

# **Inadequacy in Transport Department's Procedures for Vehicle Particulars Certificate Applications**

## **Investigation Report**

### **The Complaint**

This Office received a complaint from a Police officer (“the complainant”) against the Transport Department (“TD”).

2. Allegedly, the complainant’s vehicle registration mark was uploaded to social media sites, resulting in doxxing activities against him. He learned from the information from TD that someone had applied to the Department for a Certificate of Particulars of Motor Vehicle (“Certificate”) and obtained his personal particulars, including his Identity Card (“ID Card”) number and residential address. As the complainant was not engaged in any business or transaction relating to traffic and transport and he had not authorised the aforesaid application, he considered that the inadequacy in TD’s procedures for Certificate applications had rendered the privacy of vehicle owners vulnerable.

3. After assessment, we decided to launch a full investigation into this case.

### **Our Findings**

#### ***Relevant Legislation***

4. The Road Traffic (Registration and Licensing of Vehicles) Regulations (“the Regulations”) stipulate that the Commissioner for Transport (“C for T”) shall maintain a register of vehicles containing particulars of vehicles and their owners. C for T shall supply to any person making application for any particulars in the register in respect of a vehicle a certificate stating such particulars upon payment of the prescribed application fee.

#### ***Procedures for Handling Certificate Applications***

5. TD explained that any person intending to apply for a Certificate shall complete the Application for a Certificate of Particulars of Vehicles (“the Form”), providing such information as the name of the applicant/company, identity document number/Certificate of Incorporation Number/Business Registration Number, address, purpose for obtaining the Certificate, and making a declaration for the application. The completed Form shall be submitted in person, by post or drop box, together with the identity document and application fee to the Licensing Offices under TD.

6. Applicants submitting their applications in person shall produce the original of their identity document. After confirming that an applicant has completed the Form

and paid the application fee, TD will issue a valid Certificate showing the current vehicle particulars or that of a specified date and time.

7. Applicants who submit their applications by post or drop box shall provide a photocopy of their identity document, complete the Form and pay the application fee. Upon receipt of an application, TD will complete the handling procedures within 10 working days and then post the Certificate to the applicant by registered mail.

8. Online application requires valid personal or organisational digital certificate for processing. Upon completion of online application and electronic payment, the applicant will be issued a valid Certificate showing the current vehicle particulars or that of a specified date and time.

### ***Handling of Enquiries from Owners about Issuance of Certificates***

9. TD said that registered owners can write to the Department to check records of issuance of Certificates regarding their vehicles. On receiving a written request from a registered owner and the document of proof, TD will provide in writing any records, including the name of applicant and date of application, within a specified period. If the registered owner requests more personal particulars about the applicant, TD will investigate the purpose and consider whether such information should be provided.

### ***Response from TD***

#### Verification of the identity and address of applicants

10. In processing Certificate applications, TD will verify the identity of applicants. Depending on the method of submission, applicants shall produce the original of their identity document, provide a photocopy of their identity document or use their digital certificate (see **paras. 6-8**).

11. The Regulations include provisions about requirement for proof of address, but they do not apply to Certificate applications. At present, TD does not require applicants to submit proof of address because the law has not conferred such power on the Department.

#### Purpose of applying for Certificates

12. Under the Regulations, C for T is not empowered to refuse to issue Certificates to applicants on any grounds (including applicants' failure to provide proof of the purpose of using personal particulars on Certificates). Nor is TD empowered to require applicants to provide proof to substantiate such purpose.

13. Currently, the administrative measures for requiring applicants to declare in the Form the purpose of applying for Certificates aim to ensure that the personal particulars of the registered owner on Certificates will only be used for traffic and

transport related issues. The measures also intend to remind applicants the legal consequences for releasing such personal particulars without the consent of the data subjects.

#### Vehicle owners' particulars in the register

14. Under the Regulations, the register maintained by TD shall contain the full name, address and ID Card number of registered owners so that the identity of the registered owner of each vehicle in the register can be differentiated.

