

# **Executive Summary**

## **Direct Investigation Report**

### **Handling of Complaints Involving Trees on Government Land**

#### **Introduction**

There are vast numbers of trees across the territory. The Government currently adopts an integrated approach for managing trees on Government land, under which the department responsible for maintaining a Government facility or site takes care of the trees within the area.

2. The Tree Management Office (“TMO”) under the Development Bureau (“DEVB”) formulates comprehensive tree management strategies and measures for Hong Kong. It coordinates and supervises Government departments’ handling of tree complaints at the central level. In the course of our investigation, TMO has proactively implemented a number of improvement measures, including reviewing and updating the complaint handling mechanism, strengthening the coordination with and supervision of departments in handling tree complaints, assisting departments in clearing the backlog of tree complaints and establishing a task force chaired by the Permanent Secretary for Development (Works) to conduct a comprehensive review of the prevailing tree management guidelines. Ten recommendations were subsequently made to enhance the tree inspection and risk assessment regime. This Office believes that the above measures should effectively reduce the number of problematic trees at source, thereby bringing down the number of complaints.

3. This Office has scrutinised TMO’s work in coordinating and supervising departments’ handling of tree complaints and the delineation of tree management responsibilities among departments. We have also studied the information provided by ten major tree management departments (namely the Agriculture, Fisheries and Conservation Department, Architectural Services Department, Civil Engineering and Development Department, Drainage Services Department, Home Affairs Department, Housing Department, Highways Department, Lands Department (“LandsD”), Leisure and Cultural Services Department, and Water Supplies Department) and 1823 under the Efficiency Office. Our comments and recommendations are as follows.

#### **Our Findings**

##### ***TMO Should Step in More Proactively in Complaint Cases Involving Disputes over Responsibilities***

4. Information provided by 1823 showed that between 2018 and October 2022, each year 1823 received on average some 24,000 tree complaints, of which about 1,100

cases on average (or 3.3% to 5.9% over the annual total of complaints received) involved disputes over responsibilities among departments. Each year, in dozens of such cases, the complainant received a reply only after more than three months. While the number of cases involving disputes over responsibilities makes up only a small percentage of the annual total, the conditions of trees change from one minute to the next. If tree complaints are not handled in a timely manner because of departments' disagreement over responsibilities, not only would it easily lead to an impression of departments passing the buck, but also pose safety hazards.

5. Our investigation found that in the past, upon notification by 1823 of a dispute over responsibilities, TMO would follow the mechanism to first wait for a review of the case by the complaint officers of the departments concerned, then formally step in to coordinate and adjudicate if the dispute remains unresolved. In three case studies, we found that by the time TMO stepped in according to the mechanism, about four to six months had already lapsed since the cases were received. After the commencement of our preliminary inquiries, TMO piloted an enhanced mechanism in early 2022 under which it would intervene earlier to handle all cases that 1823 has taken to the complaint officers of the departments concerned. Nevertheless, our case studies revealed that the case handling time was subject to numerous factors and the case might have been seriously delayed when it was taken to the departmental complaint officers. In other words, even if TMO intervened at the time when the case was raised to the departmental complaint officers, the overall handling time would not significantly shorten.

6. This shows that for tree complaint cases involving disputes over responsibilities, if TMO bases its decision to step in solely on the complaint handling stage, the disputes may not be settled in a timely manner. Given that the aim of TMO in setting up the inter-departmental mechanism is to effectively clarify tree management responsibilities for early resolution of complaints, we consider that the overall handling time of a tree complaint case should be a criterion for TMO's intervention. Even if a case is not yet taken to the departmental complaint officers, TMO should still step in when there is already a serious delay in the overall case progress by different reasons, lest a problematic tree would become an environmental nuisance or even a safety hazard due to delayed handling.

### ***TMO Should Make Good Use of Case Handling Experience to Reduce Disputes Among Departments***

7. The Technical Circular (Works) No. 6/2015 ("the Technical Circular") promulgated by DEVB sets out the division of responsibilities among tree management departments. Tree management responsibilities are basically determined by the location of a tree. Our case studies found that from time to time, there were divergent interpretations of the Technical Circular by departments and even recurrence of disputes over similar issues. For instance, departments had argued over which part of the tree should define its location, or they had different interpretations as to the meaning of "roadside trees within 10 metres from kerb of non-expressway public roads (outside country parks) on unleased/unallocated Government land" in the Technical Circular.

We believe similar disagreements would not be rare.

