

申訴專員公署
Office of The Ombudsman



主動調查行動報告
Direct Investigation Operation Report

**康樂及文化事務署處理單車租賃服務營辦商的
單車阻塞通道問題**
**Leisure and Cultural Services Department's Handling of
Obstructions to Passageways by Bicycles Owned by
Operators of Bicycle Rental Services**

報告完成日期：2024 年 11 月 18 日
Completion Date: 18 November 2024

報告公布日期：2024 年 11 月 21 日
Announcement Date: 21 November 2024

CONTENTS

Executive Summary

<i>Chapter</i>	<i>Paragraph</i>
1 INTRODUCTION	
<i>Background</i>	<i>1.1 – 1.3</i>
<i>Process of Investigation</i>	<i>1.4 – 1.5</i>
2 BICYCLE RENTAL SERVICES	
<i>Cycling Grounds and Cycling Tracks</i>	<i>2.1</i>
<i>Bicycle Rental Kiosks</i>	<i>2.2 – 2.3</i>
3 ENFORCEMENT BY LCSD	
<i>Relevant Legislation</i>	<i>3.1</i>
<i>Permit Contract Terms</i>	<i>3.2 – 3.4</i>
<i>Inspections</i>	<i>3.5 – 3.7</i>
4 CASE STUDY AND SITE INSPECTIONS	<i>4.1</i>
<i>Case Study</i>	<i>4.2 – 4.13</i>
<i>Site Inspections</i>	<i>4.14 – 4.15</i>
5 OUR COMMENTS AND RECOMMENDATIONS	
<i>Overall Comments</i>	<i>5.1 – 5.2</i>
(I) <i>Should Strengthen Monitoring of Bicycle Rental Service Operators</i>	<i>5.3 – 5.4</i>
(II) <i>Should Step up Staff Training on Enforcing Permit Contract Terms</i>	<i>5.5 – 5.6</i>
(III) <i>Unsystematic and Inconsistent Enforcement Mechanism</i>	<i>5.7 – 5.9</i>

<i>(IV) Should Review Operators' Arrangements for Storing and Displaying Bicycles</i>	<i>5.10 – 5.12</i>
<i>Recommendations</i>	<i>5.13</i>
<i>Acknowledgements</i>	<i>5.14</i>

Executive Summary

Direct Investigation Operation Report

Leisure and Cultural Services Department's Handling of Obstructions to Passageways by Bicycles Owned by Operators of Bicycle Rental Services

Introduction

Earlier this year, this Office received a complaint against the Leisure and Cultural Services Department ("LCSD"). Allegedly, an operator of the bicycle rental services in a certain park under LCSD ("the Operator") had been placing a large number of bicycles outside its business area for a protracted period, causing obstruction to a passageway nearby, but LCSD had failed to monitor the Operator effectively such that the irregularities persisted.

2. In the course of investigation, we noticed that there are other LCSD recreational venues with bicycle rental services provided by different operators. Operators placing their bicycles outside the permitted areas in violation of regulations not only causes obstruction to passageways and affect the members of the public to access to and use of recreational facilities, but may also pose safety hazards, which simply cannot be ignored. Against this background, we have probed thoroughly LCSD's management arrangements with respect to the display and storage of bicycles by bicycle rental service operators, as well as the Department's enforcement mechanism for tackling related irregularities. Overall, we have the following observations and comments.

Our Findings

(I) Should Strengthen Monitoring of Bicycle Rental Service Operators

3. There are 14 recreational venues under LCSD with bicycle rental services provided by operators engaged by the Department. The business permit for conducting bicycles rental services ("Permit") is granted by LCSD through open tender. The contract terms of the Permit explicitly forbid placing bicycles and articles relating to the bicycle rental services outside the Permit Area.

4. Our case study shows that LCSD had for years failed to take timely and decisive enforcement actions against the Operator's irregularities in accordance with

contract terms. Our multiple site inspections also found the same irregularities at other LCSD venues. It seems to be a common practice for operators to leave bicycles lying around in contravention of the regulations, and this has invited doubts as to whether LCSD had ever reminded the operators of the irregularities or take enforcement action against them in the past.

5. We consider it imperative that LCSD strengthen its monitoring of bicycle rental service operators and take decisive enforcement action against violations pursuant to contract terms.

