing	Footbridge adjacent to Tsing Yi MTR Station	Environmental hygiene problems caused by arson
5.	23 August	Southern	Wu Nam Street, Aberdeen	Environmental hygiene problems caused by arson
6.	23 August	Wong Tai Sin	Walls adjacent to Exit C1, Diamond Hill MTR Station	Environmental hygiene problems caused by arson
7.	29 August	Tai Po	Pedestrian subways linking Wan Tau Tong Estate and Tai Po Market MTR Station	Environmental hygiene problems

12. FEHD added that it had noticed that, since mid-July 2019, the displaying and affixing of bills on “Lennon Walls” in various districts had seen changes and that there were clashes among people because of “Lennon Walls”. Meanwhile, there were rallies or protests one after another in Hong Kong, which often ended up in violence. FEHD staff had expressed concerns for their personal safety when performing duties. After careful assessment, FEHD held that its staff’s personal safety might be threatened as it was very likely that they would clash with people, or their supporters, displaying or affixing bills on “Lennon Walls”. FEHD had to assess the situation with other departments concerned, and discuss ways of tackling the problem and how they could cooperate with each other.

13. The Police had suggested that FEHD organise joint operations to clean up “Lennon Walls” in the presence of police officers and during the time when the locations were less busy. That was to avoid causing tension and minimise disturbance to passers-by during clean-up operations. Prior to operations, FEHD had to make careful assessment and take into account public order and staff safety, and to discuss with other departments concerned about manpower deployment, work procedures, division of labour and demarcation of responsibilities. This process, therefore, had required much time.

14. From September 2019 onwards, the Government had taken the initiative to deal with the problem of unauthorised displays and affixing of bills in public places on Government land, in the presence of police officers who maintained order. Despite FEHD’s efforts in careful prior planning and the presence of police officers during operations, large-scale clean-up operations between September and October 2019 had to be called off on a number of occasions due to safety concerns. In any event, as at 25 October 2019, FEHD and the departments concerned had taken a raft of joint actions against unauthorised displays of bills that might affect pedestrian safety or cause serious environmental hygiene problems at more than 120 spots across the territory, including pedestrian subways, footbridges and the public places near bus termini.

15. FEHD also noted that street cleansing contractors could not increase manpower for night-time work or get more equipment shortly, and therefore, FEHD’s original plan to step up clean-up operations against “Lennon Walls” in mid-October 2019 had to be postponed. In order to resolve this problem, FEHD had to pay extraordinarily high fees to hire four special teams to carry out the clean-up operations.

16. In the second half of October 2019, FEHD formulated plans and liaised with

other departments concerned for joint operations and, starting from 21 October, stepped up late-night clean-up operations. As at 5 January 2020, FEHD and the departments concerned had carried out a number of joint operations at different times of the day including early hours to remove unauthorised displays of bills at more than 270 spots in various districts all over Hong Kong.

17. While admitting that no prosecution had been instituted in relation to “Lennon Walls”, FEHD pointed out that its enforcement officers were trained mainly to deal with normal violations, and that they were not equipped with the appropriate gear for dealing with massive or extreme activities caused by enforcement actions. FEHD considered it highly possible that its enforcement officers would clash with those who displayed or affixed bills without permission and the people who supported them, thus putting under threat the officers’ personal safety. In fact, since September 2019, even in the presence of police officers, 26 of FEHD’s clean-up operations for “Lennon Walls” had been called off because of clashes between members of the public and enforcement officers, or for safety consideration. This shows that it was difficult for FEHD to take enforcement action against people who displayed or affixed bills without permission. Nevertheless, FEHD was aware that the Police had taken enforcement action against illegal acts relating to “Lennon Walls”<sup>Note</sup>.

18. FEHD clarified that it had not ignored the “Lennon Walls” on grounds that they were non-commercial publicity materials or related to politics. FEHD, in its press release of 2 August 2019, remarked that it had not issued any internal instructions asking its staff not to take any action against “Lennon Walls” as they involved politics, and that there was no political consideration whatsoever in its handling of “Lennon Walls”.

19. As regards graffiti illegally daubed on public roads/Government facilities, they should be handled by the Government departments managing the venues or facilities. Where such graffiti was found, FEHD staff would refer the case to the departments concerned (including the Police, HyD and TD) depending on the location of graffiti.

### ***Our Comments***

20. “Lennon Walls” involve display of objects without permission, which is against the law. It is the duty of FEHD to take enforcement action and it has the statutory power to do the cleaning-up (see paras. 5 and 6 above).

