

## **Electrical and Mechanical Services Department's handling of a report of electrical unsafety Investigation Report**

On 29 July 2022, this Office received a complaint against the Electrical and Mechanical Services Department (“EMSD”).

### **The Complaint**

2. According to the complainant, when participating in the renovation of a non-governmental organisation's service centre (“Service Centre”), he discovered safety hazards caused by shoddy workmanship in the electrical work, which might pose a risk to the youngsters using the Service Centre's facilities. He advised the electrical supervisor to rectify the problem, but to no avail. Hence, he filed a report with EMSD by telephone around April 2021, but an officer told him that EMSD's inspection was uneventful, and a certificate of compliance had already been issued. The officer asked him to file a report in writing. In May 2021, he wrote to EMSD to file a report, and was invited by EMSD in June 2021 to give a statement in person for investigation purposes.

3. In a reply in March 2022, EMSD informed the complainant that lacking the photographs of the electrical installation in question, and having failed repeatedly to get in touch with the Service Centre's owner/tenant for site inspection, EMSD could not find sufficient evidence for breach of the Electricity Ordinance (“the Ordinance”) or its subsidiary legislation. In the same month, the complainant went to the Service Centre himself to photograph the suspected non-compliant parts of the electrical installation and provided them to EMSD for further action. After reviewing the photographs, EMSD staff reckoned that the electrical installation might be substandard, and the matter would be further pursued. However, EMSD's investigation remained uncompleted when he complained against EMSD with this Office, while the electrical hazards were looming.

4. Regarding the above, the complainant alleged that:

- (1) There were omissions in EMSD's inspection of the electrical work completed for the Service Centre;

- (2) EMSD unreasonably requested him to sign a record of interview, in which mentioned his violation of the Ordinance, before initiating investigation into his report; and
- (3) EMSD failed to handle properly his report of suspected contraventions found in the electrical work of the Service Centre.

## **Our Findings**

5. After thoroughly examining the information and response from EMSD, this Office completed a full investigation in December 2022. Our findings are as follows.

### ***EMSD's Procedures/Guidelines for Handling Reports of Electrical Unsafety***

6. After receiving a report, EMSD would examine whether it is within the purview of the Ordinance and its subsidiary legislation and involves:

- (1) unsafe electrical installation;
- (2) any electrical work not carried out by registered electrical contractor ("REC")/registered electrical worker ("REW"); or
- (3) any electrical work carried out by REC/REW but not in compliance with the Code of Practice for the Electricity (Wiring) Regulations ("the Regulations").

For a report within the above scope, EMSD will initiate an investigation and notify the informant of the progress and results. If contraventions of the Ordinance and its subsidiary legislation are revealed by its investigation, EMSD will collect evidence and, if with sufficient evidence, instigate prosecution and/or disciplinary action against the parties concerned.

7. Generally, after initiating an investigation, EMSD will contact the person in charge of the premises for entry to inspect and check the electrical installation on-site, and will invite relevant parties (including the informant) to provide information and assist in the investigation. If unable to enter the premises, EMSD staff will issue a

Notice to Inspect Electrical Installation requiring the person in charge of the premises to make an appointment with EMSD for conducting inspection. If no response is received within the period specified on the Notice, a second Notice will be issued. If response is still not received within the period specified, EMSD staff will review the case to determine whether an advisory letter should be issued to the parties concerned or the person in charge of the premises, or whether there is sufficient evidence for taking further action.

***Allegation (1)***

Response from EMSD

8. Although EMSD is responsible for enforcing the Ordinance and its subsidiary legislation, it does not carry out inspection upon completion of the electrical work. Pursuant to the Ordinance, after completion of a fixed electrical installation and before it is energised for use, REC shall engage REW for inspection, testing and issuing the Work Completion Certificate (i.e. Form WR1) to certify that the requirements of the Ordinance have been met. REC shall make and keep all relevant records of electrical work carried out by its employees for the lesser of five years or the time since its registration as an electrical contractor. REC, when required by notice of the Director of EMSD, shall produce for inspection any record, plan or document in its possession or under its control that the Director considers relevant for the purpose of enforcing the Ordinance.

Our Comments

9. As shown in the previous paragraph, EMSD is not required by the Ordinance to undertake inspection of electrical work, which should instead be carried out by REW engaged by REC. The Ombudsman, therefore, considers Allegation (1) **unsubstantiated**.