(II) Should Step up Staff Training on Enforcing Permit Contract Terms

6. The case selected for study shows that during the period when the Operator had violated the contract terms and placed its bicycles outside the Permit Area, LCSD had sought legal advice twice from the Department of Justice on the enforcement of Permit contract terms and related procedures. It subsequently learnt that further enforcement action could not be taken against the Operator's aggravated violations because the reminders LCSD had sent to the Operator earlier did not contain relevant wordings of warning.

7. We are of the view that the above may reflect that LCSD frontline staff had failed to fully understand the Permit contract terms and relevant contract management work. LCSD should step up staff training in this aspect.

(III) Unsystematic and Inconsistent Enforcement Mechanism

8. According to the relevant guidelines, LCSD staff issue reminders or warning letters to operators based on the gravity of the irregularities found. If there is no evident improvement after the third warning letter, the Department can consider suspending the operator's business or terminating the contract. Nevertheless, the guidelines did not clearly specify how many verbal and written reminders would warrant a warning letter, or whether written reminders and warning letters have a validity period. It is mainly up to individual staff to make decisions depending on the actual circumstances of each case.

9. We are of the view that in order to carry out enforcement more efficiently and fairly and in a more transparent manner, LCSD should enhance the current enforcement regime and the relevant guidelines, for example, by specifying clearly that the Department will issue a warning letter if a cumulative number of verbal or written

reminders are given within a certain period of time, and that the criteria for the issuance of a warning letter should be made public. This would facilitate LCSD frontline staff to carry out enforcement work through consistent standards.

(IV) Should Review Operators' Arrangements for Storing and Displaying Bicycles

10. We notice that operators would display bicycles of various models for customers to choose and try so that they can pick the one they consider suitable, safe and easy to control. Such *modus operandi* is not unreasonable, and may even have practical need for it. We consider that while LCSD has a duty to monitor compliance with Permit contract terms, it should also review whether the current regulatory regime is too restrictive for the operators in the business.

11. LCSD should conduct a comprehensive review on the operation of bicycle rental services at its venues. If it is considered that the space or the geographical location of the bicycle kiosks are found to hamper business operations, the Department should examine whether operators can be allowed to use the space outside the Permit Area for placing their bicycles as long as the relevant regulations are complied with. In the long run, LCSD should consider including part of the venue as the Permit Area when drafting new contracts for bicycle rental services in the future for better management.

Our Recommendations

12. In conclusion, The Ombudsman has made the following recommendations to LCSD:

- (1) to keep monitoring the Operator closely. Should it continue to occupy the space outside the Permit Area in violation of contract terms, decisive enforcement action must be taken;
- (2) to strengthen monitoring of bicycle rental service operators and take decisive enforcement action against irregularities pursuant to contract terms;
- (3) to step up staff training on the enforcement of Permit contract terms and relevant procedures to ensure that enforcement actions are taken rigorously, accurately and effectively;

- (4) to examine how to enhance the current enforcement regime and relevant guidelines, so as to carry out enforcement work in a more efficient and fairer manner in accordance with consistent standards;
- (5) to conduct a comprehensive review on the operation of bicycle rental services at venues under its purview, and to examine the feasibility of allowing operators to use the space outside the Permit Area for placing their bicycles through management arrangements or measures, subject to compliance with the relevant requirements;
- (6) to consider revising the terms of future Permit contracts to suitably include a certain area outside the bicycle kiosks as part of the Permit Area for better management;
- (7) to collect information on the performance of operators (especially irregularities and their approach to complying with reminders and warning letters, etc.) and include such information into the LCSD database as reference in approving new Permits in the future; and
- (8) to step up publicity to encourage members of the public to monitor operators' performance and report irregularities to LCSD at once.

Office of The Ombudsman

November 2024

We will post the case summary of selected investigation reports on social media from time to time. Follow us on Facebook and Instagram to get the latest updates.



Facebook.com/Ombudsman.HK



Instagram.com/Ombudsman_HK

1

INTRODUCTION

BACKGROUND

1.1 In January 2024, this Office received a complaint against the Leisure and Cultural Services Department (“LCSD”). Allegedly, an operator of the bicycle rental services in a certain park under the Department had been placing a large number of bicycles outside its business area for a protracted period, causing obstruction to a passageway nearby, but LCSD had neither followed up on the problem properly nor monitored the operator effectively. As a result, the irregularities persisted.

