

Office of The Ombudsman announces result of direct investigation (with photo)

The following is issued on behalf of the Office of The Ombudsman:

The Ombudsman, Ms Connie Lau, today (November 14) announced the completion of a direct investigation into the regulation of illegal burials outside permitted burial grounds (burials outside PBGs) by the Home Affairs Department (HAD) and the Lands Department (LandsD).

This is the Office's second direct investigation into the issues regarding management of PBGs by government authorities, following the direct investigation report on "Management of Permitted Burial Grounds" published in 2015.

In this investigation, the Office focused on examining the inadequacies in the regulation of burials outside PBGs by the HAD and the LandsD. The investigation found that the departments did not have effective measures in place to ensure that indigenous villagers buried the deceased within PBGs. As there are no boundary markers for most PBGs, and the departments would not verify on-site the burial locations before approving the burial applications, incidents of burials outside PBGs have occurred from time to time.

The HAD may revoke the Burial Certificate for cases of burials outside PBGs, but this would entail the removal of the remains of the deceased. In practice, the departments concerned would take into account the fact that relocation of a grave is against the tradition of letting the deceased rest in peace. As a result, in dealing with burials outside PBGs, the departments concerned would only repeatedly advise the offenders to relocate the graves to PBGs without any further enforcement actions, thereby acquiescing to continued illegal occupation of government land without any consequences. The Office considered that the departments should introduce punitive measures against the offenders, so as to avoid giving the public an impression that some offenders in illegal burial cases received preferential treatment and were not required to pay any price for illegal occupation of government land.

To sum up, this investigation report has revealed that the departments concerned have the following three major inadequacies in the regulation of burials outside PBGs:

- (1) failing to formulate comprehensive and effective measures to ensure that the burial locations are correct;
- (2) a lax attitude in following up on cases of burials outside PBGs; and
- (3) allowing offenders to continue to violate the stipulated conditions at no cost.

In light of this, the Office has recommended that the HAD and the LandsD formulate specific measures to ensure that indigenous villagers are, before burying the deceased, fully aware of the boundaries of PBGs, and conduct site inspections with the holders of Burial Certificates in order to confirm the burial locations in advance. The departments should also explore introducing punitive measures to make those who illegally occupy government land pay for their misdeeds.

The investigation report has been uploaded to the Office of The Ombudsman website at www.ombudsman.hk for public viewing.

