

Transport Department's handling of an application for cross-boundary private cars quota Investigation Report

The complainant lodged a complaint with this Office against the Transport Department ("TD") on 5 March 2023.

The Complaint

2. Allegedly, in January 2020, the complainant successfully got a quota for Hong Kong cross-boundary non-commercial private cars using the Hong Kong-Zhuhai-Macao Bridge ("HZMB") to Macao ("Quota") by ballot. The Quota would expire in April 2023.

3. In February 2023, TD conducted a ballot for new Quotas. However, its computer system rejected the complainant's application on the grounds that he had already been allocated a Quota in the last round. Upon enquiry, he learnt that TD's system had already been updated and he could submit his application again. Nevertheless, his application was still rejected. When he enquired of TD once more, TD replied that he was ineligible because he was holding a Quota.

4. The complainant was aggrieved that:

- (1) the Quota he was holding would expire in April 2023 but the new Quotas can only be used starting from May the earliest. As such, TD should not have rejected his application. Besides, TD had given him inconsistent replies (**para. 3**), reflecting chaotic handling;
- (2) TD was rigid and inflexible in that it did not automatically renew the Quotas for three years, as Macao did in response to the pandemic; and
- (3) TD, while requiring applicants for Quotas to be salaried employees or running companies in Macao, did not ask them to submit relevant supporting documents for screening purposes before drawing ballot. As a result, many selected by ballots applicants turned out to be ineligible and TD's administrative efficiency was thereby made significantly lower.

Our Findings

5. After a preliminary inquiry, we launched a full investigation against TD on 5 May 2023. Having examined the information and explanations provided by TD, we completed the investigation on 20 July 2023. Our findings are as follows.

The Quota System

6. Since the commissioning of the HZMB in October 2018, the governments of Hong Kong and Macao introduced a Quota system for eligible private cars to travel between the two cities via the HZMB. The two governments can formulate their own Quota allocation arrangements (including eligibility criteria and validity period of the Quotas) based on their local circumstances.

7. Quotas for Hong Kong private cars are valid for no more than three years. TD would issue a press release to openly invite applications for Quotas, which can be submitted online before the closing date. If the number of applications exceeds the specified number of Quotas, TD will draw ballots to determine the order of the applications to be processed. TD will then ask the applicants according to their balloted order to submit supporting documents for processing their applications until all Quotas are filled. Upon receipt of all required documents already approved by the governments of Guangdong, Hong Kong and Macao, TD will issue permits to the applicants, who will then be formally deemed Quota holders.

8. Thus far, TD has issued four batches of Quotas. Current Quota holders cannot apply for new Quotas unless their Quotas have already expired.

9. The number and validity period of the Quotas issued at different stages so far are as below:

	Quota batch	No. of Quotas	Valid since	Expire on
(1)	First batch	300	24 October 2018	23 October 2021
(2)	Second batch ¹	500	6 April 2020 to 19 February 2021	5 April 2023 to 18 February 2024

¹ Issuance of the second batch quotas coincided with the commencement of the outbreak of the COVID-19 pandemic and some successful applicants indicated that they could not provide the relevant supporting documents during the pandemic. TD, therefore, exercised discretion to extend the application processing period and issued quotas in seven phases.

(3)	Third batch	1,000	1 July 2021	30 June 2024
(4)	Fourth batch	1,000	1 September and 1 November 2023	31 August and 31 October 2026

Sequence of Events

10. On 31 March 2020, TD issued a permit to the complainant after approving his application for a (second batch) Quota (**para. 9(2)**), which was valid up to 5 April 2023.

11. On 4 January 2023, TD announced, in view of the imminent expiry by phases of the second batch Quotas (including the complainant's), that the 500 Quotas of the second batch will be re-allocated through open application. TD wrote to remind the complainant that he could, as a holder of a second batch Quota, submit an application to TD. On the same day, the complainant submitted the application. On 15 February, TD drew ballots but the complainant was not among the first 500 successful applicants.

12. On 20 February, the complainant submitted through the government's website an application for a fourth batch Quota², but was rejected online. He then enquired by email. TD found that he could not submit his application because its system had not updated his Quota record due to technical problems. TD then arranged for immediate update of the record and replied to him that he could try to apply again.

13. On the same day, the complainant submitted an application online again, but was rejected once more. He enquired of TD by email again. TD's records showed that his application was rejected because he was holding a Quota at the time of application (**para. 10**) and therefore ineligible. TD explained to the complainant the reason.

TD's Response

Allegation (1)

14. TD explained that the **closing date of application** was used to determine the eligibility of all applicants. It could not accept the complainant's application for a fourth batch Quota that day because the Quota he was holding had not yet expired.

² The Government announced on 26 January 2023 to openly invite applications for the 1,000 fourth batch quotas (para. 9 (4)). Eligible applicants could submit applications between 20 February and 3 March 2023.

15. Upon review, TD agreed that if an application's original Quota would have expired before the **expected effective date of the new Quota**, the applicant should also be eligible for making a new Quota application. In this light, TD would introduce an improvement measure. Rather than using the closing date of application to determine whether an applicant is a current Quota holder, TD would use the **expected effective date of the new quotas** instead.