***Allegation (2)***

Response from EMSD

10. After receiving the complainant’s report on 3 May 2021, EMSD initiated an investigation on 6 May. The information and evidence obtained from the preliminary investigation revealed that the complainant had participated in the electrical work in

question in the capacity of electrician. Accordingly, EMSD reckoned that the complainant might also have violated the requirements of the Ordinance and the Regulations, so it obtained a cautioned statement from him.

### Our Comments

11. As can be seen from the previous paragraph, EMSD has explained why the complainant was asked to give a statement under caution. We have scrutinised EMSD's relevant records, which corroborate EMSD's version that it initiated investigation into the complainant's report in May 2021, but not after the complainant gave a statement in June 2021. We cannot not rule out the possibility of misunderstanding in communication between the complainant and EMSD staff. If EMSD staff had spelled out the purpose of interview with him more clearly, it might have allayed his misunderstanding that EMSD was harassing him.

12. In the light of the above, The Ombudsman considers Allegation (2) **unsubstantiated**.

### *Allegation (3)*

#### Response from EMSD

13. EMSD received the complainant's report on 3 May 2021, with only a telephone number for contact purposes. On 4 May, an EMSD officer acknowledged receipt of his case by telephone. After initiating investigation, EMSD issued a Notice to Inspect Electrical Installation under the Ordinance to the Service Centre on 14 May and 30 June respectively, giving the owner of the electrical installation at least two weeks' notification for entry into the premises to inspect the installation, but got no reply. On 13 July, EMSD issued an advisory letter requiring the Service Centre to properly rectify the electrical installation. Meanwhile, EMSD issued letters between May and August inviting the electrical work's contractor, subcontractor and electrical workers (including the complainant) to attend an interview with EMSD to assist in the investigation. Eventually, only the complainant and another electrical worker attended an interview and provided information in response to the invitation. The subcontractor submitted the Work Completion Certificate in respect of the electrical work to EMSD. In the interim, EMSD informed the complainant of the investigation progress by telephone on 24 May and in person on 10 June.

14. Given its futile efforts in getting in touch with the Service Centre's owner/tenant for on-site inspection, and the lack of substantive evidence for the alleged problem of the electrical installation in the Service Centre, EMSD considered the evidence insufficient to prove any contraventions of the Ordinance and its subsidiary legislation, and closed the case on 9 November 2021. Between 9 and 17 November, an EMSD officer called the complainant thrice in an attempt to notify him of the investigation results, but could not find him. Subsequently, the officer interviewed the complainant on 14 December, and notified him of the investigation results during the interview. The officer intended to also give the complainant a written reply about the investigation results, but due to a surge of the pandemic the officer was deployed for anti-pandemic duties and worked from home at times. Consequently, it was not until 3 March 2022 that a written reply was issued to the complainant, advising him to contact EMSD staff for any enquiries.

15. On 15 March 2022, the complainant made enquiries with EMSD about the investigation results and said that he had further information to provide. On 16 March, EMSD contacted the complainant to arrange an interview. On the same day, EMSD received the complainant's email with photographs of the parts of the electrical installation in question. Based on the suspected contraventions shown in the photographs, EMSD staff attempted on 17 March to enter the Service Centre for inspection without prior notice. However, the Service Centre staff refused their entry on the grounds that the centre was not yet open and relevant parties had to be consulted. EMSD then issued the Notice to Inspect Electrical Installation and an invitation to attend interview respectively to the Service Centre's owner/tenant in the same month.

16. Finally, EMSD managed to enter the Service Centre to conduct investigation on 30 March and 4 April 2022. It found the number of cables contained within a conduit exceeding the permissible capacity, in breach of the requirements under the Code of Practice for the Regulations. On 8 April, EMSD issued an Improvement Notice to the Service Centre's owner/tenant, requiring it to engage REC to rectify the above fault as soon as possible. On 3 May, EMSD's follow-up investigation revealed that the faulty wiring installation had been rectified and the electrical hazards resolved. After inviting the companies/persons suspected of violating the Regulations to attend interviews between May and August, EMSD decided to take further action against the companies/persons concerned for the non-compliant electrical work.