1.2 In the course of investigation, we noticed that there are other LCSD recreational venues with bicycle rental services provided by different operators. Operators placing their bicycles outside the permitted areas in violation of regulations not only causes obstruction to passageways and affects the members of the public in accessing to and using the recreational facilities, but also poses safety hazards, which simply cannot be ignored.

1.3 Against this background, The Ombudsman notified LCSD pursuant to section 7(1)(a)(ii) of The Ombudsman Ordinance on 12 September 2024 of the launch of an in-depth and comprehensive direct investigation operation to probe thoroughly LCSD’s management arrangements with respect to the display and storage of bicycles by bicycle rental service operators, as well as the Department’s enforcement mechanism for tackling related irregularities, with a view to making improvement recommendations as appropriate.

PROCESS OF INVESTIGATION

1.4 We have scrutinised the further information provided by LCSD, and deployed staff to conduct multiple site inspections at other LCSD venues with bicycle rental services.

1.5 On 14 October 2024, we issued a draft investigation report to LCSD for comments, and received its reply on 23 October 2024. After considering and duly incorporating its comments, we finalised this report on 18 November 2024.

2

BICYCLE RENTAL SERVICES

CYCLING GROUNDS AND CYCLING TRACKS

2.1 At present, there are 23 LCSD recreational venues with cycling grounds and cycling tracks. In 12 of these venues, there are bicycle rental services provided by operators engaged by LCSD. In addition, there are two parks (namely the Sha Tin Park and the Tai Po Waterfront Park) with no cycling ground or cycling tracks but still provide bicycle rental services so that members of the public can enjoy cycling on the nearby cycling tracks (see **Table 1**).

Table 1: Recreational venues under LCSD with bicycle rental services

Recreational venues			
1.	Sha Tin Park [@]	8.	Yuen Long Town Cycling Entry/Exit Hub
2.	Tai Po Waterfront Park [@]	9.	University Station Cycling Entry/Exit Hub
3.	Hong Kong Velodrome	10.	Tsing Yi Northeast Park
4.	Tuen Mun Cycling Entry/Exit Hub	11.	Kowloon Bay Park
5.	Wu Shan Recreation Playground	12.	Kung Lok Road Playground
6.	Sheung Shui Cycling Entry/Exit Hub	13.	Po Kong Village Road Park
7.	Tin Shui Wai Cycling Entry/Exit Hub	14.	Carpenter Road Park

[@] The venue does not have a cycling ground or cycling tracks.

BICYCLE RENTAL KIOSKS

2.2 “Permit to conduct the hire of bicycles business” (“Permits”) is granted by LCSD through open tender, normally with a three-year contract period. Some Permits cover bicycle rental kiosks located at two different venues so that members of the public can rent and return bicycles at different locations. LCSD opines that this arrangement makes it easier for the public to choose and use the bicycle rental service they consider suitable and convenient. For example, a Permit covers a bicycle rental kiosk at recreational venue A and another at recreational venue B, both of which are under the same operator, and the public can rent a bicycle at venue A, then return it at venue B; and vice versa.

2.3 In recent years, the Government strives to construct and implement a cycle track network that connects East to West in the New Territories. The network boasts a total length of about 82 kilometres, of which the 60-kilometre long backbone section between Tuen Mun and Ma On Shan is already commissioned, passing through five LCSD cycling entry/exit hubs¹, where bicycle rental kiosks have been set up to facilitate public use of the network.

¹ They are, namely, the Tuen Mun Cycling Entry/Exit Hub, Tin Shui Wai Cycling Entry/Exit Hub, Yuen Long Town Cycling Entry/Exit Hub, Sheung Shui Cycling Entry/Exit Hub and University Station Cycling Entry/Exit Hub.

3

ENFORCEMENT BY LCSD

RELEVANT LEGISLATION

3.1 LCSD’s recreational venues are under the purview of the Public Health and Municipal Services Ordinance (Cap 132) (“the Ordinance”) and its subsidiary legislation, the Pleasure Grounds Regulation (“the Regulation”). LCSD can, pursuant to the powers conferred by the Ordinance, draw up regulations in relation to the management of its venues. Any person who fails to comply with the regulations shall be guilty of an offence and subject to prosecution by the Department.