15. Certificates are widely accepted among vehicle owners and the related industries as valid document of proof regarding the ownership of a registered vehicle for purposes including car insurance, deals and indemnity claims arising from accidents. In case owners' particulars (including ID Card number) are not included in the Certificates, they will fail to serve the purpose of substantiating vehicle ownership, thus causing inconvenience to the public and related industries.

#### Complaints relating to issuance of Certificates

16. Between 2010 and 2018, the number of complaints relating to the issuance of Certificates that TD received each year remained single digits (2 to 9 cases).

17. It was in the second half of 2019 when Certificates of vehicles relating to public events or police officers were published or personal particulars of vehicle owners concerned were disclosed on the internet that the number of complaints received by TD for the entire year of 2019 increased to 72. In this connection, TD has reminded registered owners to make a report to the Police or the Privacy Commissioner for Personal Data ("PCPD") if they suspect that their personal particulars on Certificate are used for illegal purpose. TD will give full support to investigations conducted by the relevant department/organisation.

18. There was no previous prosecution instituted by TD regarding intentional provision of false information on the Forms. TD will refer any suspected cases of illegal use of personal particulars on Certificates that has come to its attention to enforcement authorities or organisation for investigation and follow-up action, and TD will render full support.

19. As the complainant was unwilling to provide his personal particulars or vehicle registration mark, TD could not verify whether anyone had applied for a Certificate regarding his vehicle in order to obtain his personal particulars. Therefore, TD could not follow up further on his complaint or give a response.

20. TD pointed out that it has always handled Certificate applications in accordance with the power conferred upon C for T under the existing legislation. Although C for T is not empowered under the existing legislation to refuse issuance of Certificates on any grounds to applicants who have paid the relevant fees, TD has

strengthened the protection for privacy of registered vehicle owners within the prevailing legal framework.

21. In TD's view, as Certificates are issued in accordance with the legislation, relevant administrative measures and requirements for applications shall not go beyond the basis under the existing legislation. Otherwise, it would be difficult to explain to the public. Besides, in devising application methods and approving procedures, TD should strike a balance between public expectation of protecting personal data privacy and the actual use of and need for Certificates so as to safeguard the interests of different stakeholders in society.

#### Improvement measures

22. Since August 2019, TD has started to examine the procedures for Certificate applications. TD has had meetings with PCPD, the Hong Kong Police Force ("HKPF"), the Department of Justice and the Office of The Ombudsman for exchange of views on stepping up protection of personal particulars of registered vehicle owners, and introduced the following measures.

#### *Short-term measures*

23. Starting from 30 October 2019, all applicants should use the latest version of the Form, which includes the following amendments:

- (1) The legal consequence that applicants could face for unauthorised disclosure of the personal particulars on Certificates is stated.
- (2) Applicants are required to tick the box in the "Declaration" to indicate that they understand the content of the Form and accept all the terms and conditions stated therein.
- (3) The fonts in "Notes about Personal Data" are enlarged to make the content fitting one full page so that applicants can read clearly the uses of particulars supplied in the Form. For example, TD may provide the particulars of the applicant to the registered vehicle owner at the owner's request.

24. Besides, TD has been assisting HKPF in its investigation into suspected cases of unauthorised use of the personal particulars on Certificates. Where necessary, TD will provide information about Certificate applicants at the request of HKPF for investigation purpose.

#### *Interim measures*

25. TD is actively exploring the feasibility of sending a written notification to those registered vehicle owners whose vehicles have been the subject of Certificates issued so

as to inform them that their personal particulars have been obtained through Certificate applications.

26. TD is also studying the feasibility of introducing more administrative measures to monitor Certificate applications. For example, applicants may be required to provide relevant supporting documents such as proof of address. Besides, the Department is examining in what way information about identity document should be provided on the Certificates to safeguard the privacy of registered vehicle owners. TD expects the study to be completed within 2020.

#### *Long-term measures*

27. TD is now reviewing the legislation relating to Certificates to examine the need to strengthen protection of personal data.

