

# **Executive Summary**

## **Direct Investigation Report**

### **Problem of Abandoned Vehicles on Government Land**

#### **Introduction**

Unwanted vehicles being left on public parking spaces, public roads or pavements for prolonged periods is a persistent and pervasive problem in Hong Kong. Abandoned vehicles sitting at the roadside for months on end would lead to a waste of public parking spaces and obstruction to road users; while vehicles abandoned on public roads and other government land would also bring street management and hygiene problems.

2. Since 2000 when the Hong Kong Police Force (“HKPF”) ceased to follow up on abandoned vehicles that pose no danger to traffic or road safety, the Government has been adopting an enforcement strategy that tries to prosecute the registered owners of those vehicles abandoned on government land by invoking the Land (Miscellaneous Provisions) Ordinance (Cap 28, “LMPO”). Nevertheless, the Lands Department (“LandsD”) considered that difficulty of proof had rendered prosecution efforts largely ineffective. The Department thus suspended its work on evidence collection and prosecution for those cases since 2007. The relevant departments have been engaging in rounds of discussions to resolve the issue since 2018. It was not until 2021 when the Home Affairs Department (“HAD”) intervened that inter-department joint clearance operations were launched to remove abandoned vehicles.

3. The crux of the problem, as The Ombudsman sees it, is that the Government has yet to establish the responsibility of vehicle owners to dispose of their vehicles properly and hold the owners liable for non-compliance. As a result, vehicle owners can wilfully abandon their vehicles. Stepped up efforts by the Government to remove vehicles abandoned at the roadside have in effect helped vehicle owners dispose of their vehicles for free. The removal efforts only address the symptoms and offer no long-term solution to the problem.

## **Our Findings**

4. Having examined how the relevant Government departments<sup>Note</sup> have been handling the problem of abandoned vehicles, we have the following comments and recommendations.

***(I) Transport Department (“TD”) Should Promptly Amend the Legislation to Hold Vehicle Owners Responsible for Proper Disposal of Their Unwanted Vehicles***

5. The Audit Commission, in its Report No. 34 published in 2000, had already pointed out the absence of any legislation in Hong Kong to hold the registered owners of vehicles responsible for the proper disposal of their vehicles, and recommended that the current legislation be amended to impose penalties on owners who fail to dispose of their vehicles properly. TD is responsible for vehicle registration and licensing and holds the registration details of all vehicles in Hong Kong. The legislation enforced by the Department also covers the whole life cycle of vehicles in Hong Kong, from their specifications, importation and registration, maintenance and inspection, to their destruction, etc. Each and every phase in the cycle comes under TD’s powers and functions. We are of the opinion that TD should proactively examine ways to make better use of the vehicle registration system so that vehicle owners can be prompted to dispose of their unwanted vehicles properly, and to propose legislative amendments as and when necessary.

6. It has been more than 20 years since the publication of the aforementioned Report. Yet, there is no information showing that TD has been taking proactive actions as recommended. Even after LandsD later pointed out that prosecution actions against those who had abandoned their vehicles on government land had been largely ineffective and unsuccessful, TD just continued to focus on removing abandoned vehicles, rather than establishing the responsibility of vehicle owners and holding them liable for violations. We consider it inappropriate of TD to define occupation of public roads and public parking spaces by abandoned vehicles merely as a land administration problem. In the absence of effective penalties, it costs vehicle owners extremely little to simply abandon their vehicles on public parking spaces, at the roadside or on government land and the situation would not improve at all.

---

<sup>Note</sup> While HKPF has provided us with information, statutory restrictions preclude this Office from investigating or commenting on its actions.

7. We are glad to learn that upon our declaration to launch this direct investigation, TD has commenced a study to enhance the regulatory regime for vehicle registration and put forward more concrete legislative amendment proposals. This is a step towards rectifying the problem. We opine that TD should closely follow up on and press ahead with the legislative amendments, formulate clear objectives and set a timetable for enacting the amended legislation. The amendments should include provisions stating outright the vehicle owners' responsibility for the proper disposal of their unwanted vehicles and their legal liability for non-compliance. The relevant provisions should also confer power on the Government to require vehicle owners to bear the cost incurred by the authorities in disposing of the vehicles on their behalf, and/or impose a fine with sufficient deterrent effect.

***(II) TD Should Take Initiative to Remind Vehicle Owners to Renew Vehicle Licence in A Timely Manner and Dispose of Unwanted Vehicles Properly***

8. Information shows that each year, quite a number of vehicles have had their registration cancelled by TD pursuant to section 15 of the Road Traffic (Registration and Licensing of Vehicles) Regulations (Cap. 374E, the "RLV Regulations") because of non-renewal of licence for two consecutive years. Between 2016 and 2021, a total of 8,540 motorcycles and 68,521 private cars had been so de-registered by TD.