16. On the complainant's allegation that TD's replies in February 2023 were inconsistent, TD found problems with its computer system as pointed out in **paragraphs 12 and 13 above** upon his first enquiry, and then updated the system at once and asked him to try again. At that time, TD was not aware that he was a Quota holder. Upon his second enquiry, TD found that he was a Quota holder and therefore replied that his application could not be accepted.

17. To deal with the aforesaid problem with its system, TD had reminded its staff to step up the monitoring of system updating to ensure that its system's information has been timely updated before accepting a new batch of Quota application.

Allegation (2)

18. As far as TD understood, Quota holders could drive between Hong Kong and Macao during their Quotas' three-year validity period, so long as Macao's quarantine policy during the pandemic was complied with. TD understood that the quarantine arrangements during the pandemic might cause inconvenience to Quota holders travelling between the two cities, but it had to adhere to the three-year validity which was stipulated at the time of Quota issuance.

19. Furthermore, Hong Kong and Macao could determine their own arrangements for issuing Quotas in accordance with local circumstances, and their arrangements varied significantly in number of Quotas, the eligibility of applicants, drivers and vehicles, and re-allocation of Quotas upon their expiry. It may not be suitable for Hong Kong to follow Macao's practice of permitting current Quota holders to apply for Quota renewal.

20. TD stressed that according to its Quota application records, it had received applications which were two to seven times more than the number of Quotas available. Re-allocation of Quotas upon expiry through open application aims at benefitting more people.

Allegation (3)

21. TD stated that at present, applicants input their basic application information on the Government's webpage. It will then verify their basic eligibility (such as their being registered vehicle owners and permanent Hong Kong residents) via the system. Supporting documents are not required before ballots are drawn. After ballots drawing, applicants will be asked to submit their documents according to their balloted order until all Quotas are filled.

22. TD explained that it did not ask applicants to submit supporting documents before ballots are drawn because demand for Quotas are keen and the number of applications often exceed the number of Quotas available. If all applicants are required to provide detailed documents for verification before ballots are drawn, they will need more time to prepare documents, and TD will also need extra manpower to verify every application. Both the preparation time and TD's workload before ballot drawing will significantly increase, thereby affecting efficiency. As the applications TD received were two to seven times more than the Quotas available, its current practice can obviate the need for processing a huge number of unsuccessful applications and hence help TD save manpower, enabling optimal utilisation of resources.

23. The complainant alleged that a lot of selected by ballots applicants were actually ineligible. Having checked its records, TD found that only a few applicants selected by ballots had failed to provide the required documents. Only 22 out of the more than 1,600 applicants in the first round could not provide the documents. Such cases even saw a sharp decrease in subsequent batches. The number of applicants who failed to provide the required documents was 0, 4 and 6 for the subsequent batches of applications respectively.

Our Comments

Allegation (1)

24. Since the demand for Quotas was keen, we consider it reasonable of TD to stipulate that any person can hold only one Quota at any given time.

25. Nevertheless, the second batch Quota that the complainant was holding would expire on 5 April 2023, while the fourth batch quotas would only become effective on 1 September 2023. Obviously, the complainant would by then no longer be a Quota

holder and so the principle mentioned in the preceding paragraph would not be violated. It was, therefore, unreasonable of TD to reject his application on the grounds that the Quota he was holding was still valid in February when he made the application.

26. We are glad to learn that TD had conducted a review and decided to implement an improvement measure. Rather than using the closing date of application to determine whether an applicant was a Quota holder, TD changed to use the **expected effective date of the new Quotas** instead. We believe that upon implementation of the new measure, unreasonable situation similar to that the complainant has experienced can be avoided.

27. In response to the complainant's allegation about inconsistent replies, TD had provided clarifications in **paragraphs 12, 13 and 16**.

28. Overall, The Ombudsman considers Allegation (1) **partially substantiated**.

Allegation (2)

29. TD has already explained the rationale behind its practice (**paras. 18-20**). We consider it not unreasonable. We understand that a lot of Quota holders had less intention or need to travel back and forth to Macao during the pandemic because of quarantine restrictions or changes in personal life and operation of their companies. While we appreciate the complainant's expectation, the arrangements for re-allocating the Quotas involve TD's transport policy. And it has made its decision after taking into account different considerations. Unless its decision is obviously unreasonable, this Office would refrain from making further comments.

30. In this light, The Ombudsman considers Allegation (2) **unsubstantiated**.

Allegation (3)

31. TD has explained the rationale behind the current application vetting procedures (**paras. 21 and 22**), which were adopted having regard to TD's daily operational conditions and the principle of making appropriate use of resources. The actual situation also showed that TD's practice had not caused many winnings of ballot by ineligible applicants (**para. 23**). We consider there to be no evidence of impropriety on the part of TD.

32. The Ombudsman, therefore, considers Allegation (3) **unsubstantiated**.

Our Overall Comments and Recommendation

33. Overall, The Ombudsman considers the complainant's complaint against TD **partially substantiated**. We urge TD to implement as soon as possible the improvement measure mentioned in **paragraph 15**, i.e. rather than using the closing date of application to determine whether an applicant was a Quota holder, TD would use the **expected effective date of the new Quotas** instead.

34. TD accepted our findings in this investigation. It would implement the aforesaid improvement measure when issuing the next batch of Quotas.

Office of The Ombudsman

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