PERMIT CONTRACT TERMS

3.2 Bicycle rental service operators shall observe the Permit contract terms. The main contract terms relating to the requirements on storage of bicycles and tricycles and use of venues stipulate that the Permit holder:

- (1) “shall keep the Permit Area in tidy condition to the satisfaction of the Government representative and shall keep all the bicycles and tricycles within the Permit Area when not in use”;
- (2) “shall not at any time place any item related to the operation of the Hire of Bicycles and Tricycles Business outside the Permit Area”;
- (3) “shall not place or leave, or cause, or suffer, or permit to be placed or left any of its trade equipment, stores, provisions, furniture, fixtures, fittings, chattels or other things whatsoever at any places within the Venue other than the Permit Area or otherwise howsoever encumber or encroach such places”.

3.3 Besides, the contract terms stated clearly that “within twenty-four hours (or such longer timer as may be notified by the Government) of being notified in writing

of the rejection of any action undertaken by the Permit holder or result of such action, the Permit holder shall take necessary action to rectify such rejected action or result of action to the satisfaction of the Government Representative”.

3.4 With regard to contract termination, the contract terms provide that if the Permit holder fails or neglects to observe or perform any of the terms and conditions of the contract or fails to pay any of the sums payable by the Permit holder under the contract or in the case of a breach of contract capable of being remedied, fails to remedy the breach within fourteen days (but only applies to the above-mentioned situation) or such longer period as the Government Representative may allow after the receipt of a notice in writing from the Government Representative (such notice shall contain a warning of the Government Representative’s intention to terminate the contract), LCSD may at any time by notice summarily terminate the contract.

INSPECTIONS

3.5 LCSD monitors the operation of the bicycle rental service operators at various bicycle rental kiosks in accordance with the contract terms of the relevant business permits. Venue staff conduct routine daily inspections at the kiosks from time to time to observe if there are any irregularities, including placing the bicycles they own outside the Permit Area.

3.6 LCSD has promulgated guidelines on monitoring catering business and other revenue business contracts (including contract for operating bicycle rental kiosks) for compliance and enforcement by the management personnel of various ranks. Depending on the severity of an operator’s violation, LCSD staff would invoke contract terms and issue to the operator regulatory documents of different nature and gravity, including reminders, warning letters and notification of contract termination. If the operator’s performance does not improve after the third warning letter, LCSD may consider suspending its business or terminating the contract.

3.7 If venue staff find bicycles placed outside the Permit Area during inspections, they will issue a verbal reminder to the operator, requesting immediate rectification and removal of the bicycles as soon as possible. If the irregularities are found to persist and the operator fails to move away within a reasonable time the bicycles placed there in violation of contract terms, LCSD shall issue a written reminder and demand prompt rectification. Should the irregularities continue, the Department may consider terminating the contract pursuant to contract terms.

4

CASE STUDY AND SITE INSPECTIONS

4.1 While handling a relevant complaint case (see **para. 1.2**), we found inadequacies in LCSD’s regulation and monitoring of the bicycle rental service operators. In order to better understand the operations of bicycle rental service operators and LCSD’s relevant day-to-day monitoring work, we have deployed staff to conduct multiple site inspections at other LCSD recreational venues.

CASE STUDY

Background

4.2 Since March 2022, the complainant had repeatedly complained to LCSD against the bicycle rental service operator (“the Operator”) of the bicycle rental kiosk located at a certain park (“the Park”) for placing a huge number of bicycles beyond its business area for a protracted period, thereby causing obstruction, and the situation kept worsening. Allegedly, LCSD had failed to follow up on the problem or monitor the Operator properly, such that the complainant could not use the nearby jogging track and the cycling track safely and unimpededly.

LCSD’s Response

4.3 LCSD explained that it has set up three consecutive bicycle rental kiosks at the Park (collectively referred to as “the Kiosks” hereafter) to provide bicycle rental services to the public. The three relevant Permits, which also covered three bicycle rental kiosks located at another park, had been granted to the Operator. The Kiosks are located somewhere between a public pedestrian passageway and a cycling track (collectively referred to as “the Passageway”). The Passageway is on unallocated and unleased Government land (“the unleased land”), which is outside the perimeter of the LCSD venue.