9. The sheer number of unlicensed or de-registered vehicles with status and whereabouts unknown would have latent implications for use of land (including roads), cityscape and environmental hygiene. As the authority responsible for vehicle registration and licensing, TD should be concerned about the whereabouts of these vehicles. Nevertheless, before cancelling a vehicle's registration, TD would only notify its owner in writing that de-registration would be done after 15 days, but not take the opportunity to enquire about the current status and whereabouts of the vehicle, or in case the owner decides to give up the vehicle, whether the vehicle has been properly disposed of. We consider TD's practice unsatisfactory from an administrative perspective.

10. To monitor and prevent the problem of abandoned vehicles before completion of the legislative amendments, TD should proactively remind vehicle owners of their responsibility to properly dispose of their vehicles and to notify the Department after their vehicles have been broken up, destroyed or despatched permanently out of Hong Kong, as required under section 20(1) of the RLV Regulations. In respect of vehicles whose licence has remained unrenewed for a certain period (say, the licence has expired for more than a year), TD should remind their owners to renew the licence in a timely manner and to properly dispose of the vehicles.

***(III) TD and LandsD Should Strengthen Collaboration in Evidence Collection to Raise Chance of Successful Prosecution for Greater Deterrent Effect***

11. At present, the inter-departmental joint clearance operations to remove abandoned vehicles on public roads, public pavements and public parking spaces, as well as LandsD's enforcement actions against vehicles abandoned on other government land, are largely conducted pursuant to the LMPO. Yet, the number of successful prosecutions was minuscule. LandsD has mentioned the difficulty in tracing the identity of the occupier if the vehicle in question had already been de-registered.

12. Since 2007, LandsD has suspended its work on evidence collection and prosecution for abandoned vehicle cases. Our view is that removals short of prosecution cannot help solve the problem. For more effective enforcement, LandsD should consider relaunching its work on evidence collection and prosecution; while TD should proactively assist in providing information about the vehicle owners concerned and modify the procedures for or postpone de-registration of vehicles to facilitate LandsD's tracing the identity of the occupiers.

***(IV) There Had Been an Enforcement Vacuum***

13. Between December 2018 and December 2019, LandsD had twice revised its internal guidelines to instruct District Lands Offices to refer cases of abandoned vehicles on public roads to HKPF and the Highways Department ("HyD") for their follow-up actions. However, records show that HKPF had not accepted LandsD's referral arrangement, while LandsD had failed to directly notify HyD of the arrangement. Under such circumstance, no Government department was actually responsible for handling complaints about abandoned vehicles on public roads since December 2018, resulting in an extremely undesirable enforcement vacuum that lasted for as long as two years. We must point out that even if LandsD considered it ineffective and resource-draining for the Department to follow up on cases of abandoned vehicles, it should not have ceased related efforts unilaterally before some other department took over the matter.

14. Fortunately, with HAD's coordination, the departments concerned eventually agreed to collaborate and adopt the mode of inter-departmental joint operations since early 2021 to handle vehicles abandoned on public roads, public pavements, public parking spaces and public transport interchanges. However, the responsibility for handling certain cases (e.g. motorcycles abandoned in public rear lanes) is yet to be

confirmed, and as a result, the vehicles concerned are yet to be handled. On this matter, we consider that LandsD and TD must take the initiative to engage in substantive discussions with other relevant departments (including HyD and HKPF) to strengthen inter-departmental cooperation with a view to formulating together the procedures for handling the motorcycles abandoned in rear lanes.

15. Furthermore, we consider that HAD, as the department that drives the development of district administration, can be more proactive in organising joint clearance operations in a timelier fashion based on the actual situation of individual districts. It should also explain clearly the relevant follow-up actions to complainants and members of the public.

### **Our Recommendations**

16. In light of our findings in this direct investigation, The Ombudsman has made seven recommendations, as follows:

- (1) **TD** to closely follow up on and press ahead with the legislative amendments to stipulate clearly that vehicle owners are responsible for proper disposal of their unwanted vehicles and they are liable for non-compliance;
- (2) **TD**, in the process of legislative amendments, to consider adding provisions that allow the Government to recover from the persons concerned the cost incurred in disposing of the abandoned vehicles on their behalf, and/or impose a fine;
- (3) **TD** to proactively remind owners of vehicles of which vehicle licence have already expired for a certain period to renew the vehicle licences and to dispose of their vehicles properly;
- (4) **LandsD** to consider relaunching its work on evidence collection and prosecution in abandoned vehicle cases, including collaborating with TD to check the information of the last owner of vehicle concerned in order to trace the identity of the occupier;

- (5) **TD** to proactively collaborate with LandsD in evidence collection, including considering modifying the procedures of de-registering a vehicle which has remained unlicensed for more than two years or postponing its de-registration so as to facilitate LandsD's tracing the identity of the occupier;
- (6) **LandsD and TD** to strengthen cooperation with other relevant departments (including HyD and HKPF) with a view to formulating together the procedures for handling the motorcycles abandoned in public rear lanes; and
- (7) **HAD** to proactively monitor the situation of various districts and organise joint clearance operations in a timelier fashion to remove abandoned vehicles in a district. It should also explain clearly its follow-up actions to complainants and members of the public.

**Office of The Ombudsman**

**September 2022**