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<sup>Note</sup> At the press conference on 20 September 2019, the Police mentioned that criminal prosecution had been instituted in 40 cases from June to that date, which involved the arrest of 57 persons and offences including fighting in public places, common assault, possession of offensive weapons and wounding.

21. FEHD's strategy for clean-up operations has been giving priority to the "Lennon Walls" causing serious environmental hygiene problems, with regard to a number of factors, including possible confrontation at the scene, general social atmosphere, staff safety (see para. 12 above), the Police's support and opinions, cooperation from the departments concerned (see para. 13 above) as well as manpower deployment (see para. 15 above). From June 2019 until now, FEHD has generally adhered to this strategy for cleaning up "Lennon Walls". In our view, this strategy, though not uncontroversial, had its justifications, and was formulated after pros and cons were weighed. FEHD did not turn a blind eye to the problem of "Lennon Walls".

22. On the allegation of lax enforcement, we consider FEHD's explanation acceptable. We agree that FEHD staff could hardly handle the clashes that might arise during enforcement actions against offenders. This can be seen from the fact that some initial clean-up operations conducted by the Department had to be called off even with the Police's assistance (see para.14 above).

23. FEHD has publicly clarified that it had never out of political reasons issued any instructions to its staff not to clean up "Lennon Walls". It has also reiterated that there was no political consideration whatsoever in handling the problem (see para. 18 above). We consider there to be no substantive evidence showing that FEHD had decided not to clean up "Lennon Walls" for political reasons.

24. Graffiti on Government land is to be handled by the departments managing or responsible for the repair and maintenance of the venues or facilities concerned, not by FEHD.

25. Notwithstanding our above views, we consider FEHD to have failed to explain to the public clearly its strategy, and the rationale behind, in handling "Lennon Walls". Its explanation to the public on 2 August 2019 only indicated that it would handle those "Lennon Walls" causing serious environmental hygiene problems. This would inevitably give the public an impression that FEHD had neglected that affixing posters and bills without permission is illegal, or had refused to discharge its duties with an excuse that the problem was not serious.

26. In light of the above, The Ombudsman considers the complaint against FEHD unsubstantiated, but there are other inadequacies.

27. This Office urges FEHD to learn from this complaint. In handling similar

incidents in future, it must explain its strategies clearly to the public to avoid misunderstanding.

### ***FHB's Response***

28. FHB explained that it is a policy bureau and execution of its policies rests on the relevant departments. It pointed out that the problem of “Lennon Walls” on Government land involved the jurisdiction of different departments and required their joint efforts. FEHD was responsible for coordinating clean-up operations to remove bills affixed on Government land without permission. It would update FHB on the situation from time to time, including reporting the progress of joint operations conducted by the departments concerned in various districts of the territory, and would seek the Bureau’s advice on announcement for external parties. Since July 2019, FHB had discussed through different communication channels the cleaning-up of “Lennon Walls” with FEHD and monitored its operations and coordination work. FHB had not instructed FEHD not to clean up “Lennon Walls” that did not cause serious hygiene problems. Neither had it expressed such viewpoint to the public.

29. After considering the spread of locations of “Lennon Walls”, the severity of environmental hygiene problems at those locations, resources that could be deployed, matters that needed to be resolved with the help of other departments, and also the ability and safety of staff on duty, FEHD had progressively conducted and coordinated various clean-up operations on “Lennon Walls”. However, a number of factors had affected the effectiveness of FEHD’s clean-up work. For example, some “Lennon Walls” had kept re-appearing due to re-affixing of posts and FEHD had to do cleaning-up repeatedly. The safety of staff on duty was also FEHD’s concern. Clean-up work could only proceed when circumstances allowed and rendered it safe to do so.

30. SFH, after attending the Bone Marrow Donor Award Ceremony organised by the Hong Kong Red Cross Blood Transfusion Service on 21 September 2019, mentioned “Lennon Walls” during a quick media interview. Since that event and interview session were not arranged specifically for discussing environmental hygiene policy, SFH’s response to media enquiries could only convey the message that FEHD had to take into account such factors as environmental hygiene and protection of freedom of speech in its clean-up operations against the “Lennon Walls” in public places. She could not have talked in detail about the cleaning-up of “Lennon Walls”. Moreover, given the tense social atmosphere at that time, SFH’s response to the media enquiries had to be as mild as possible to avoid deepening the social rift.

31. On 20 November 2019, in response to a question raised by a Legislative Councillor, FHB explained that “Lennon Walls” involved illegal display of bills and the Government had monitored the situation and conducted joint clean-up operations. The Government would also engage additional staff to remove illegal display of bills on Government land as soon as possible.

