

# **CHAPTER 1**

## **Buildings Department**

<h3><b>Drainage problems of buildings</b></h3>
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**Audit Commission  
Hong Kong  
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*This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.*

Report No. 44 of the Director of Audit contains 8 Chapters which are available on our website at <http://www.aud.gov.hk/>

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# DRAINAGE PROBLEMS OF BUILDINGS

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## **PART 1: INTRODUCTION**

1.1 This PART describes the background to the audit and outlines its objectives and scope.

### **The Buildings Department**

1.2 The aim of the Buildings Department (BD) is to promote building safety, enforce standards and improve the quality of building development. With this aim, the BD provides services to owners and occupants of both existing and new private buildings by enforcing the Buildings Ordinance (BO, Cap. 123 — Note 1). Services on existing buildings include promoting the proper repair and maintenance of buildings, and reducing dangers and nuisances which, very often, are caused by unauthorised building works (UBW) or poor conditions of drainage systems (Note 2). To enforce the BO, the BD is empowered to issue statutory orders for any non-compliance and to require defects/irregularities to be rectified and UBW to be removed.

### **The outbreak of the Severe Acute Respiratory Syndrome**

1.3 The outbreak of the Severe Acute Respiratory Syndrome (SARS) in early 2003 has heightened public concern at the possible dire consequences of building neglect. The investigation report on Amoy Gardens had in particular pointed to environmental factors in the spread of the disease, arousing much public concern on the drainage conditions of buildings. To allay community concerns, in April 2003 the BD started an inspection programme to examine the external drainage pipes of all private buildings in the territory (the drainage inspection programme) which was eventually subsumed under the Team Clean Programme (Note 3).

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**Note 1:** *The BO governs only private buildings. It does not apply to, among others, buildings in public housing estates and buildings belonging to the Government.*

**Note 2:** *A drainage system comprises above-ground piping, underground drains and channels for the disposal of all foul water and surface water from a building. It is different from a water supply plumbing system which is governed by the Waterworks Ordinance (Cap. 102) and comprises water pipes and fittings for supplying water for potable and fire service purposes to a building.*

**Note 3:** *Team Clean was a task force set up in May 2003 on the instruction of the Chief Executive with the mission to establish and promote a sustainable, cross-sectoral approach to improve environmental hygiene in Hong Kong. It was chaired by the Chief Secretary for Administration and comprised members from various government departments and bureaux, including the Director of Buildings. Team Clean was disbanded on 31 August 2003.*

## **Audit review**

1.4 In 2003, the Audit Commission (Audit) conducted a review of the BD's efforts to tackle the UBW problem in existing buildings, the result of which was published in Director of Audit's Report No. 41 of October 2003. In view of the implications of poor drainage conditions on environmental hygiene, Audit has conducted another review of the BD's efforts to tackle the drainage problems in buildings. The audit has focused on the following areas:

- (a) compliance with drainage repair orders (see PART 2);
- (b) improvements of drainage conditions in buildings under the Team Clean Programme (see PART 3);
- (c) recovering costs from building owners (see PART 4); and
- (d) progress report to stakeholders on implementing Team Clean recommendations (see PART 5).

1.5 Since the SARS outbreak, the BD has made vigorous efforts to step up its enforcement actions. Audit appreciates BD staff's efforts made to complete the drainage inspection programme within a short period of time. Nevertheless, the audit review indicates that there is room for improvement in a number of areas. The audit findings and recommendations are aimed at improving the drainage conditions of private buildings in the territory.

## **Acknowledgement**

1.6 Audit would like to acknowledge with gratitude the full cooperation of the staff of the BD during the course of the audit review.

## **General response from the Administration**

1.7 The **Director of Buildings** welcomes Audit's observation and appreciation of BD staff's efforts as mentioned in paragraph 1.5. He accepts Audit's recommendations on ways to improve the BD's enforcement actions and cost recovery process. He also assures Audit that notwithstanding various difficulties, the BD is committed to minimising the health hazard caused by defective drainage systems in existing buildings and is keen to introduce improvements to tackle the drainage problems of buildings and in recovering costs from building owners for works done due to default action on their part.



## **PART 2: COMPLIANCE WITH DRAINAGE REPAIR ORDERS**

2.1 This PART examines the extent of compliance with drainage repair orders issued by the BD.

### **Actions taken by the BD to ensure proper maintenance of drains in buildings**

2.2 The BD identifies buildings with defective drains from various sources, including:

- the BD's follow-up of complaint reports received from members of the public, media and referrals from other government departments (Note 4);
- its various proactive and large-scale programmed operations carried out at target buildings which aim at improving the safety and conditions of the buildings; and
- periodic programmed patrol surveys conducted by outsourced contractors on selected districts to identify any UBW construction activities and apparent building defects, including defective drains, on external walls and exterior common areas of buildings.

In addition, in the last two years, the BD identified a significant number of buildings with drainage problems from its drainage inspection programme under the Team Clean Programme.

### **Drainage repair orders issued by the BD**

2.3 Defective drains may result in discharging untreated sewage into open air, creating problems of environmental hygiene such as foul smell, water pollution, slippery surfaces, pest infestation, breeding of mosquitoes or other health and environmental hazards. When the drains of an existing building are found to be defective, inadequate or

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**Note 4:** *The number of drainage complaint reports received had risen sharply from about 600 in 2002 to over 2,200 in 2003.*

insanitary, the BD is empowered, under section 28 of the BO (Note 5), to serve an order (s.28 order) on the building owners requiring them to carry out repairs within a specified period of time, which may range from two to six months.

2.4 Building owners receiving drainage repair orders from the BD should appoint a competent contractor to carry out necessary drainage repairs or replacement within the specified time. Failing to do so will result in the BD's further enforcement action. Figure 1 shows the BD's procedures for enforcing s.28 orders.

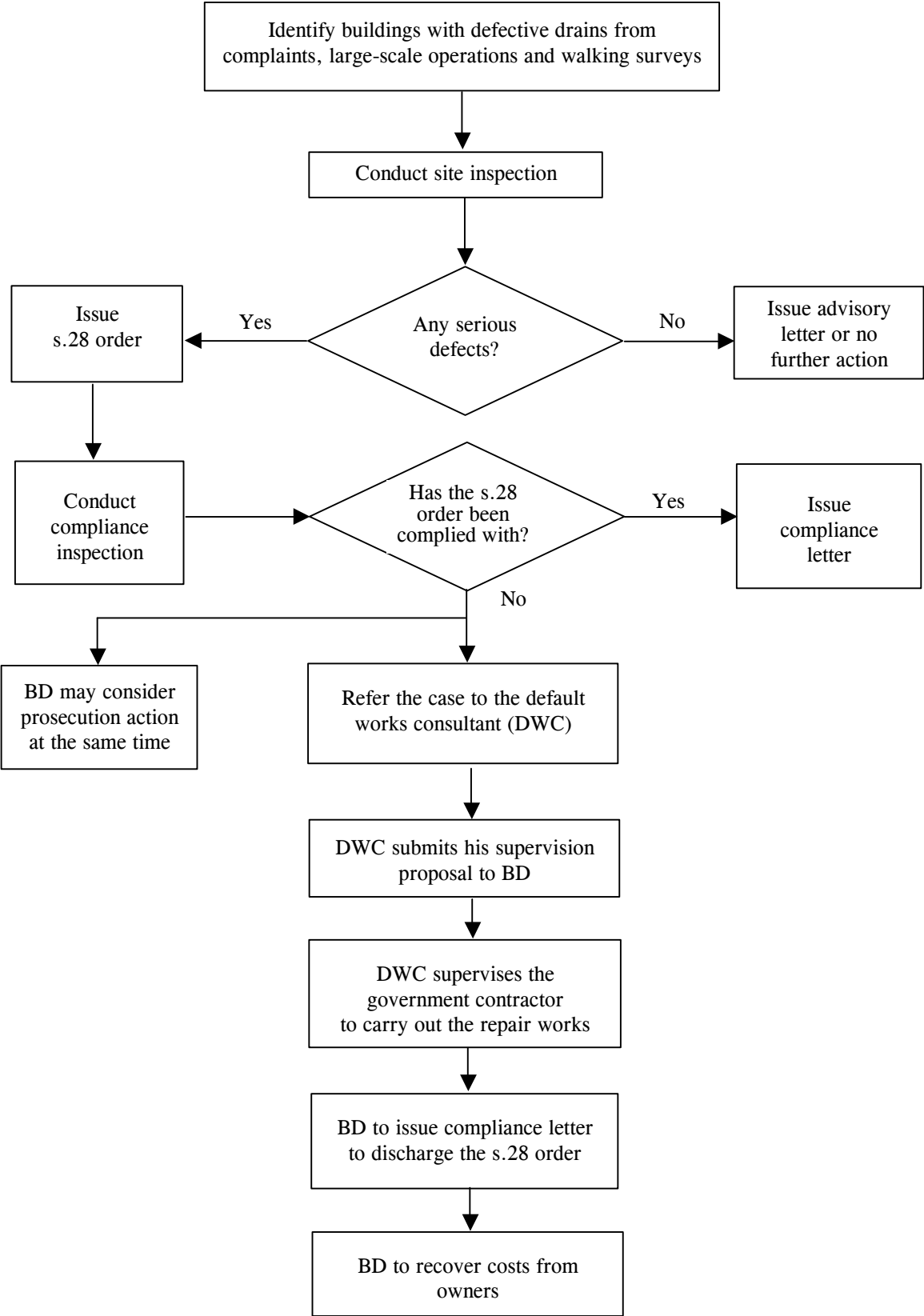
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**Note 5:** *Section 28(3) of the BO states that “where in the opinion of the Building Authority the drains or sewers of any building are inadequate or in a defective or insanitary condition he may by an order in writing served on the owner of such building require —*

- (a) such drainage works as may be specified in the order to be carried out;*
- (b) an authorised person to be appointed to carry out such investigation in relation to the drains or sewers of such building as may be so specified; and*
- (c) the submission for approval by the Building Authority of proposals for drainage works to be carried out to remedy the inadequacy or the defective or insanitary condition, being proposals based on the findings of the investigation,*

*within such time or times as may be specified in the order”.*

**Figure 1**  
**Procedures for enforcing s.28 orders**



Source: BD records

2.5 Since May 2003, the BD has adopted a “zero tolerance” approach in dealing with drainage problems that are detrimental to environmental hygiene. In emergency or blatant cases, it will arrange for a government contractor (GC) to carry out the necessary repair works in the first instance and recover the costs from the owners concerned. Since July 2003, the BD has also appointed a default works consultant (DWC) to supervise all works to be carried out in respect of defaulted repair/removal orders (issued under sections 24, 26 and 28 of the BO), including arranging repair works to be done by the GC (Note 6). Since November 2003, the BD has adopted the departmental policy of outsourcing all defaulted works to the DWC for follow-up and retaining direct supervision of repair/removal works only in very exceptional circumstances (e.g. in extremely urgent cases).