4.4 LCSD pointed out that the Permit Areas of the Kiosks are small and narrow, so the Operator was inclined to display the bicycles for hire outside the Permit Areas for customers to choose and try, thereby occupying the Passageway. While bicycle hirers can choose to return their bicycles at another location, more hirers will choose to return the bicycles to the Kiosks sometimes, such that more bicycles will be stacked outside the Kiosks, awaiting the Operator to arrange for their removal by trucks.

4.5 Operation of the Kiosks was generally in order in 2021, during which LCSD staff sometimes found bicycles placed outside the Permit Area during inspections and the Operator would cooperate upon LCSD's verbal reminder and remove the bicycles as soon as possible. Subsequently, the irregularities were more frequently found and more frequent inspections were warranted. LCSD staff had to issue written reminders requesting rectification as soon as possible when the Operator failed to remove the bicycles within a reasonable time despite the issue of verbal reminders. Between March 2022 (when the complainant first lodged a complaint with LCSD) and January 2024 (when we intervened), LCSD had issued 651 verbal reminders to the Operator. The number of issuance and number of written reminders issued are set out in **Table 2**.

Table 2: Number of issuance and number of written reminders issued to the Operator by LCSD

Year	No. of issuance of reminders	No. of reminders issued
2022	6	18
2023	1	3
2024*	2	6
Total	9	27

* as at 16 January 2024

4.6 LCSD maintained that the Operator was on the whole cooperative in 2023, during which written reminders had only been issued once in early November 2023. Nevertheless, since December 2023, irregularities became more serious and the Operator was not as proactive and cooperative as it had been, and was lax in rectification. Despite a meeting with the Operator and the stern reminders issued in late December 2023, there was no improvement.

4.7 On the other hand, LCSD had sought legal advice from the Department of Justice (“DoJ”) in May 2022 on whether the Department has enforcement authority in the public space in question, as well as on matters relating to enforcement of contract terms and procedures. Regarding enforcement authority under the relevant legislation (see **para. 4.10**) and the Permit contract terms, DoJ’s advice was that if LCSD considered contract termination warranted, a clear and explicit warning notice had to be issued to the Operator first. However, the written reminders issued to the Operator by LCSD thus far did not contain relevant wordings of warning.

4.8 In view of the Operator’s less cooperative attitude since late 2023, LCSD sought DoJ’s further advice in February and March 2024 concerning the details of enforcing Permit contract terms. The Department explained that some bicycles placed outside the Permit Area carried the Operator’s logo, and the Operator in general would cooperate and readily remove them. Nevertheless, it denied ownership to those bicycles placed outside the Permit Area (i.e. unleased land) that did not carry its logo or carried the logo of other operators. As such, LCSD could not invoke the contract terms to take action against those bicycles.

4.9 In view of the Operator’s failure to heed its reminders and remove the bicycles placed outside the Permit Area, LCSD, in accordance with contract terms, issued a warning letter to the Operator stating the Department’s intention to terminate the contract.

4.10 On LCSD’s enforcement authority over the Passageway, DoJ indicated to LCSD that neither the Ordinance nor the Regulation has conferred power to LCSD to take enforcement action against those bicycles obstructing unleased land. The relevant enforcement power comes from the Land (Miscellaneous Provisions) Ordinance (“LMPO”) and has been conferred to the Lands Department (“LandsD”) accordingly.

4.11 Regarding the bicycles placed on the Passageway, LCSD had contacted the “Working Group on Tackling Illegal Bicycle Parking” coordinated by the local District Office. The Working Group, comprising a LandsD representative, could take enforcement action against bicycles causing obstruction to streets, regardless of whether they were owned by the Operator or not. Between May 2022 and March 2024, the Working Group had conducted four clearance operations², during which LandsD had

² The Working Group in general conducts clearance operations fortnightly with reference to the complaints received. The Working Group determined the locations of clearance actions based on factors such as the severity of obstruction. Since the problem was serious in the district in question and involved a number of locations, given the limited resources of the departments, the Working Group can only arrange for clearance operation once every half a year to remove the bicycles illegally placed outside the Kiosks that caused obstruction.

issued 575 statutory notices and seized 38 bicycles pursuant to the LMPO.

