

Ombudsman announces results of direct investigation operation into LCSD's handling of obstructions to passageways by bicycles owned by operators of bicycle rental services (with photo)

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

The Ombudsman, Mr Jack Chan, today (November 21) announced the completion of a direct investigation operation into the handling of obstructions to passageways by bicycles owned by operators of bicycle rental services of the Leisure and Cultural Services Department (LCSD), and made eight recommendations to the Department.

A total of 14 recreational venues managed by the LCSD have bicycle rental services provided by operators engaged by the Department for members of the public to rent bicycles for leisure or short-distance travel.

Contract terms of the relevant business permit (permit) issued by the LCSD explicitly forbid placing bicycles and articles relating to bicycle rental services outside the permit area. However, Ombudsman investigations have revealed that it is common for operators to place their bicycles outside the permit area in violation of contract terms. The Ombudsman also found that the existing enforcement mechanism of the LCSD against operators is not consistent.

Mr Chan said, "The LCSD, as the venue manager and permits issuer, is duty-bound to monitor the operators of bicycle rental services. Operators placing their bicycles outside the permit area in violation of regulations not only causes an obstruction to passageways and affects members of the public to access and use recreational facilities, but may also pose safety hazards. Our multiple site inspections found that 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 the LCSD had reminded the operators of the irregularities or has taken enforcement action against them in the past."

LCSD staff issue reminders or warning letters to operators based on the gravity of the irregularities found. If no improvement is evident after the third warning letter, the LCSD can consider suspending the operator's business or terminating the contract. However, the current guidelines do 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. The Ombudsman is of the view that in order to carry out enforcement more efficiently and fairly, the 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.

On the other hand, it has been noted that operators display bicycles of various models outside bicycle kiosks for customers to choose and try. This is not unreasonable, and may even have a practical need. The Ombudsman considers that while the LCSD has a duty to monitor compliance with permit contract terms, it should, as the department responsible for promoting recreational activities, also conduct a review on whether the current regulatory regime is too restrictive for the operators in the business. If necessary, the Department should examine whether operators can be allowed to use the space outside the permit area as long as the relevant regulations are complied with. In the long run, the 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.

The Ombudsman has made a total of eight improvement recommendations to the LCSD, including:

- keep monitoring the operator concerned closely. Should it continue to occupy the space outside the permit area in violation of contract terms, decisive enforcement action must be taken;
- strengthen monitoring of bicycle rental services operators, and take decisive enforcement action against irregularities pursuant to permit contract terms;
- 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;
- examine how to enhance the current enforcement regime and relevant guidelines to carry out enforcement work in a more efficient and fairer manner in accordance with consistent standards;
- 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 areas outside the permit area for placing bicycles, subject to compliance with the relevant requirements;
- consider revising the terms of future permit contracts to suitably include a certain area outside the bicycle kiosk as part of the permit area for better management;
- 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 the basis of reference in approving new permits in the future; and
- step up publicity to encourage members of the public to monitor operators' performance and report irregularities to the LCSD at once.

The Office is pleased to note that the LCSD has accepted all the

improvement recommendations made.

The full investigation report is available on the website of the Office of The Ombudsman at www.ombudsman.hk for public information.