2.6 In the course of an inspection, it is common for the BD to notice drainage defects as well as building defects in other areas due to lack of proper building maintenance and repair. In such circumstances, in addition to issuing s.28 orders, the BD may also issue removal orders under section 24 and repair orders under section 26 of the BO (s.24 and s.26 orders) (Note 7).

### **Audit analysis of compliance with s.28 orders**

2.7 **The issuing of s.28 orders is a crucial step in the process of improving the drainage conditions of buildings.** Before 2003, the BD issued less than 220 s.28 orders a year, but in 2003, due to the SARS outbreak, the number had risen sharply to about 2,000. The number issued in 2004 was 785.

2.8 During the five years from 2000 to 2004, the BD had issued 3,396 s.28 orders. Audit’s analysis of these orders indicates that, as at 11 January 2005:

- (a) the BD had cleared **1,855 (or 55%)** of its s.28 orders issued in 2000 to 2004. Details are shown in Table 1:

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**Note 6:** *Under the agreement entered by the BD with the DWC, the latter is responsible for carrying out the necessary investigation, design and/or supervision of works required under the defaulted orders on an assignment basis. With the outsourcing of the supervision works, BD staff can focus on their core duties (i.e. law enforcement). It is also expected that the DWC can attend to the defaulted cases more promptly.*

**Note 7:** *The BD is empowered under section 24 of the BO to serve a removal order on the registered owners of a property where UBW are located, requiring the owners to remove the UBW and reinstate the building in accordance with the approved building plans. Similarly, the BD is empowered under section 26 of the BO to serve a repair order requiring the owners of a building which is found to bear serious defects, to carry out the required repair works and to render the building safe.*

**Table 1**  
**Extent of compliance for s.28 orders issued during 2000-2004**  
**(as at 11 January 2005)**

<b>Year issued</b>	<b>Orders issued (a)</b>	<b>Orders outstanding (b)</b>	<b>Orders complied with (c)</b>	<b>Percentage of compliance (c)/(a) × 100%</b>
2000	168	24	144	<b>86%</b>
2001	99	27	72	<b>73%</b>
2002	219	74	145	<b>66%</b>
2003	2,125 (Note)	889	1,236	<b>58%</b>
2004	785 (Note)	527	258	<b>33%</b>
<b>Total</b>	<b>3,396</b>	<b>1,541</b>	<b>1,855</b>	<b>55%</b>

Source: *BD records*

Note: *The total number of 2,910 (i.e. 2,125 plus 785) s.28 orders issued in 2003 and 2004 included 2,325 orders that were issued under the drainage inspection programme (see para. 3.4). The figure of 785 s.28 orders issued in 2004 excluded (i) 96 orders which had not yet expired as at 11 January 2005 and (ii) 42 orders that had been issued but were subsequently superseded.*

- (b) together with the 26 orders that were issued before 2000 and still remained outstanding, there were 1,567 outstanding orders (i.e. 1,541 plus 26) in the BD's Buildings Condition Information System (BCIS — Note 8). An ageing analysis of these 1,567 outstanding orders is shown in Table 2:

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**Note 8:** *The BCIS is a major computer system in the BD to maintain a database of the conditions of all existing private buildings in Hong Kong. It provides functions for recording, processing and retrieving details of complaints, referrals, planned surveys, statutory orders and works orders.*

Table 2

Ageing analysis of 1,567 outstanding s.28 orders  
(as at 11 January 2005)

Period outstanding								Total
> 6 years (a)	> 5 years to ≤ 6 years (b)	> 4 years to ≤ 5 years (c)	> 3 years to ≤ 4 years (d)	> 2 years to ≤ 3 years (e)	> 1 year to ≤ 2 years (f)	> 6 months to ≤ 1 year (g)	≤ 6 months (h)	
13	5	30	15	37	372	789	306	1,567
1%	—	2%	1%	2%	24%	50%	20%	100%

100 orders (6%)

Source: BD records

### Audit observations

2.9 As drainage repair orders issued under the BO are statutory orders, Audit expects a high compliance rate. However, as at 11 January 2005, there were 100 repair orders which had been outstanding for more than two years (see items (a) to (e) in Table 2). The situation is unsatisfactory and calls for management attention.

2.10 **Results of case studies.** Audit has examined a number of these 100 cases to ascertain why the s.28 orders had remained long outstanding. Three examples, **Case 1** to **Case 3**, are selected for illustration. The case studies show that there are instances where delays have occurred in the BD's processing of the s.28 orders. The case studies also show that, as the repair works for s.28 orders often involve multiple owners of a building, the process was made complicated.

### **Lack of timely follow-up action after issuing an s.28 order**

**Case 1** (see Appendix A for details)

- In September 1999, the BD issued an s.28 order to the owners of a five-storey building, requiring drainage repair works to be carried out. The remedial work should have been completed by early March 2000. In January and May 2000, the BD received letters from an owner of the building advising that the owners of the building had not yet reached consensus on how to comply with the order. However, since the expiry of the s.28 order, Audit noted no evidence that the

BD had carried out any compliance inspection in the three years since March 2000. It was only in April 2003 when the BD carried out an inspection under the drainage inspection programme that it noted the drainage defects and the outstanding s.28 order (see items (3) to (8) at Appendix A).

- The BD staff issued a warning letter on 1 December 2004, *194 days* after the compliance inspection that was carried out on 21 May 2004 (see items (13) and (15) at Appendix A).

*Case 2* (see Appendix B for details)

- In November 2001, the BD issued an s.28 order to the owners' corporation (OC) of this building for defective pipes found on the building's external wall. The order should have been complied with by May 2002. In May 2002, the authorised person (AP) appointed by the OC applied for a six-month extension of time (EoT) to coordinate the required repair works. There was no file record indicating that the BD had approved the EoT (see items (2) and (6) at Appendix B).
- In July 2003, BD staff inspected the building twice, once under the drainage inspection programme and another in response to a complaint from the public. On the first occasion, BD inspection staff recommended the issue of an s.28 order due to rusty pipes found. No s.28 order was issued as the inspecting staff noted from BD records that an s.28 order had already been issued. After the second inspection had been carried out in the same month, the BD issued a warning letter to the OC urging it to carry out the repair works as early as possible. A similar warning letter was issued in October 2003. The BD carried out a compliance inspection in December 2003 (see items (10) to (17) at Appendix B).
- In a programmed patrol survey carried out in June 2004, the rusty drainage pipes in the building were again noticed by the outsourced contractors and brought to BD's attention (see item (21) at Appendix B).
- In September 2004, the OC appointed an AP to proceed with the drainage repair works (see item (24) at Appendix B).

*Delay in follow-up action after issue of warning letters*

*Case 3* (see Appendix C for details)

- This is a complicated case as the repair works affected a housing estate comprising 55 blocks of 12-storey buildings with a total of 700 flats. In this case, the BD did not promptly follow up on a warning letter which it had issued. In June 1996, the OC appointed an AP to coordinate the repair works under an s.28 order which would expire in July 1996. In September and October 1996, the BD conducted compliance inspections. As no drainage repair works had been carried out, in October 1996, the BD issued a warning letter urging the OC to commence the repair works within four weeks' time, otherwise it would

consider taking prosecution actions. There was however no record indicating that the warning letter had been followed up. Ten months later, in August 1997, the BD was informed by the AP that the repair works had been completed. In October 1997, BD staff conducted a compliance inspection jointly with the AP, but found that some of the defects still existed and the order was therefore not considered to have been fully complied with. A further inspection in November 1997 confirmed that the defects had still not been rectified (see items (6) to (16) at Appendix C).

- The existence of UBW has often caused obstruction to the drainage system improvement works, as shown in this case. Enforcement action of the s.28 order had been suspended from 1999 to 2002 to allow time for removal of extensive UBW. It was only in September 2003 that the BD issued s.24 orders to the owners of the building for the removal of UBW. Towards the end of 2004, 80% of the UBW had been removed. Thus the owners could proceed with the drainage repair works. However, as at December 2004, the BD was still pursuing with the owners the full compliance of the drainage repair works under the s.28 order (see items (20), (25), (31), (39) and (47) at Appendix C).

## Audit recommendations

2.11 **As delays in the enforcement of s.28 orders will prolong the environmental nuisance caused by the defective drains, the conditions of which may further deteriorate with time, Audit has *recommended* that the Director of Buildings should:**

- (a) closely monitor the progress of the BD's enforcement of the long outstanding s.28 orders as identified by Audit in paragraph 2.8;**
- (b) expedite action to ensure that all s.28 orders are complied with as soon as possible;**
- (c) set target dates for clearing those long outstanding s.28 orders, in a similar manner as that adopted for s.24 orders (Note 9), and require BD staff to regularly report compliance progress to management; and**
- (d) to enhance transparency and public accountability, consider providing the public with information on the extent of compliance with s.28 orders, and ageing analyses of outstanding cases, in a similar manner as that adopted for s.24 orders (Note 10).**

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**Note 9:** *The BD has set performance targets to speed up the clearance of long outstanding s.24 orders. For example, it will clear, by March 2005, 100%, 75%, 50% and 35% of the outstanding removal orders issued before 1991, between 1991 and 1995, between 1996 and 1998 and in 1999 respectively.*

**Note 10:** *Audit notes that since April 2004, the BD has published on its website information on performance targets set and actual performance achieved for clearance of outstanding s.24 orders together with ageing analyses of the outstanding cases.*



## Response from the Administration

- 2.12 The **Director of Buildings** accepts Audit's recommendations. He has said that:
- (a) the BD has studied Audit's recommendations carefully and has started to implement some of the recommended improvement measures;
  - (b) to ensure timely enforcement action against defaulted s.28 orders, the BD will enhance its existing system to closely monitor the progress of follow-up actions at both the operational and management level. As regards the outstanding s.28 orders, the BD will make special efforts to clear the backlog and to closely monitor the progress of works undertaken by the DWC; and
  - (c) defective drainage pipes are in most cases located in the common parts of a building where all co-owners have the responsibility to jointly carry out the necessary repair. In these cases, the following actions will inevitably be involved in the organisation of the required works:
    - holding meetings among owners to agree on the scope of works;
    - appointing consultants to administer the works;
    - raising necessary funds for the works; and
    - inviting and awarding tenders and appointing works contractors.