### ***Our Comments***

32. FHB relies on FEHD in executing the legislation it introduces and in achieving its policy objectives. In respect of prosecutions and clean-up work relating to “Lennon Walls”, FHB should concern itself with the effectiveness of FEHD’s strategies and actions, and whether such strategies and actions are in line with the Bureau’s policy objectives. As shown from paragraphs 8 to 18 in this report, FEHD had followed up on the problem of “Lennon Walls”, so there was no question that FHB had to instruct FEHD to clean up “Lennon Walls”. There was also no evidence of FHB being lax in monitoring FEHD’s work.

33. In her response to media enquiries on 21 September 2019, SFH stated that ‘FEHD staff have been keeping watch on whether serious hygiene problems may appear at places where there are “Lennon Walls”. If such problems appear, they would do the cleaning-up’. We reckon that SFH had not said that “Lennon Walls” were spared from enforcement action because they did not constitute serious environmental hygiene problems.

34. While we agree that FHB should be wary of what it said to avoid deepening social rift, FHB has a duty to clarify and explain through different public events and channels when the general public or public opinions have reasonable doubts about FEHD and the Bureau’s work. FEHD has never instituted prosecution against any offenders since “Lennon Walls” appeared, and decided to take priority enforcement action at those locations with serious environmental hygiene problems. In our view, this was deviation from past practice and yet FHB did not specifically expound the strategy of and rationale behind FEHD’s clean-up operations. We consider FHB to have fallen short of public expectation in that it had failed to explain to the community whether FEHD had properly followed the policies on environmental hygiene in handling the “Lennon Walls” problem.

35. In light of the above, The Ombudsman considered the complaint against FHB unsubstantiated but that the Bureau had other inadequacies.

36. We urge FHB to learn from the experience derived from this case. In dealing with similar incidents in future, it should properly discharge its duties as a policy bureau, explain in detail and in a timely manner progress of the work of those departments under its purview, and how the Bureau has been monitoring the situation.

### ***LandsD's Response***

37. Section 104A(1)(b) of the PHMSO confers powers on LandsD to vet and issue written permissions to applications by members of the Legislative Council and District Council, Government departments and eligible organisations to display non-commercial publicity materials at designated roadside spots. With those powers, LandsD implements the Management Scheme.

38. In general, roadside display spots are roadside railings. LandsD and FEHD regularly conduct joint operations in which LandsD would verify whether the non-commercial publicity materials in question have been permitted or are compliant with the implementation guidelines of the Management Scheme, while FEHD would remove non-commercial publicity materials displayed without permission.

39. LandsD had never issued any written permissions to the publicity materials affixed on "Lennon Walls". Nor was it responsible for cleaning up those materials or removing graffiti on road facilities such as footbridges and pedestrian subways. The clean-up work should be taken up by the departments responsible for the repair and maintenance of the facilities.

40. LandsD clarified that the joint clearance operation conducted by the Tai Po District Lands Office on 12 July 2019 in the pedestrian subways near the Tai Po Market MTR station was for removing bicycles only. The operation had already been planned in late June that year by the Tai Po Home Affairs Office, FEHD, TD and the Police. LandsD added that the areas within those pedestrian subways were not designated display spots under the Management Scheme.

### ***Our Comments***

41. LandsD had clarified that the cleaning-up of "Lennon Walls" was not the Department's responsibility. Its operation in early July 2019 in the pedestrian subways near the Tai Po Market MTR station was for removing illegally parked bicycles, an operation unrelated to the implementation of the Management Scheme. Those subways were not under LandsD's jurisdiction, either.

42. Furthermore, LandsD was not responsible for removing graffiti on road facilities such as footbridges and pedestrian subways.

43. This Office agrees that LandsD was not the department responsible for cleaning up the “Lennon Walls” and graffiti involved in this case. In this light, The Ombudsman considers the complaint against LandsD unsubstantiated.

### *HyD’s Response*

44. HyD explained that public roads (including public footbridges and pedestrian subways) are unleased or unallocated Government land. Their management and maintenance are done by Government departments in accordance with their respective responsibilities. As a works department, HyD is mainly responsible for constructing, repairing and maintaining public roads and the ancillary facilities under its jurisdiction. Should there be damage (including graffiti) on road surface and the ancillary facilities, HyD would arrange for timely repairs. In addition, it would deploy staff to cleanse the structural parts of footbridges and pedestrian subways regularly to keep them in good repair.