8. Since 2022, TMO has uploaded the summaries of its decisions in representative cases onto the Government intranet with a view to providing guiding examples to departments. Yet, information provided by 1823 showed that the number of complaint cases involving disagreement among departments in 2022 remained at about 800. The effectiveness of sharing case decisions in reducing disputes among departments remains to be seen. While we understand that some cases may involve special circumstances and disputes over responsibilities among departments can unlikely be avoided completely, we are more concerned whether there exist prolonged fundamental differences in opinions or even misunderstanding of the delineation of tree management responsibilities by departments, resulting in recurrent disputes over similar issues.

9. We reckon that in addition to sharing its decisions in individual cases with departments, TMO should conduct systemic analysis on completed cases, collate information about departments' common differences in opinions and misunderstanding of tree management responsibilities and conduct exchanges and sharing with the departments regularly. TMO should also review and update the content of the Technical Circular as appropriate in a timely manner by including the guiding principles from its decisions in previous cases for the departments to follow.

***TMO Should Supervise and Monitor Departments' Compliance with Inter-Departmental Mechanism for Handling Complaint Referrals***

10. Under the current inter-departmental mechanism, when a department receives from 1823 a tree complaint that it considers outside its purview, it should, within seven days of receiving the referral, submit a preliminary investigation report to 1823 for their further referral to another department. Our case studies revealed that some departments had failed to notify 1823 of their disagreement in taking up the case within the specified time frame, resulting in a substantial protraction of the overall case handling time. Some other departments merely mentioned in their replies to 1823 that the trees in question were at a certain location and therefore outside their purview, without giving any supplementary information (such as maps or photographs). Subsequently, 1823 had to look for relevant information in order to identify the responsible department. All the above would affect the overall progress of handling tree complaints.

11. We consider that TMO should supervise departments' strict compliance with the requirements of the inter-departmental mechanism in handling complaint referrals, i.e. they should raise a request to 1823 for further referral within the specified time frame and provide sufficient information if they disagree to take up a case. TMO should also monitor departments' compliance to ensure timely referral of complaint cases.

***TMO Should Instruct Departments to Conduct Joint Inspections Promptly in Case of Disputes over Responsibilities***

12. From our case studies, we noticed that disputes among departments often arose because they had different observations at the scene. Such disputes can in fact be settled through joint inspections. Currently, however, the disputing departments seldom conduct joint inspections, unless upon TMO's intervention and request.

13. We opine that TMO should instruct departments to conduct joint inspections promptly in case of disputes over tree maintenance responsibilities, such that responsibilities can be clarified as soon as possible.

***TMO Should Strengthen Monitoring of Departments' Carrying out of Ordinary Tree Work in Response to Complaints***

14. Currently, tree management departments reply to tree complaints in accordance with their own performance pledges. Regarding the tree management work entailed in handling complaints, a guideline formulated by DEVB stipulates that when departments identify a dead tree or a non-old and valuable tree infected with brown root rot disease in an area with high pedestrian and vehicular traffic flow, they should remove it no longer than four weeks. Other than this, there is no stipulation on the time frame for completing ordinary tree work such as pruning or removal of dead branches. Departments can decide on their own how to proceed with such work based on the circumstances.

15. Our investigation revealed that none of the departments has drawn up an internal time frame for carrying out ordinary tree work or set up a database recording the completion dates of tree work in response to complaints. Even if departments have met their pledge in replying to the complainants, there is no objective information on whether they have actually carried out the tree work involved in a timely manner.

16. We consider that TMO should require departments to formulate a time frame for carrying out ordinary tree work in response to complaints based on the actual need, and to report related data to TMO regularly for monitoring to ensure proper handling of the tree problems under complaint.

***TMO Should Review and Enhance the Categories of Data Included in 1823's Monthly Reports***

17. Each month, 1823 submits to TMO a report on tree complaints with multiple categories of data, including the number of tree complaints 1823 received in the month, the number of complaints completed, the number of outstanding complaints and the number of complaints with overdue replies, as well as the number of complaints raised to departmental liaison officers, complaint officers and TMO. TMO monitors the departments' handling of tree complaints through the monthly reports.

18. Our investigation found that 1823's monthly reports only contain data on the number of overdue cases under various departments as at the last day of a month, rather than the accumulated number for the period. Therefore, the current 1823 monthly reports fail to reflect a complete picture of the departments' performance in handling tree complaints. Besides, since 1823 does not maintain figures on the accumulated number of complaint cases involving overdue replies by departments, TMO cannot grasp a full picture of departments' delay in handling tree complaints referred by 1823, including the number of complaints delayed in reply, the duration of the delays and the overall trend. In addition, the 1823 monthly reports only contain the number of complaints raised to different officers of departments or to TMO for examination, without analysis on the case completion time. We are of the view that the completion time of cases involving unclear delineation of responsibilities is of high reference value by helping TMO assess the effectiveness of the inter-departmental mechanism.