Where the owners could reach a consensus smoothly and expeditiously, the repair works could be completed within a reasonable time. Otherwise the repair works would take a longer time to complete. In addition, delays sometimes occur in the course of execution of works when practical obstacles are encountered. Occasionally, delays may occur due to change or resignation of OC members or the appointed consultants or contractors. When repair works are being actively organised by the owners and their respective OCs, it would be more desirable for the BD to closely monitor the progress or, where necessary, provide assistance to resolve their difficulties, rather than to step in and mobilise the GC to execute the works.

### **PART 3: IMPROVEMENTS OF DRAINAGE CONDITIONS IN BUILDINGS UNDER THE TEAM CLEAN PROGRAMME**

3.1 This PART examines the BD's efforts to improve the drainage conditions in buildings under the Team Clean Programme.

#### **Stepping up of actions taken after the Amoy Gardens report**

3.2 Following the outbreak of SARS at Amoy Gardens, the Government conducted an investigation into the incident. Although the investigation report released in April 2003 stated that no one single factor could account for the SARS outbreak at Amoy Gardens, the Government undertook to step up its actions to promote the proper maintenance of drainage systems in the territory. This included the drainage inspection programme mentioned in paragraph 1.3 above.

3.3 In May 2003, the Housing, Planning and Lands Bureau (HPLB) informed the Legislative Council (LegCo) Panel on Housing and the Panel on Planning, Lands and Works the progress of the drainage inspection programme, as follows:

- (a) the BD had appealed to all OCs as well as major management companies (MCs) to check the drainage systems of their buildings or the buildings under their management to ensure that the systems were well maintained. They were required to report **within two months** the outcome of their inspection and the follow-up actions that needed to be taken; and
- (b) in the case of private buildings without OCs or not under the management of property management companies (i.e. buildings **without** any form of building management), BD staff had commenced a walking survey on the drainage systems of these buildings and would require the owners of those buildings with defective drains to follow up and carry out necessary repairs on their sewage systems.

#### **Drainage inspection programme**

3.4 Towards the end of 2003, the BD had by and large completed the inspections of the external drainage pipes of over 11,000 buildings that were **without** any form of building management. In 2004, the BD was following up with the compliance of the statutory orders issued after the inspections. As regards those 19,000 buildings **with** some form of building management, the BD had received 12,000 returns from OCs/MCs on the results of voluntary inspections as requested by the BD. In addition, the BD had inspected 9,000 buildings, comprising 7,000 buildings for which the OCs/MCs had failed to conduct voluntary inspections and 2,000 buildings for which the OCs/MCs had reported drainage defects. Up to December 2004, the BD had issued 2,325 drainage repair orders and 2,737 advisory letters. As at 31 December 2004, 1,550 (or 67%) of the 2,325 repair orders had been complied with.

### Timetable for the completion of the drainage inspection programme

3.5 With the dissolution of Team Clean on 31 August 2003 (see Note 3 in para. 1.3), the BD reported its progress thereafter to a Steering Committee on Team Clean Follow-up which was chaired by the Secretary for Home Affairs (Note 11). At the first meeting of the Steering Committee held in November 2003, the BD advised members of the Committee that it planned to complete its rectification work within 2004. In December 2003, the BD reported target completion dates and milestones for the specific tasks in Table 3:

**Table 3**  
**Target completion dates and milestones**  
**for the drainage inspection programme**

Task	Target completion date and milestone
(a) To complete all drainage inspections	<b>15 December 2003</b>
(b) To complete issuing all repair orders/advisory letters	<b>31 December 2003</b>
(c) To initiate GC action for default cases	<b>2 January 2004</b>
(d) To complete drainage repairs for buildings <i>with</i> some form of building management	<b>31 July 2004</b>
(e) To complete drainage repairs for buildings <i>without</i> any form of building management	<b>31 December 2004</b>

*Source: BD records*

### Comparison of actual implementation progress with the targets

3.6 Audit has compared the BD's implementation progress with the target completion dates and milestones in Table 3. The results are shown in Table 4:

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**Note 11:** *The Steering Committee was set up to monitor and review progress made on the longer-term measures recommended by Team Clean. The Committee held regular progress meetings.*

**Table 4**  
**Comparison of actual progress with targets**

Target completion date and milestone	Actual progress (as at 31 December 2004)	Target met?
(a) To complete all drainage inspections by <b>15 December 2003</b>	The BD had completed the inspection of the external drainage pipes of all private residential buildings <b>without</b> any form of building management by <b>end 2003</b> .	Yes
(b) To complete issuing repair orders/advisory letters by <b>31 December 2003</b>	The BD had by and large completed within the first quarter of 2004 the issue of repair orders and advisory letters under the drainage inspection programme.	Partially met
(c) To initiate repair/removal actions by the GC for default cases from <b>2 January 2004</b>	Most referrals to the GC were made in 2004. As at December 2004, referrals for 29 cases had not yet been completed.	Yes
(d) To complete drainage repairs for buildings <b>with</b> some form of building management by <b>31 July 2004</b>	Out of 4,000 buildings ( <b>with</b> some form of building management) found with defects, as at 31 December 2004, there were still 456 buildings with defects being repaired or not yet repaired.	Partially met
(e) To complete drainage repairs for buildings <b>without</b> any form of building management by <b>31 December 2004</b>	Out of 2,000 buildings ( <b>without</b> any form of building management) found with defects, as at 31 December 2004, there were still 378 buildings with defects being repaired or not yet repaired.	Partially met

Source: BD records

### **Audit observations**

3.7 *Need to revise target completion dates.* Despite the vigorous and concerted efforts, the BD had still missed some of the target completion dates (see Table 4). **Audit considers that the BD management should review the progress to-date and consider setting revised and realistic target completion dates and make efforts to meet such target dates.**

3.8 *Need to conduct a post-implementation review.* The Team Clean reports state that building owners are responsible for the upkeep of their own buildings and that the improvement measures to be implemented must be sustainable (see paras. 5.2 and 5.3). As substantial resources have been spent on implementing the drainage inspection programme (Note 12), Audit considers it desirable for the BD to conduct a post-implementation review to draw lessons learned. Following the post-implementation review, the BD may need to develop a long-term strategy on how to facilitate owners to improve/maintain their buildings' drainage conditions and to enforce the proper maintenance of building drainage conditions throughout the territory.

### **Audit recommendations**

- 3.9 **Audit has recommended that the Director of Buildings should:**
- (a) **review the progress to-date and set revised target completion dates in the light of experience gained;**
  - (b) **ensure that the tasks are completed by the revised target dates;**
  - (c) **conduct a post-implementation review to draw lessons learned in the implementation of the drainage inspection programme; and**
  - (d) **consider formulating a long-term strategy on how to facilitate owners to improve/maintain their buildings' drainage conditions and to enforce the proper maintenance of building drainage conditions throughout the territory.**

### **Response from the Administration**

- 3.10 The **Director of Buildings** accepts Audit's recommendations. He has said that:
- (a) the outbreak of SARS, in particular the incident which occurred in Amoy Gardens, had heightened public concern on environmental hygiene and the maintenance of drainage systems. The BD's effort to organise territory-wide

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**Note 12:** *For the initial round of inspections carried out under the drainage inspection programme, the BD had spent about 3,000 staff mandays (20,000 ÷ 13 × 2) which was based on inspecting 13 buildings a day, by deploying two BD staff in a team and having 20,000 buildings inspected. This figure had not taken into account the substantial staff resources, which could not be quantified, spent on follow-up work (such as the issue of orders and advisory letters after inspection, follow-up by compliance inspections, land search, etc). In addition, funds of \$12.5 million have been approved for the two years of 2003-04 and 2004-05 for the BD to employ contract staff to assist in implementing the programme.*

inspections of the external drainage of some 30,000 private residential buildings and thereafter follow up the drainage defects in 6,000 of these buildings within such a short period of time is unprecedented. It has posed a challenge to the BD as well as the OCs and the individual owners concerned to organise the necessary repairs in the common parts of buildings. Notwithstanding various difficulties, the BD is committed to minimising the health hazard caused by defective drainage systems in existing buildings;

- (b) the targets and milestones for the drainage inspection programme are set for BD staff to programme their actions and set the respective critical paths to initiate enforcement actions where appropriate. For individual cases, difficulties are sometimes experienced in achieving the target set for the completion of repair works for the reasons given in paragraph 2.12(c) above. Despite the unprecedented scale of the operation with over 6,000 buildings requiring remedial works, by end of December 2004, defects had been satisfactorily attended to in 86% of the buildings while repair works were in progress in 11% of the buildings. Only 3% of the buildings encountered a longer delay, with repair works still being organised. The BD will closely monitor those outstanding cases, and, where necessary, mobilise the GC to carry out the required works; and
- (c) as building maintenance is the owners' responsibility, he considers that a long-term strategy to ensure proper upkeep of drainage systems should be formulated in the context of the Government's current exercise to develop details of a mandatory building inspection scheme for public consultation in the latter part of 2005 (Note 13).