17. Regarding the investigation process, EMSD explained that the complainant's report in May 2021 coincided with the fourth wave of the COVID-19 pandemic in Hong

Kong. Most organisations offering public services had put in place special arrangements, such as temporary closure, for social distancing. In the extraordinary circumstances, EMSD staff, after weighing up the urgency and risk involved in the subject matter of the report, decided to issue the Notice to the Service Centre directly requiring it to make an appointment for conducting inspection. Nevertheless, EMSD admitted there was room for improvement. For instance, its staff could have tried to confirm the Service Centre's opening hours at that time or arrange for inspection through other means (such as email and telephone).

18. Regarding its correspondence with the complainant, EMSD considered that there were inadequacies on the part of its staff in handling this case (including not asking whether the complainant needed a written interim reply, failing to arrange a second interim reply in writing, and delay in issuing a final written reply) (see **para. 20**). Accordingly, EMSD has reminded its staff to ask the informant whether written replies are needed when giving a reply by telephone, and to record the salient points of telephone conversation in the case file.

#### Our Comments

19. After scrutinising EMSD's relevant guidelines, we note that EMSD staff are required to arrange site inspection after initiating an investigation. If they could not enter the premises on the first occasion, a Notice to Inspect Electrical Installation should be issued to the owner/tenant. EMSD explained that due to the fourth wave of pandemic, the Notice was issued without any attempt to conduct site inspection. However, as shown in **paragraphs 13 to 14**, during the six months between the complainant's report filed in May 2021 and the close of the case in November 2021, EMSD made no attempt at all to conduct site inspection or pursue the unanswered Notice, so as to confirm the status of the electrical installation on-site. In fact, if the complainant had not gone to the Service Centre of his own accord to take photographs for EMSD's reference, EMSD would not have arranged any inspection subsequently, and the electrical hazards would have continued to exist and pose a threat to public safety. Given that the Service Centre's electrical installation affected public safety, and the complainant had participated in the electrical work as an electrician, provided EMSD with details about the electrical hazards, and fully cooperated with EMSD's investigation (including giving a statement under caution), we consider that EMSD should have attached more weight to his report and treated it more seriously. Moreover, in view of the fact that the complainant could enter the Service Centre to photograph the electrical installation, EMSD should have been able to enter the Service

Centre for site inspection and discover the faulty installation at an earlier stage, if it had pursued the unanswered Notice in the first place. In hindsight, EMSD's decision to close the case in November 2021 was unsound, as it had not attempted to conduct site inspection or contact the Service Centre through other means to confirm the status of the electrical installation on-site. It was fortunate that the complainant relentlessly pursued the report he had made, leading to the ultimate rectification of the electrical installation while no accidents occurred in the interim.

20. We also note that according to its guidelines, EMSD staff are required to acknowledge receipt of a report/give an interim reply within 10 working days; if investigation is not completed within two months after receiving the report, a second interim reply should be issued to the informant within 10 working days upon the expiry of two months; upon completion of investigation and close of the case, a final reply should be issued to the informant within 10 to 15 working days. The guidelines also require a written reply to be issued if the informant filed the report in writing. Yet, records showed that an EMSD officer had obtained the complainant's correspondence address during the telephone conversation on 4 May 2021, but no written interim reply was issued to him subsequently. After EMSD decided to close the case in November 2021, no final reply was issued to the complainant within 10 to 15 working days. Should EMSD follow its guidelines to issue interim written replies to the complainant's report, it would have given him updates on its actions taken and Allegation (2) might have been avoided.

21. Based on the analysis in **paragraphs 19 and 20**, The Ombudsman considers Allegation (3) **substantiated**.

### ***Other Remarks***

22. We note that EMSD's guidelines have not stipulated how, or whether it is necessary, to follow up on the case where no reply is received after the issue of the Notice to Inspect Electrical Installation, or where entry into the premises for inspection of electrical installation is refused. We consider it helpful for staff to handle reports of electrical unsafety more effectively if the follow-up procedures after issuing the Notice are added to the guidelines.

## Conclusion

23. Overall, The Ombudsman considers the complaint against EMSD **partially substantiated**.

## Recommendations

24. The Ombudsman recommends that EMSD:

- (1) remind staff to comply with the guidelines stringently when handling reports of electrical unsafety; and
- (2) review the guidelines to consider adding follow-up procedures after issuing the Notice to Inspect Electrical Installation.

25. EMSD has accepted the above two recommendations. This Office will follow up on the implementation separately.

**Office of The Ombudsman**  
**December 2022**

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