45. Save for the cleansing of expressways, which is HyD’s duty, environmental hygiene matters relating to public roads are not within the ambit of HyD. The environmental issues, enforcement actions and clean-up work in relation to litters and objects placed on the road surface of footbridges/pedestrian subways and publicity materials affixed on walls without permission are not matters for HyD to handle. In sum, HyD is responsible for removing graffiti on public roads and their ancillary facilities under its jurisdiction.

46. HyD stressed that removing graffiti was just one of its duties. Between June and early December 2019, HyD had put in a lot of resources and time in repairing damaged public road facilities, including some 52,000 metres of roadside railings, 20,000 square metres of paving blocks on footpaths, around 900 traffic bollards, dozens of traffic signs, tens of public street lamps, around 20 vandalised footbridges and roof covers of entrances/exits of pedestrian subways, glass panels of lift towers, as well as a number of street lamp control boxes, several footbridges and flyovers that had been damaged by arson. Besides, HyD had taken preventive measures to protect road facilities from vandalism, and responded to requests made by other Government departments out of public safety and security concerns to carry out strengthening works on roadside railings and paving blocks on footpaths. In the wake of large-scale public

activities in various districts, HyD had joined hands with other departments concerned between night and early morning to clear away objects of obstruction on roads so that traffic could resume by peak hours the following day.

47. HyD had already urged its contractors to complete their work promptly. For instance, following the temporary closure of the Cross Harbour Tunnel owing to serious damage to its facilities since mid-November 2019, HyD coordinated closely with the other departments concerned and managed to clear all the barricades and repair damaged road facilities within a short time such that the Tunnel could be re-opened as soon as possible.

48. The amount of graffiti was huge and had to be removed in accordance with an order of priority. HyD had accorded priority to graffiti that might affect road safety, such as those that had defaced traffic signs or markings. As at mid-November 2019, more than 4,500 public road facilities under HyD’s purview were found to have been smeared. The following table summarises the graffiti-smeared road facilities as at 18 November 2019:

Structures	803	688
Traffic signs	91	79
Road surface and ancillary facilities (such as central dividers, parapets and planter walls, etc.)	2,613	2,118
Public street lamps	461	396
Traffic bollards	524	503
Street lamp control boxes	51	48
<b>Total</b>	<b>4,543</b>	<b>3,832</b>

HyD had removed the graffiti on more than 3,800 road facilities. However, graffiti just re-appeared on some and required continual cleaning-up. As at 18 November 2019, operations to remove graffiti by district are shown below:

	<b>District</b>	<b>Number of public road facilities with graffiti once removed</b>
1.	Central and Western	530
2.	Wan Chai	612
3.	Eastern	58
4.	Southern	43
5.	Kowloon City	47
6.	Kwun Tong	149
7.	Sham Shui Po	218
8.	Wong Tai Sin	185
9.	Yau Tsim Mong	848
10.	North	43
11.	Sai Kung	54
12.	Sha Tin	120
13.	Tai Po	92
14.	Tsuen Wan	332
15.	Tuen Mun	321
16.	Kwai Tsing	55
17.	Yuen Long	82
18.	Islands	43
	<b>Total</b>	<b>3,832</b>

49. Over the past few months, HyD had conducted a number of joint cleaning operations on public roads with other Government departments, with itself being mainly responsible for the removal of graffiti. It had also provided assistance to other departments in removing bills on a need basis. Between late September and early November 2019, HyD participated in about 130 joint operations for cleaning up “Lennon Walls” and removing graffiti, and had since continued to take part in subsequent joint operations.

***Our Comments***

50. Cleaning up bills displayed or affixed on “Lennon Walls” without permission is largely FEHD’s duty. HyD is mainly responsible for removing graffiti on public roads and their ancillary facilities under its jurisdiction.

51. As can be seen from HyD’s response above, since June 2019, the Department had participated in the repairs of an enormous number of damaged road facilities, and

in other urgent tasks (such as clearing barricades) before and after public activities. Its workload was no doubt rather heavy. Under such circumstances, HyD had to prioritise its tasks according to urgency and on the premise of sensible deployment of resources, and so its giving priority to the removal of graffiti on traffic signs so as to protect the safety of road users was reasonable.

52. HyD had removed the graffiti on thousands of road facilities and taken a number of joint operations with other departments. Its follow-up actions were proactive.

53. In this light, the complaint against HyD was unsubstantiated.

### **Final Remarks**

54. The Ombudsman hopes that the relevant Government bureau and departments can learn from experience and take appropriate and effective actions when similar problems re-emerge in the future.

**Office of The Ombudsman**  
**March 2020**