### **Inspections of buildings with some form of building management**

3.11 In the case of buildings **with** some form of building management, the BD relied on the OCs and MCs to conduct inspections of their building drains and to report the result to the BD. As at 31 December 2004, out of 19,000 buildings identified, 12,000 buildings had completed voluntary inspections with 2,000 buildings reporting drainage defects. Some 7,000 buildings which had not furnished any returns to the BD (i.e. 19,000 less 12,000) were inspected by the BD. The BD had issued 987 repair/removal orders of which 372 were still outstanding as at 31 December 2004. Details are shown in Figure 2.

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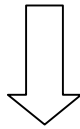
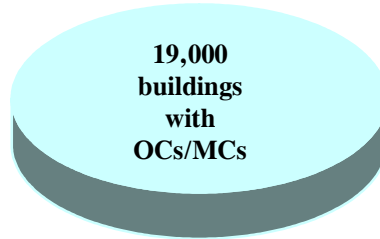
**Note 13:** *The results of a public consultation exercise conducted by the HPLB in 2004 indicated that the community supported the introduction of some form of mandatory requirements on owners to ensure proper building management and maintenance. Guided by public preference concerning the broad future direction, the HPLB has planned to launch in 2005 a second stage consultation on the feasibility of introducing mandatory building inspection and other support measures.*

Figure 2

**Drainage inspection programme  
for buildings *with* some form of building management**

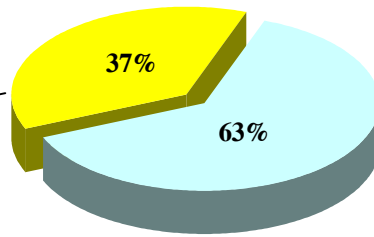
*April 2003:*

BD started its drainage inspection programme

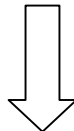


*As at 31 December 2004:*

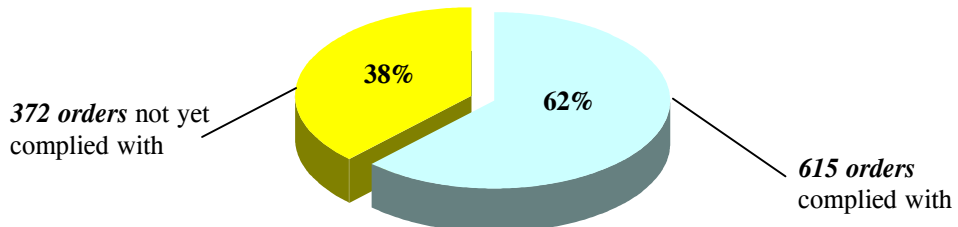
*7,000 buildings* that had not been voluntarily inspected by the OCs/MCs were inspected by BD which identified another *2,000 buildings* with drainage defects



*12,000 buildings* had been voluntarily inspected by OCs/MCs with *2,000 buildings* reporting drainage defects



BD had issued **987 repair/removal orders**



*372 orders* not yet complied with

*615 orders* complied with

Source: *BD records*

## Audit observations

3.12 A self-reporting mechanism is effective in providing an initial screening exercise and promoting the owners' and MCs' awareness of the conditions of their buildings' drainage systems. However, the reliability of the voluntary inspection reports may be affected by the limited knowledge and experience of the OCs/MCs and their attitude in conducting the inspection. **For the BD to have assurance that the results reported by the OCs/MCs are correct, verification checks by professional experts are needed.**

3.13 In the BD's drainage inspection programme, Audit notes that the BD had followed up on those voluntary inspections with drainage defects reported and those buildings without returns submitted (see para. 3.11). However, there is no evidence that the BD had performed verification checks on voluntary inspections completed but with **no** defects reported. In December 2004, Audit made enquiries with BD staff who advised that they had not yet conducted such verification checks because the BD had accorded priorities to inspecting drainage pipes of buildings without OCs/MCs and taking follow-up actions on buildings with drainage defects reported. **Audit notes BD's explanation, but still considers it desirable for the BD to deploy resources to verify the information on those buildings with voluntary inspections completed but with no defects reported.**

3.14 To test check the reliability of drainage conditions as reported, Audit, with the assistance of a consultant, conducted a sample check of 57 buildings in the territory (Note 14) and identified 14 buildings with drainage defects. Eight of these buildings with drainage defects were classified under the category of "*buildings with some form of building management and which had conducted voluntary inspections*". Among them, two buildings had voluntarily reported the existence of drainage defects to the BD. The remaining **six** had **not** reported any defects. Audit recently visited these six buildings again and found that the defects had still not been rectified. The photographs below illustrate examples of drainage defects found by Audit.

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**Note 14:** *Audit's sample was randomly selected from different districts in the territory for site inspections from July to October 2003. For the buildings included in the sample, drainage systems on buildings' external walls were visually inspected and buildings with drainage defects found were compared with the BD's records.*



**Photographs 1 and 2**

**A building in Yuen Chau Kok Road, Shatin**



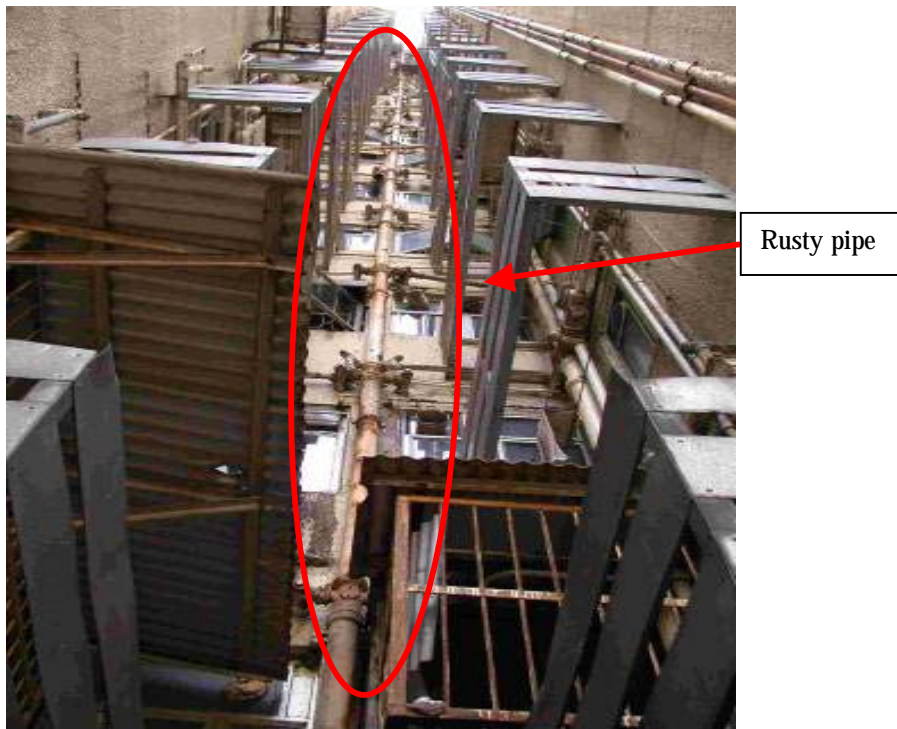
*Source: Photograph taken by the consultant on 19 July 2003*



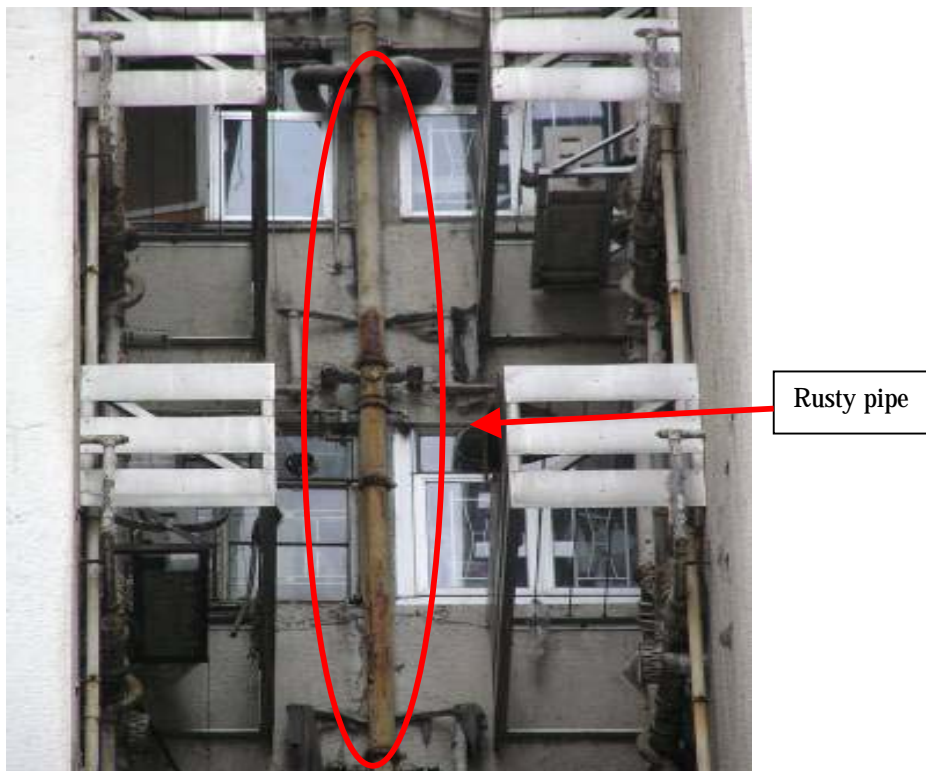
*Source: Photograph taken by the consultant on 28 January 2005*