19. We recommend that TMO review and enhance the categories of data included in 1823's monthly reports for more rigorous monitoring of departments' performance in handling tree complaints and the operation of the inter-departmental mechanism.

***TMO Should Collect Data on Tree Complaints Not Received via 1823***

20. Between 2018 and October 2022, the Government received an average of some 28,000 tree complaints each year, of which about 24,000 (or 86%) were received via 1823. The remaining 4,000 complaints (or 14%) were received by departments directly or through other means.

21. 1823 handles tree complaints received in accordance with the established mechanism, requiring the responsible department to reply by the specified date, and issuing reminders and monthly reports to departments when a reply is overdue. To facilitate monitoring, 1823 also submits monthly reports to TMO which contain various categories of data on tree complaints. As regards tree complaints not received via 1823, they would be handled by the departments in accordance with their own monitoring mechanism and performance pledges. At present, TMO only requires departments to report the total number of tree complaints received each year with no other information or analysis. This reflects TMO's relatively limited understanding of tree complaints not received via 1823 and the departments' handling.

22. We recommend that TMO require departments to submit regularly data relating to tree complaints not received via 1823 for comprehensive monitoring of complaints received through various channels and follow-up actions by the departments.

***TMO Should Continue to Monitor LandsD's Performance in Handling Tree Complaints***

23. Information from 1823 showed that LandsD used to have a huge number of tree complaints with overdue replies. As at both December 2021 and March 2022, the department had a backlog of more than 2,000 tree complaints where replies remained

outstanding. Our case studies found that in a case involving tree failure risk referred by 1823, LandsD took more than a year to reply to the complainant via 1823 that the case was still under investigation, not to mention its subsequent follow-up action. This Office finds such serious delay absolutely unacceptable.

24. We noticed that since the second half of 2022, TMO has strengthened the monitoring of tree complaint handling by LandsD; LandsD has also set up an internal task force led by its Deputy Director to conduct a comprehensive review of the procedures for handling tree complaints. Nine recommendations have been made and seven subsequently implemented. Information from 1823 showed that the backlog of cases has significantly shrunk. As at October 2022, the number of tree complaints with overdue replies by LandsD had considerably dropped to four.

25. However, it must be noted that the above is only the number of cases in which LandsD had delayed in replying to 1823. The department does not maintain figures on the actual number of tree complaints with clearance work to be completed. As such, there is no objective information on whether the trees involved in the backlog of complaint cases have been properly handled. We hope that LandsD can make good use of the computer information system it is developing as an internal monitoring tool to facilitate case follow-up and data analysis.

26. In any event, LandsD is responsible for carrying out ad-hoc maintenance for trees on unleased and unallocated Government land. The number of trees involved is huge and the related workload onerous. We consider that TMO should continue to monitor LandsD's performance in handling tree complaints and provide assistance where necessary to ensure proper handling of problematic trees.

## **Our Recommendations**

27. In light of the comments above, The Ombudsman has made the following recommendations to TMO under DEVB:

- (1) for tree complaint cases involving disputes over responsibilities among departments, consider using the overall handling time of the case as a criterion for intervention, so as to reduce the risk of a problematic tree becoming an environmental nuisance or even a safety hazard due to delayed handling;
- (2) conduct systemic analysis on completed complaint cases involving disputes over responsibilities, collate information about departments' common differences in opinions and misunderstanding and conduct exchanges and sharing with the departments regularly; review and update the content of the Technical Circular as appropriate in a timely manner by including the guiding principles from its decisions in previous cases for the departments to follow;

- (3) supervise departments' strict compliance with the requirements of the inter-departmental mechanism in handling complaint referrals, i.e. they should raise a request to 1823 for further referral within the specified time frame and provide sufficient information if they disagree to take up a case. TMO should also monitor the departments' compliance to ensure timely referral of complaint cases;
- (4) instruct departments to conduct joint inspections promptly in case of disputes over tree maintenance responsibilities, such that responsibilities can be clarified as soon as possible;
- (5) require departments to formulate a time frame for carrying out ordinary tree work in response to complaints based on the actual need, and to report related data to TMO regularly for monitoring to ensure proper handling of the tree problems under complaint;
- (6) review and enhance the categories of data included in 1823's monthly reports for more rigorous monitoring of departments' performance in handling tree complaints and the operation of the inter-departmental mechanism;
- (7) require departments to submit regularly data relating to tree complaints not received via 1823 for comprehensive monitoring of complaints received through various channels and follow-up actions by the departments; and
- (8) continue to monitor LandsD's performance in handling tree complaints and provide assistance where necessary to ensure proper handling of problematic trees.

**Office of The Ombudsman**  
**July 2023**

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