4.12 LCSD explained that the geographical location of the Kiosks is unique and the Permit Area is surrounded by public space (i.e. the Passageway), which is not under LCSD's purview. Enforcement action could only be taken by other departments. Much stricter requirements about corroborative evidence must also be satisfied if LCSD is to terminate the contract because of the Operator's irregularities. The case was thus more complex than usual.

4.13 Taking into account the limited space of the Kiosks and their geographical location being disadvantageous to bicycle rental business and the Department's management, LCSD has already started to plan other uses for the present site of the Kiosks and will relocate the Kiosks to somewhere within the Park under LCSD's purview for easier management.

SITE INSPECTIONS

4.14 Between 13 and 30 September 2024, we had deployed staff to conduct a number of inspections at LCSD venues with bicycle rental services. We noticed that all service operators had put bicycles and other vehicles for hire (around 10 to 30 in total) on public places outside the Permit Areas for members of the public to choose and try. Some bicycles for hire were even being placed inside the bicycle practising area nearby, and some operators had even erected tents in the open space outside their Permit Areas to cover their bicycles. All the public space being occupied was under LCSD's jurisdiction.

4.15 Our observations during the site inspections were that it was quite common for bicycle rental service operators to place bicycles outside their Permit Areas and the case aforementioned was not a standalone case. Besides, during holidays or peak periods, those bicycles which were owned by the bicycle rental service operators but were left lying around in violation of regulations would cause obstruction or even danger to venue users or cyclists passing through the areas.

5

OUR COMMENTS AND RECOMMENDATIONS

OVERALL COMMENTS

5.1 LCSD has been making every effort to provide quality and diverse recreational facilities and venues for the public to enhance their experience while engaging in leisurely and recreational activities. The Department sets up cycling grounds and cycling tracks, and provides bicycle rental services in some of its venues to facilitate cycling for leisure and short distance travel. Provision of such facilities is also in line with the Government's policy of promoting the New Territories cycle track network (see **para. 2.3**).

5.2 LCSD, as the venue manager and Permit issuer, is duty bound to monitor the operators of bicycle rental services. On the whole, we have the following observations and comments on LCSD's management of and enforcement against the storage of bicycles owned by the bicycle rental service operators.

(I) SHOULD STRENGTHEN MONITORING OF BICYCLE RENTAL SERVICE OPERATORS

5.3 Having scrutinised the relevant contract terms of the Permit, we are of the view that the contract terms explicitly forbid placing bicycles and articles relating to the bicycle rental services outside the Permit Area, and spell out unequivocally the consequences of violation. We understand that in the case detailed in **Chapter 4**, the area outside the Kiosks are not within LCSD's purview, rendering it difficult for the Department to take enforcement action. Nevertheless, while the Operator's irregularities had persisted for years and LCSD had all along been taking follow-up actions, the Department did fail to take decisive and timely enforcement action in accordance with the contract terms. This was in breach of its duty to properly manage the Kiosks and monitor the Operator, and fell short of public expectation. Furthermore,

our site inspections also found similar irregularities at other LCSD venues (see **paras. 4.14 – 4.15**). It seems to be a common practice for operators to leave bicycles lying around in violation of the regulations. The situation invites doubts as to whether LCSD had ever reminded the operators of the irregularities or taken enforcement action against them.

5.4 We consider it imperative that LCSD strengthen its monitoring of bicycle rental service operators and take decisive enforcement actions against violations pursuant to contract terms.

(II) SHOULD STEP UP STAFF TRAINING ON ENFORCING PERMIT CONTRACT TERMS

5.5 With respect to the case detailed in **Chapter 4**, LCSD had twice sought legal advice on whether it had enforcement powers on unleased and unallocated land (see **para. 4.3**), as well as the enforcement of Permit contract terms and related procedures (see **paras. 4.7 – 4.8**). It subsequently learnt that further enforcement action could not be taken against the Operator's aggravated violations because the reminders which LCSD had sent to the Operator earlier did not contain relevant wordings of warning.

5.6 We are of the view that the above reflects that LCSD frontline staff had failed to fully understand the Permit contract terms and relevant contract management work. LCSD should step up staff training in this aspect.