### Photographs 3 and 4

#### A building in Tak Shing Street, Tsim Sha Tsui



Source: Photograph taken by the consultant on 7 October 2003



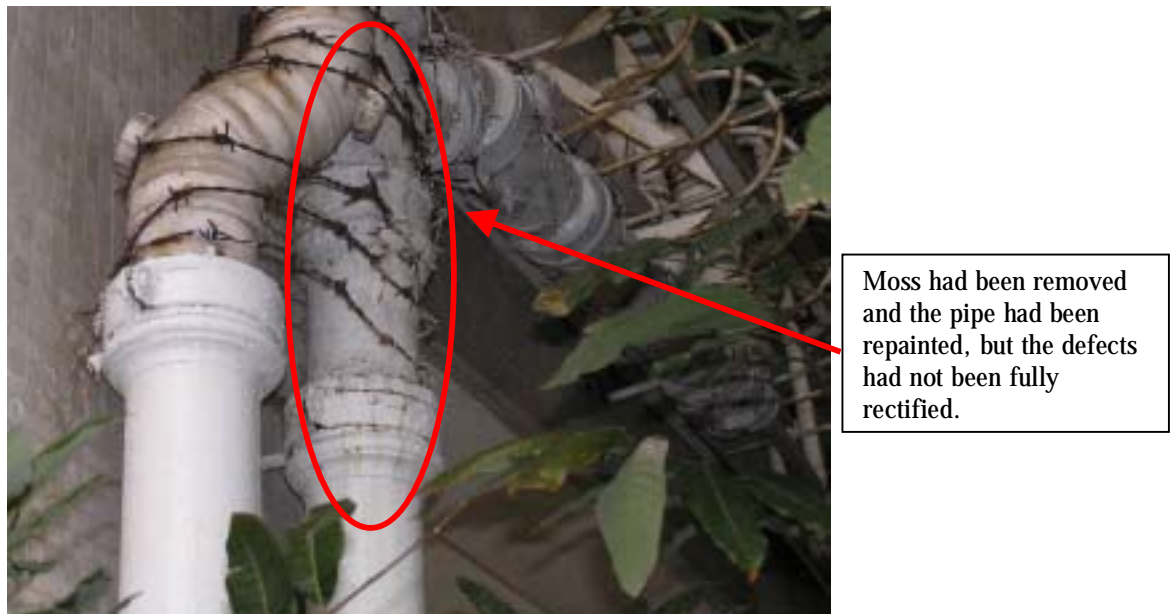
Source: Photograph taken by the consultant on 30 December 2004

### Photographs 5 and 6

#### A building in Lung Sum Avenue, Sheung Shui



Source: Photograph taken by the consultant on 11 July 2003



Source: Photograph taken by the consultant on 28 January 2005

### **Audit recommendation**

3.15 **Audit has recommended that, in order to ascertain the reliability of information on those buildings with some form of building management, the Director of Buildings should conduct verification checks on voluntary inspection reports furnished by the OCs/MCs.**

### **Response from the Administration**

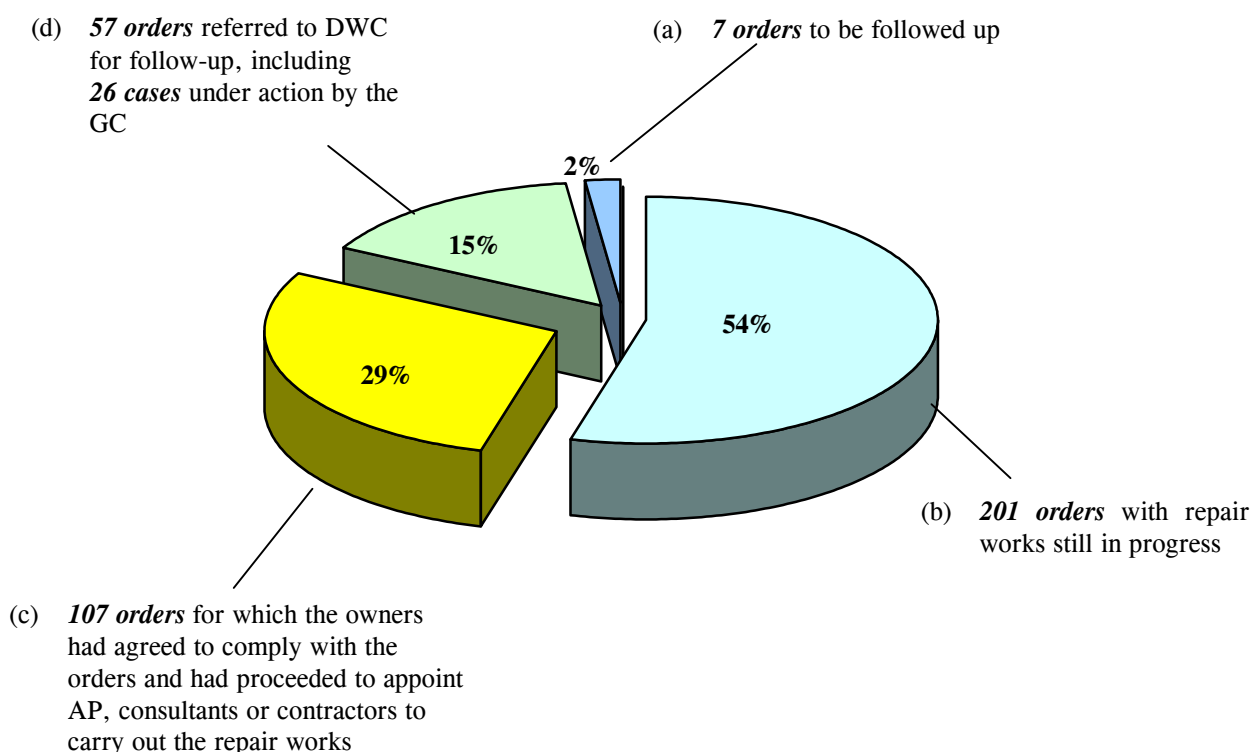
3.16 The **Director of Buildings** accepts Audit's recommendation. He has said that the BD has set aside some of its existing resources to commence a walking survey to verify the inspection reports furnished by the OCs to ascertain the reliability of the reports and to instigate appropriate follow-up action where necessary.

### **Repair/removal orders issued for buildings with some form of building management**

3.17 As shown in paragraph 3.11, up to 31 December 2004, the BD had issued 987 repair/removal orders for repairing the drainage defects and for removing UBW which had resulted in the drainage defects. **As at 31 December 2004, 372 (or 38% of 987) of these repair/removal orders were still outstanding.** A breakdown of these 372 orders by different stages of processing is shown in Figure 3.

Figure 3

**Progress of the 372 outstanding repair/removal orders issued  
(as at 31 December 2004)**



Source: BD records

***Follow-up of outstanding orders for buildings with some form of building management***

3.18 Audit has conducted a number of case studies to examine the BD's procedures in enforcing these outstanding repair/removal orders issued under the drainage inspection programme. Two examples, *Case 4* and *Case 5*, are given at Appendices D and E respectively.

3.19 As mentioned in paragraph 2.5, the BD has outsourced all repair/removal works in respect of defaulted orders to the DWC for follow-up. Under the agreement entered by the BD with the DWC, once a defaulted case has been referred to the latter, he is expected to carry out immediately a general survey to ascertain the site condition and the extent of works involved in complying with the defaulted order. For a normal case, within two

weeks (and, at the maximum, within four weeks), the DWC is expected to submit a supervision proposal (Note 15) to the BD for approval (Note 16). Upon approval, the DWC will refer the case to the GC for carrying out the necessary works. To monitor the performance of the DWC, the BD holds bi-monthly meetings with the DWC and, at the meetings, the DWC will report the latest position of the progress of the cases handled by him.

### **Audit observations**

3.20 *Need to expedite actions in follow-up of outstanding orders.* As mentioned in paragraph 3.6, the BD had missed the target date of 31 July 2004 (item (d) of Table 4) for completing all drainage repairs under the Team Clean Programme. Figure 3 also shows that, as at 31 December 2004, 372 repair/removal orders were still outstanding. Audit noted that the BD had not always taken prompt follow-up action on these outstanding orders. For example:

- in *Case 4*, the s.28 order had expired on 8 December 2003, but the BD only conducted its compliance inspection on 4 June 2004, **179 days** after the expiry date. In August 2004, the BD issued a warning letter to the OC which then advised that it had appointed an AP and applied for an EoT. However, in September 2004, the AP appointed by the OC advised the BD that the OC had stopped him from proceeding with any repair work. The AP resumed action in November 2004 (see items (8), (10) and (15) to (20) at Appendix D).

**Audit considers that the BD should pursue these outstanding orders more vigorously to ensure that the owners would comply with the orders as early as possible.**

3.21 *Need to monitor the DWC's progress.* Figure 3 shows that, out of 57 orders that had been referred to the DWC for follow-up, only 26 orders (46%) were under action by the GC. Audit noted that there were delays on the DWC's part, as shown in the following example:

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**Note 15:** *In most circumstances, a supervision proposal submitted by the DWC will include details such as a statement of the order to be enforced, a record of the defects and findings noted from the preliminary inspection, an evaluation of the general condition of the building, the scope of the works, a tentative work programme, a budget estimate, and difficulties envisaged in enforcement action.*

**Note 16:** *According to the existing working practice, for more complicated drainage cases (e.g. when repair works on underground drainage defects are required), the DWC would be required to conduct an investigation and submit an investigation proposal (instead of a supervision proposal), in which case the lead time for completing the investigation proposal would be agreed between the DWC and the BD on individual cases.*

- in *Case 5*, the DWC submitted his supervision proposal to the BD for approval in December 2004 although the order had been referred to him for almost three months (see items (27) to (29) at Appendix E).

Delays on the DWC's part are explained in detail in paragraphs 3.29 to 3.31. Audit considers that the BD needs to follow up the orders with the DWC and monitor the DWC's progress closely (para. 3.32 is also relevant).

3.22 ***Review of buildings issued with advisory letters on minor drainage defects.*** As at 31 December 2004, in addition to 456 buildings with defects not yet repaired (see item (d) in Table 4), there were 539 buildings with minor drainage defects detected for which advisory letters have been issued. Although the defects are minor, the condition of the drains may deteriorate if the defects are not repaired. The BD needs to keep in view the situation and consider taking appropriate follow-up action to ensure that the defects are not ignored.