#### **Our Comments**

28. As the Certificates contain such important particulars as the full name, address and ID Card number of registered vehicle owners, it is reasonable that the owners worry about unauthorised use or malicious disclosure of such particulars. Having scrutinised the relevant information and response from TD, we agree that TD has to balance the needs among different stakeholders. Besides, the prevailing legal framework does not allow TD to adopt excessive administrative measures to impose restrictions on applicants of Certificate under the Regulations.

29. We are pleased to note that in response to the recent concerns about personal particulars of registered vehicle owners being disclosed, TD has started to review the application procedures for Certificates as well as formulating measures to better protect the personal particulars of registered vehicle owners.

30. When the Regulations were made in 1984, personal privacy was not a matter of much concern in society, and therefore the personal particulars of registered vehicle owners could be obtained by going through simple application procedures for Certificates under the Regulations. TD has previously conducted public consultation during which PCPD and some stakeholders expressed concerns about the personal particulars on Certificates. Hence, we consider that in the long run, TD should conduct a comprehensive review to examine the purpose of the Regulations, scope of information to be provided and the application procedures for Certificates in order to better protect the personal particulars while serving the purpose of the Regulations. For example, TD can explore whether it can provide only information in the register that can accommodate the use specified by the applicant, and request the applicant to provide necessary document of proof for that specified use.

31. Overall, we consider this complaint against TD **unsubstantiated**.

#### **Recommendations**

32. In our view, ID Card Number is important data for identification, which can be used for applications for personal records (such as birth certificate and certificate of registration of marriage) maintained by the Government or organisations, credit cards, loans or other important issues. Misuse of registered vehicle owners' personal particulars obtained through Certificate applications may result in serious nuisance or loss suffered by those owners. We consider it sufficient to provide only part of the ID Card number (e.g. A123XXXX) if the purpose is to use the information to verify the identity of the registered vehicle owner among people with identical names. In fact, many organisations have adopted similar practice to collect only part of the ID Card number. We recommend that TD consider revising the content of Certificates such that the ID Card number of the registered owner will not be shown in full.

33. We are aware that the Property Alert offered by the Land Registry ("LR") is a service to alert property owners to the status of their properties. By subscribing the service, property owners will receive an email alert of the delivery of any instrument relating to their properties on the day following the date on which the instrument is delivered to LR. In that case, property owners can take appropriate and prompt actions against any unexpected and suspicious instruments. As regards the interim measures mentioned in paragraph 25 above, we consider that TD can refer to LR's Property Alert as an example and explore whether it can actively inform registered vehicle owners of issuance of Certificates relating to their vehicles. For example, TD can notify registered vehicle owners by electronic means (including email and/or SMS) when an application for Certificate has been submitted by what person/company so that the owners can take prompt actions against suspicious applications.

34. In the second half of 2019, there were cases where personal particulars of registered vehicle owners were published on the internet (see para. 17). Registered vehicle owners whose personal particulars are obtained through Certificate applications and maliciously disclosed or misused for causing them disturbances may want to change their vehicle registration mark. In our opinion, TD should consider helping those vehicle owners.

35. In view of the above, The Ombudsman recommends that TD:

- (1) consider showing only part of the vehicle owner's ID Card number on the Certificates as stated in **paragraph 32**;
- (2) consider notifying registered vehicle owners by electronic means the information relating to the Certificate issued against their vehicle as stated in **paragraph 33**; and
- (3) consider changing the vehicle registration mark for those registered vehicle owners whose personal particulars are maliciously disclosed or who are disturbed because of issuance of Certificates as stated in **paragraph 34**.

## **TD's Response to Our Recommendations**

36. About Recommendation (1), TD responded that it would examine the technical issue for providing only part of the registered vehicle owner's ID Card number on the Certificates. This measure is expected to be implemented in the third quarter of 2020.

37. About Recommendation (2), TD indicated that it would explore the establishment of an electronic platform for registered vehicle owners to apply for notification service for vehicles under their personal ownership. The service is expected to commence in the fourth quarter of 2020.

38. As regards Recommendation (3), TD indicated that it would handle quickly any of such applications received.

## **Conclusion**

39. We are pleased to note that TD has accepted our recommendations.

**Office of The Ombudsman**  
**May 2020**