(III) UNSYSTEMATIC AND INCONSISTENT ENFORCEMENT MECHANISM

5.7 According to the relevant guidelines, LCSD staff would issue reminders or warning letters to operators depending on the gravity of the irregularities found. If there is no evident improvement after the third warning letter, the Department can consider suspending the operator's business or terminating the contract (see **para. 3.6**). Nevertheless, the guidelines did not clearly specify how many verbal and written reminders would warrant a warning letter, or whether written reminders and warning letters have a validity period. It is mainly up to individual staff to make decisions depending on the actual circumstances of each case.

5.8 In the case mentioned in **Chapter 4**, the Operator rectified the irregularities temporarily upon receipt of reminders, only to relapse soon afterwards. Repeated verbal and written reminders issued by LCSD within two years did not produce any evident improvement in the situation and the Operator needed not face the consequence of contract termination.

5.9 We are of the view that in order to carry out enforcement more efficiently and fairly and in a more transparent manner, LCSD should enhance the current enforcement regime and the relevant guidelines, for example, by specifying clearly that the Department will issue a warning letter if a cumulative number of verbal or written reminders are given within a certain period of time, and that the criteria for the issuance of a warning letter should be made public. This would facilitate enforcement by LCSD frontline staff through consistent standards.

(IV) SHOULD REVIEW OPERATORS' ARRANGEMENTS FOR STORING AND DISPLAYING BICYCLES

5.10 While LCSD, the department responsible for promoting cycling as a sport and other recreational activities, has a duty to monitor compliance with Permit contract terms, it should also take into account the sustainability and stability of the bicycle rental business, including reviewing whether the current regulatory regime is too restrictive for the business operators. We notice that operators would display bicycles of various models for customers to choose and try so that they can pick the one they consider suitable, safe and easy to control. Such *modus operandi* is not unreasonable, and may even have practical need for it.

5.11 We opine that LCSD should conduct a comprehensive review on the operation of bicycle rental services at its venues. If the space or the geographical location of bicycle kiosks are found to hamper business operations, the Department should examine whether it should implement arrangements or measures to allow operators to use the space outside the Permit Area for placing their bicycles as long as the relevant regulations are complied with.

5.12 In the long run, LCSD should consider including part of the venue as the Permit Area when drafting new contracts for bicycle rental services in the future for better management.

RECOMMENDATIONS

5.13 In conclusion, The Ombudsman has made the following recommendations to LCSD:

- (1) to keep monitoring the Operator closely. Should it continue to occupy the space outside the Permit Area in violation of contract terms, decisive enforcement action must be taken;
- (2) to strengthen monitoring of bicycle rental service operators and take decisive enforcement action against irregularities pursuant to contract terms (see **para. 5.4**);
- (3) to step up staff training on the enforcement of Permit contract terms and relevant procedures to ensure that enforcement actions are taken rigorously, accurately and effectively (see **para. 5.6**);
- (4) to examine how to enhance the current enforcement regime and relevant guidelines, so as to carry out enforcement work in a more efficient and fairer manner in accordance with consistent standards (see **para. 5.9**);
- (5) to conduct a comprehensive review on the operation of bicycle rental services at venues under its purview, and to examine the feasibility of allowing operators to use the space outside the Permit Area for placing their bicycles through management arrangements or measures, subject to compliance with the relevant requirements (see **para. 5.11**);
- (6) to consider revising the terms of future Permit contracts to suitably include a certain area outside the bicycle kiosks as part of the Permit Area for better management; (see **para. 5.12**);
- (7) to collect information on the performance of operators (especially irregularities and their approach to complying with reminders and warning letters, etc.) and include such information into the LCSD database as reference in approving new Permits in the future; and

- (8) to step up publicity to encourage members of the public to monitor operators' performance and report irregularities to LCSD at once.

ACKNOWLEDGEMENTS

5.14 The Ombudsman thanks LCSD for its cooperation in the course of this investigation.

Office of The Ombudsman

Ref: DI/475

November 2024

We will post the case summary of selected investigation reports on social media from time to time. Follow us on Facebook and Instagram to get the latest updates.



Facebook.com/Ombudsman.HK



Instagram.com/Ombudsman_HK

List of Tables

Table	Caption	Page
Table 1	Recreational venues under LCSD with bicycle rental services	3
Table 2	Number of issuance and number of written reminders issued to the Operator by LCSD	8