### **Audit recommendations**

3.23 **Audit has recommended that the Director of Buildings should:**

- pursue the outstanding orders more vigorously in order to ensure their compliance as early as possible;**
- follow up those orders that were still with the DWC and monitor his progress closely (see also para. 3.35(c)); and**
- keep in view the position of those buildings with minor drainage defects detected for which advisory letters have been issued, and consider taking appropriate action (e.g. follow-up inspection) to ensure that the defects are not ignored.**

### **Response from the Administration**

3.24 The **Director of Buildings** accepts Audit's recommendations.

### **Inspections of buildings without any form of building management**

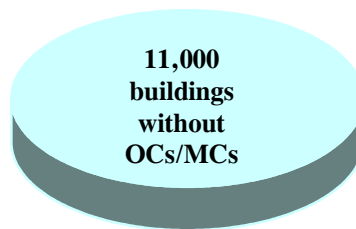
3.25 Out of over 11,000 buildings **without** any form of building management that had been inspected by the BD, 2,000 buildings were found with drainage defects. Up to 31 December 2004, the BD had issued 1,338 repair/removal orders. **As at 31 December 2004, 403 (or 30%) of these 1,338 orders were still outstanding.** Details are shown in Figure 4.

Figure 4

**Drainage inspection programme  
for buildings *without* any form of building management**

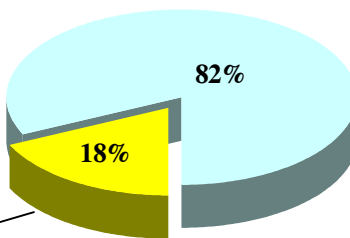
*April 2003:*

BD started the  
drainage inspection  
programme



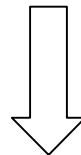
*As at 31 December 2004:*

BD completed  
inspection of all  
11,000 buildings

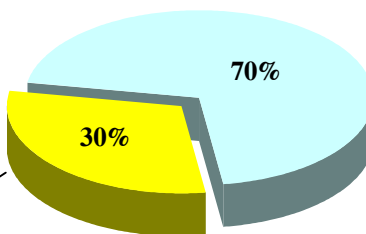


**9,000 buildings  
without drainage  
defects found**

**2,000 buildings  
with drainage  
defects found**



BD had issued **1,338  
repair/removal orders**



**403 orders  
not yet  
complied  
with**

**935 orders  
complied  
with**

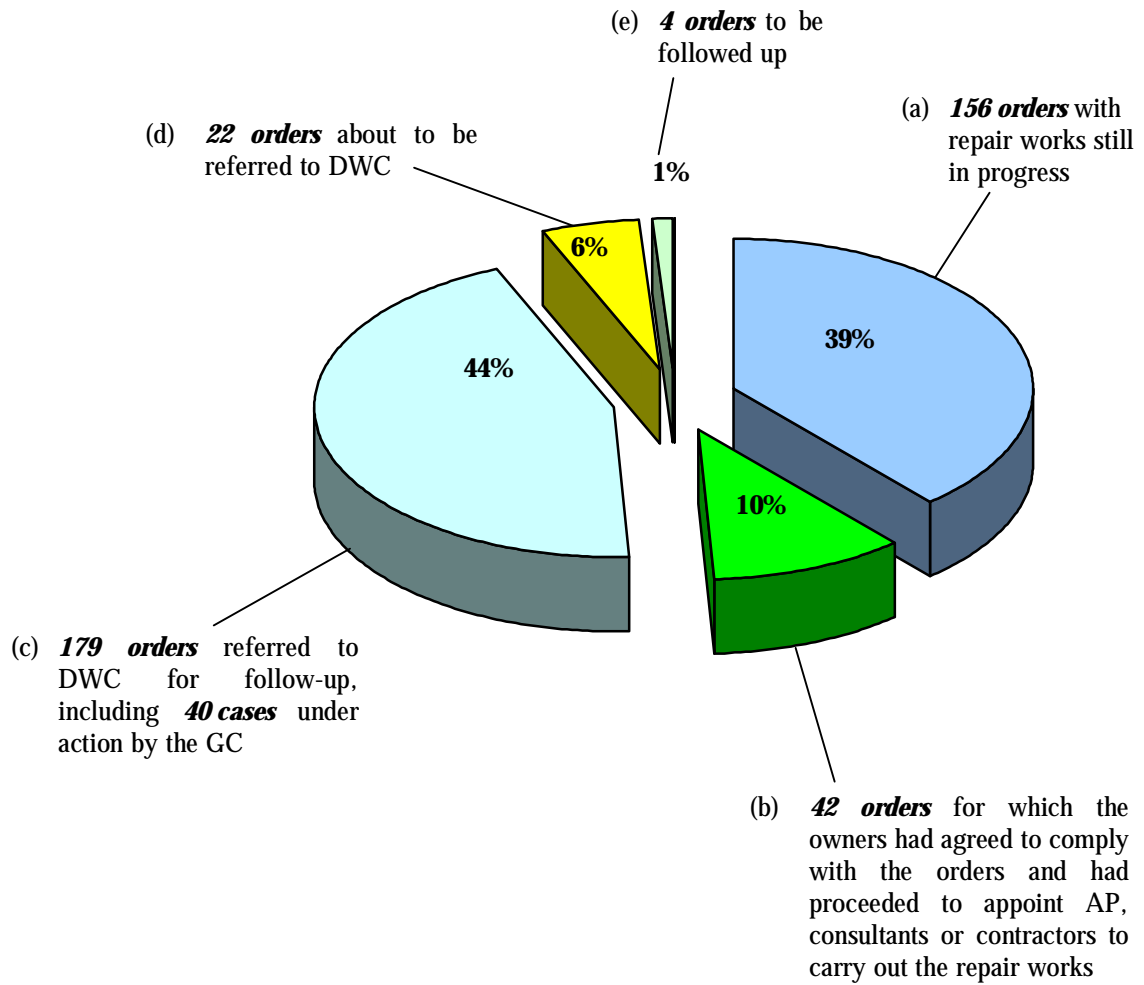
*Source: BD records*



A breakdown of the 403 orders not yet complied with by different stages of processing is shown in Figure 5.

Figure 5

Progress of the 403 outstanding repair/removal orders  
(as at 31 December 2004)



Source: BD records

3.26 In respect of buildings **without** any form of building management, Audit has also conducted a number of case studies to examine the BD's procedures in enforcing these outstanding repair/removal orders issued under the drainage inspection programme. Two examples, *Case 6* and *Case 7*, are given at Appendices F and G respectively.

### **Audit observations**

#### *Need to expedite actions in follow-up of the outstanding orders*

3.27 Figure 5 shows that, as at 31 December 2004, 403 repair/removal orders were still outstanding. For 198 orders or 49% (i.e. items (a) and (b) in Figure 5), either the repair works were reported by the owners to be in progress or the owners had agreed to comply with them. For example:

- *Case 6* shows that the BD had not taken prompt follow-up action to enforce the s.28 orders. Although in April 2004 the building owners had appointed an AP to carry out the repair and improvement works, as at December 2004, site works had not yet started because the AP was still preparing a drainage repair proposal for the BD's approval (see items (5) to (8) at Appendix F).

To ensure that progress had in fact been made and that repair orders would be complied with promptly, the BD should conduct compliance inspections of these orders as early as possible.

3.28 According to the BD's procedures, defaulted orders should be referred to the DWC for follow-up once it was discovered that the orders had not been complied with and the owners had no intention to carry out the repair works. As at 31 December 2004, 22 orders (i.e. item (d) in Figure 5) were still with the BD awaiting referral to the DWC. **Similar to paragraph 3.20, Audit considers that the BD should pursue these outstanding orders more vigorously by expediting action to refer the defaulted orders to the DWC.**

#### *Need to monitor the DWC's performance*

3.29 As at 31 December 2004, only 40 or 22% of 179 orders (item (c) in Figure 5) which had been referred to the DWC were under action by the GC. Based on information provided by the DWC, the BD noted the following progress position for 161 orders handled by the DWC (Note 17) as at 10 November 2004:

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**Note 17:** *The figure of 161 orders included defaulted orders which related to buildings with some form of building management and which had been referred to the DWC for follow-up (see para. 3.21).*

**Table 5**

**Progress of 161 defaulted s.28 orders referred to the DWC  
(as at 10 November 2004)**

Particulars	Number (%) of s.28 orders	% of 161 orders
(a) Works orders issued to the GC		
• repair works completed by the GC	14 (16%)	
• repair works in progress	56 (64%)	
• site works not yet commenced	<u>18 (20%)</u>	55%
(b) Works orders not yet issued to the GC (Note)	73	45%
<b>Total</b>	<b>161</b>	<b>100%</b>

Source: BD records

Note: Of these 73 s.28 orders, 13 related to supervision proposals that had been submitted by the DWC but were not yet approved by the BD.

Table 5 shows that 45% (item (b)) of the orders were still with the DWC (with some orders being held up by the BD). The progress is not entirely satisfactory.

3.30 An examination of BD's records indicates that, on many occasions, the DWC was slow in submitting his supervision proposals. *Case 5* in paragraph 3.21 shows that the DWC had been slow in submitting a supervision proposal to the BD. More examples of cases where supervision proposals were submitted **more than three months** after BD's referral are shown at Appendix H, which indicates that the agreed lead time of **two to four weeks** had frequently been exceeded.

3.31 In January 2005, the DWC had a meeting with the BD management. At the meeting, the DWC said that his company had encountered difficulties in dealing with the defaulted cases and sought the BD's assistance in relation to problems encountered in repairing the drainage systems. These problems included, for example, repair works being obstructed by UBW, drains being enclosed by the fittings of occupants, branch pipes having been improperly altered by occupants and disconnection from original terminal manholes. The consequence was that sewage was discharged to surface channel. BD management agreed to offer due assistance to the DWC to tackle the problems.

3.32 **Audit welcomes BD management's positive attitude and agrees that BD staff should work closely with the DWC in the follow-up of the defaulted works by offering him the necessary assistance and support. However, as the DWC had not met the agreed performance standards, there is a need for the BD to urge him to make greater efforts to meet the standards and monitor his performance closely. The BD may also need to assess whether additional DWCs and GCs should be appointed to handle the outstanding defaulted works.**

*Delays in processing DWC's supervision proposals*

3.33 At a meeting held on 16 November 2004, the DWC said that he had submitted 133 supervision proposals to the BD for review, but some of them were still "*pending approval*" from BD case officers. In the absence of a proper control record kept by the BD on the workflow for supervision proposals received from DWC, Audit could not ascertain if the DWC's statement is entirely correct. However, Audit noted from case studies that there were instances where the DWC's proposals were not handled promptly. For example:

- in *Case 7*, the DWC submitted a supervision proposal to the BD in February 2004, but the BD provided feedback to the DWC in July 2004, after a lapse of **157 days**. As at 7 December 2004 (i.e. time of audit inspection), there was no evidence that the DWC had submitted a revised supervision proposal. Neither was there any evidence that the BD had followed up the case (see items (10) and (11) at Appendix G).

**Audit considers that the BD needs to expedite the processing of the DWC's supervision proposals.**

*Review of buildings issued with advisory letters on minor drainage defects*

3.34 Apart from 378 buildings with defects not yet repaired as at 31 December 2004 (see item (e) in Table 4), there were 507 buildings with minor drainage defects detected and with advisory letters issued. Similar to paragraph 3.22, the BD needs to keep in view the situation and consider taking appropriate follow-up action.

**Audit recommendations**

3.35 **Audit has recommended that the Director of Buildings should:**

- (a) **take more vigorous action to follow up outstanding orders by expediting the referral of defaulted orders to the DWC for action;**

- (b) **avoid delays in the processing of the DWC's supervision proposals;**
- (c) **consider drawing up guidelines to monitor the movement of case files with the DWC;**
- (d) **assess the desirability of appointing additional DWCs and GCs to deal with the outstanding defaulted works; and**
- (e) **keep in view the position of those buildings with minor drainage defects detected for which advisory letters have been issued, and consider taking appropriate action (e.g. follow-up inspection) to ensure that the defects are not ignored.**

### **Response from the Administration**

3.36 The **Director of Buildings** accepts Audit's recommendations. He has said that:

- (a) the BD has studied Audit's recommendations carefully and has started to implement some of the recommended improvement measures. For the other recommendations, the BD will critically assess their implications on its resources and work out a suitable implementation programme as appropriate;
- (b) as regards the outstanding s.28 orders, the BD will make special efforts to clear the backlog and to closely monitor the progress of works undertaken by the DWC; and
- (c) for those buildings with minor drainage defects detected for which advisory letters have been issued, the BD will put in place a system to monitor these cases so that orders will be issued if the situation so warrants.

### **Information collected from the drainage inspection programme**

3.37 Substantial resources have been spent on the implementation of the drainage inspection programme, from which the BD has collected a lot of valuable information on the conditions of drainage systems of existing buildings. Such information collected will be useful for future planning, monitoring and analysis. For example, the effects of factors such as age and location of buildings, design of drainage systems, vintage effect, etc. on the conditions of drainage systems will be useful in future design and construction of buildings. The information will also be useful in devising the BD's long-term strategy.

3.38 The BD maintains a major computer system, the BCIS, for keeping data relating to the conditions of existing private buildings in the territory. Particulars of all statutory orders issued and how they are disposed of are also captured. However, other than details of statutory orders issued, the BD has collected a lot of other valuable information from the drainage inspection programme. For example, it collected information from OCs/MCs based on their returns submitted after voluntary inspections. The BD also collected useful information from its site inspections. The BD had not yet arranged for inputting such valuable information into the BCIS.

### **Audit recommendation**

3.39 Audit considers that the information the BD has collected from the drainage inspection programme is useful for management information and analyses. **Audit has therefore recommended that the Director of Buildings should plan to store information collected from the drainage inspection programme in the BCIS.**

### **Response from the Administration**

3.40 The **Director of Buildings** accepts Audit's recommendation.

## **PART 4: RECOVERING COSTS FROM BUILDING OWNERS**

4.1 This PART examines the BD's efforts in recovering repair and removal costs from building owners for works done by the GC, including repair costs for drainage works.

### **Advance account maintained to recover repair costs from owners**

4.2 In 1995, the BD created an advance account to recover costs of repair works carried out on:

- dangerous slopes;
- buildings;
- drainage systems; and
- removal of UBW.

Costs incurred are debited to the advance account, pending recovery from the responsible owners. When the costs are subsequently recovered, the advance account will be credited with the amount collected.

4.3 Since its creation, the balance in the advance account has remained high. It increased from \$27.6 million as at end March 1996 to \$99 million as at end March 2002. It decreased in 2002-03 and 2003-04, reducing to \$57.7 million as at end March 2004 and further to \$51.9 million as at end December 2004, as shown in Table 6:

Table 6

**Advance account balances from 1995-96 to 2004-05  
(in \$ million)**

Year	Amount debited for costs incurred	Amount recovered	Net increase/ (decrease)	Balance as at year end
1995-96	32.8	5.2	27.6	27.6
1996-97	37.9	10.7	27.2	54.8
1997-98	27.5	10.8	16.7	71.5
1998-99	28.7	13.4	15.3	86.8
1999-2000	37.7	39.0	(1.3)	85.5
2000-01	34.3	35.0	(0.7)	84.8
2001-02	31.2	17.0	14.2	99.0
2002-03	18.0	42.2	(24.2)	74.8
2003-04	9.6	26.7	(17.1)	57.7
2004-05 (up to end December 2004)	5.5	11.3	(5.8)	51.9 (Note)

Source: *BD records*

Note: *The balance of the advance account as at 31 December 2004 comprised 843 outstanding cases (see para. 4.12).*

### Cost recovery under the Buildings Ordinance

4.4 Section 33(1) of the BO has provided that where the BD is authorised to recover the cost of works carried out, the BD may certify the cost due and names of the persons liable for it, and may by such certificate apportion such cost among such persons. Section 33(9) of the BO has further provided that, before the cost of works for defaulted orders have been wholly recovered, the BD may register a memorial of certificate (the s.33 certificate) with the Land Registry (LR) against the title of any premises or land in respect of which such cost arose. Upon such registration, the cost and any interest accrued or thereafter accruing shall constitute a first charge on the property.

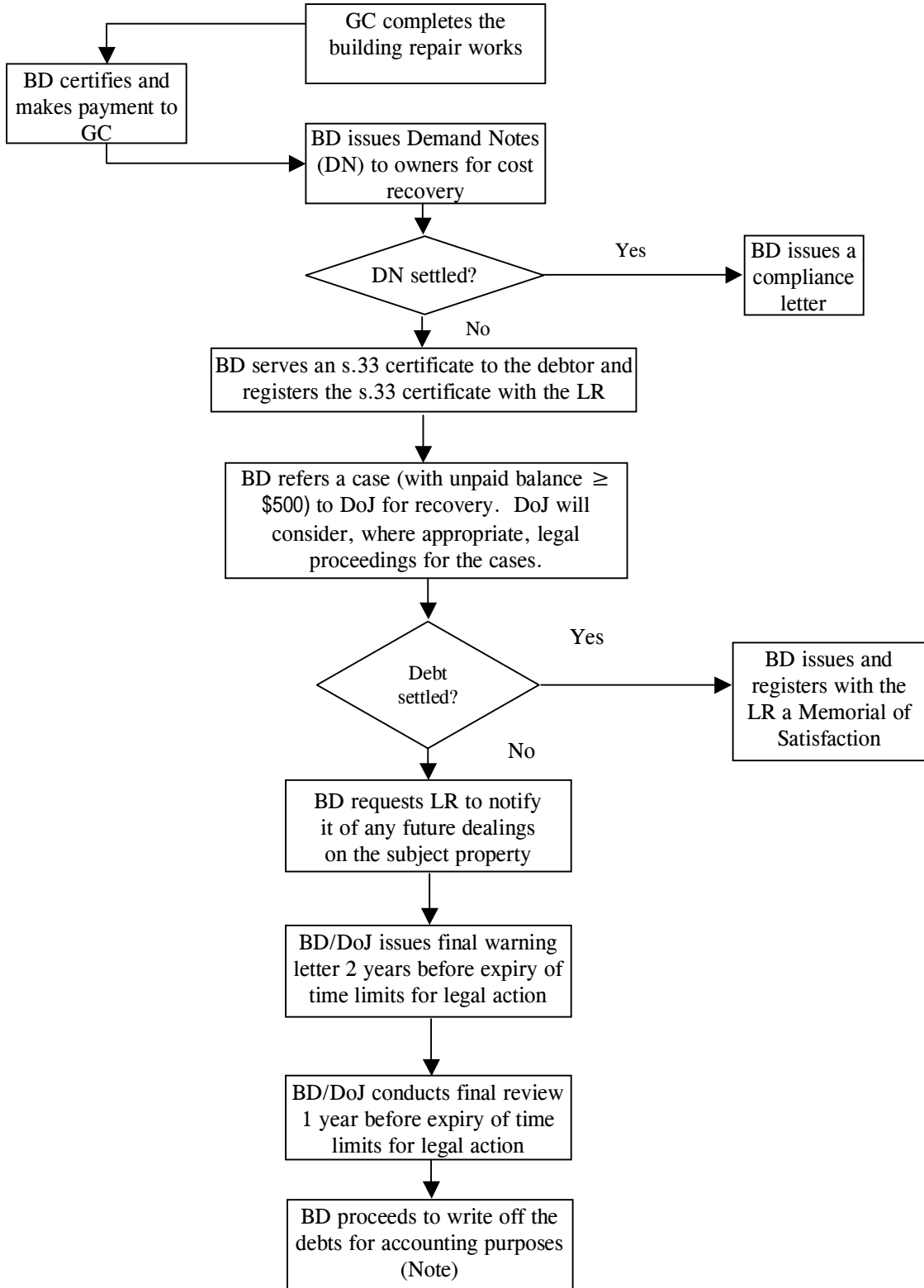
4.5 Except cases with outstanding amount less than \$500, the BD will refer cases to the Department of Justice (DoJ) for further recovery action. The DoJ will send letters to the debtors and mortgagee banks, where appropriate, to demand payment of any outstanding cost and will initiate court proceedings in appropriate cases.

4.6 Figure 6 shows the BD's procedures for cost recovery:



Figure 6

Procedures for cost recovery from owners



Source: BD records

Note: Although the debt has been written off for accounting purposes, the BD will continue its cost recovery actions. For example, it will continue to enforce the first charge created by registration under section 33 of the BO against the property title (see para. 4.9).

## **BD's efforts made to reduce the balance of the advance account**

4.7 Table 6 shows that the balance of the advance account had been consistently high for many years. In May 2003, the Director of Buildings set up a Cost Recovery Monitoring Committee, chaired by himself, to monitor progress and to tackle difficult outstanding cases identified by sections. A time frame has been set for each of the steps to be followed in cost recovery. The Accounts Section of the BD calls for periodic returns from different sections of the Existing Buildings Division on progress and action taken on outstanding cases. The Monitoring Committee holds meetings quarterly.

4.8 Since the setting up of the Monitoring Committee, the recovery of outstanding amounts has improved considerably. Follow-up actions have generally been expedited. The amount recovered for the years 2002-03 and 2003-04 totalled \$42.2 million and \$26.7 million respectively. However, Audit notes that there is still scope for improvement in the existing procedures for cost recovery.

## **Registration of s.33 certificates with the Land Registry**

4.9 When a demand note is not settled, the BD is empowered under section 33 of the BO to issue a certificate to the defaulting owner on the unpaid amount, with a copy of the certificate displayed at a conspicuous part of the subject building. If the owner still fails to settle the outstanding sum within a specified time, the BD can register the certificate with the LR (see para. 4.4). **As the registration of an s.33 certificate with the LR creates a first charge against the title of the subject property, it is a very important step in safeguarding the Government's interest.**

4.10 However, section 33(9) of the BO has further provided that such a first charge created by registration of an s.33 certificate shall be void and no liability shall accrue if a bona fide purchaser has acquired the property and registered an interest in the property *before* the registration of the s.33 certificate. **Therefore, in order to prevent loss of public money, the BD staff should always endeavour to proceed with registering with the LR a certification under section 33 as early as possible.**

## **Time limits imposed by law for legal actions**

4.11 The BD had obtained the following legal advice on the time limits for legal actions:

- (a) by virtue of section 33(6) of the BO, the BD can recover the costs of works as a debt due to the Government. However, in accordance with section 4 of the Limitation Ordinance, Cap. 347, the legal action must be taken **within six years from the date of completion of the repair/removal works**. Upon expiry of the six years, the debt action is time-barred; and
- (b) in respect of the additional avenue for cost recovery under section 33(9) of the BO, the first charge on the property will give the BD the right for action, under section 19 of the Limitation Ordinance, *"to recover any principal sum of money*

*secured by a mortgage or other charge on property, or to recover proceeds of the sale of land” within 12 years from the date when the right to receive the money accrued, which generally begins to run from the date when registration is made under section 33(9).*

If timely cost recovery action is not taken, the BD might lose its right for taking legal action.

### Ageing analysis of outstanding balances in the advance account

4.12 As at 31 December 2004, the balance of the advance account, comprising 843 outstanding cases, stood at \$51.9 million. Excluding 156 cases, which involved \$20.7 million (40% of \$51.9 million) for works not yet completed by GCs but partial payments having been made, there were 687 completed cases. An ageing analysis of these 687 cases is in Table 7, which shows that 54% had been outstanding for more than four years:

**Table 7**

**Ageing analysis of outstanding balances for  
completed cases in the advance account  
(as at 31 December 2004)**

Number of years since completion of the works (Note 1)	Number of outstanding cases (Note 2)	Amount outstanding	
		(\$'000)	%
(a) > 8 years	125 (100)	2,823	9%
(b) > 6 years and ≤ 8 years	103 (84)	2,634	8%
(c) > 4 years and ≤ 6 years	131 (89)	11,474	37%
(d) > 2 years and ≤ 4 years	148 (91)	9,992	32%
(e) ≤ 2 years	180 (29)	4,313	14%
<b>Total</b>	<b>687 (393)</b>	<b>31,236</b>	<b>100%</b>

} 54%

Source: BD records

Note 1: According to the BD's records, the completion dates for the works in relation to 10 cases were not readily available. In this connection, Audit has taken the last payment dates for payments made to the GC as the completion dates for the purpose of making this ageing analysis.

Note 2: The number of cases already referred to DoJ for legal action is shown in brackets. The amount involved was \$21.29 million.

## Audit observations

### *The need to register s.33 certificates with LR as early as possible*

4.13 Audit notes that, in 177 (26%) of the 687 cases (net of 58 cases for which registration under section 33 was not feasible, e.g. in the case of signboards), no certificate had been registered under section 33 of the BO with the LR (Note 18). In order to prevent loss of public money, arrangements should be made as early as possible for the registration of s.33 certificates for these 177 cases.

4.14 In June 2003, the Monitoring Committee (see para. 4.7) set the time frames of **eight weeks** for the issue of an s.33 certificate after the issue of the demand note, and **one month** for the registration of the s.33 certificate with the LR after its issue. However, Audit noted that up to mid-February 2005, in respect of these 177 cases:

- (a) there were 53 cases for which the BD had not yet issued any s.33 certificates, although demand notes issued to owners had remained outstanding for more than eight weeks. Of these 53 cases, the demand notes for **31 cases** involving \$1.1 million were issued more than one year ago; and
- (b) there were 18 cases (Note 19), for which the BD had issued s.33 certificates to the owners for more than one month, but no registration with the LR under section 33 had yet been made. Of these 18 cases, the s.33 certificates for **6 cases** involving \$0.16 million were issued more than one year ago (Note 20).

4.15 The time frames set for the issue and registration of s.33 certificates had not always been met. On many occasions, there had been delays in the registration of s.33 certificates because of missing files, incorrect ownership details, delays in follow-up actions and complexity of cases involved (such as cases where the party to bear the

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**Note 18:** *The number has excluded those cases that had been outstanding for less than eight months which is the total time frame allowed for the various steps before the registration of s.33 certificates with the LR. These included the certification of GC's accounts, cost apportionment among different owner properties, the issue of demand notes, the issue of reminders and the issue of s.33 certificates.*

**Note 19:** *In counting the number of cases, Audit has excluded five cases for which the BD had instigated action under section 33 of the BO in early 2005 to register with the LR, but registration had not yet been effected.*

**Note 20:** *Of these six cases, the BD had referred five of them to the DoJ for advice on the cost recovery action to be taken. As a result, the BD had withheld the registration of s.33 certificates pending DoJ's advice.*

maintenance responsibility had to be determined, cases with ownership changes after the completion of emergency works). Two examples are shown below:

- in one case (Note 21), involving the engagement of the GC twice to carry out removal works in discharge of six s.24 orders, the removal works had been completed by the GC as early as 1994 and 1999. Up to December 2004, the BD had not yet issued any s.33 certificates in its efforts to recover the GC action cost of \$260,527 and BD's supervision charge of \$31,080. Audit cannot ascertain from the BD's records any reasons for the undue delay (Note 22); and
- in another case (Note 23), involving \$2 million and relating to a slope safety repair project, the repair works had been completed in December 2003. Up to December 2004, action had not yet been taken to issue the s.33 certificates because the subject owners denied responsibility for the maintenance and declined to settle the demand notes. In November 2004, the BD Legal Section advised that the owners should be held responsible and suggested the case officer to refer the case to the DoJ for cost recovery. Action was taken to issue s.33 certificates on 4 February 2005, but action had not yet been taken to refer the case to the DoJ.

Audit notes similar delays in other cases. **The BD should endeavour to adhere to the time frames set by the Monitoring Committee.**

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**Note 21:** *In this case, an owner had built UBW on the rooftop of a building. Due to complaints from various sources, the BD issued several s.24 orders urging the owner to remove the UBW but in vain. The owner was prosecuted and fined for non-compliance with the s.24 orders. The BD had also engaged the GC twice to remove the UBW on behalf of the owner.*

**Note 22:** *In March 2005, BD staff advised Audit that they had issued in late January 2005 two s.33 certificates to the owner and had further referred the two certificates to the LR for registration on 1 March 2005.*

**Note 23:** *In this case, a slope behind a building was found to have become dangerous. The BD issued an order under section 27A of the BO urging the OC to conduct investigation on the slope and to submit a remedial proposal for its approval. The OC did not comply with the order. The BD had therefore engaged the GC to conduct the slope repair works on behalf of the OC.*

*The need to refer cases to Department of Justice*

4.16 Audit further noted that, among the 235 cases in paragraph 4.13 (i.e. 177 plus 58), there were 42 cases (or 18%) which had been outstanding for more than six years. Of these 42 cases, **24 cases**, involving outstanding balances of \$0.94 million, had not been referred to the DoJ (Note 24). As these 24 cases had exceeded the six-year time limit for legal action, the chances of cost recovery in most cases are not high (Note 25).

4.17 In addition, there were 28 cases, involving \$3.2 million, which had been outstanding for between four to six years, but had *not* been referred to the DoJ (see also Note 24). As these 28 cases are approaching the six-year time limit for legal action, the BD needs to take early action to refer them to the DoJ (Note 26). **Audit considers that the BD should refer cases to the DoJ for legal actions promptly because delays could result in BD's right of legal action for cost recovery being time-barred.**

*The need to make extra efforts to recover high-value balances*

4.18 Audit's analysis of the balance of the advance account as at 31 December 2004 shows that 23 high-value balances (with each balance exceeding \$500,000), amounting to \$27.4 million, accounted for more than 53% of the balance of \$51.9 million.

4.19 An ageing analysis of these high-value balances indicates that **nine** of these high-value balances, amounting to \$11.6 million, had been outstanding for **over three years**, as shown in Table 8.

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**Note 24:** *The number has excluded those outstanding cases which were less than \$500 and which were not referred to the DoJ for follow-up (see para. 4.5).*

**Note 25:** *In early 2005, the BD took action to issue s.33 certificates in 4 of these 24 cases.*

**Note 26:** *In early 2005, the BD referred three of the cases to the DoJ for follow-up and issued s.33 certificates in four of the cases.*

Table 8

**High-value balances (over \$500,000)  
outstanding for over three years  
(as at 31 December 2004)**

Case (Note)	Completion date for the works	Date of registration under section 33 with LR	Date of referring the case to the DoJ	Outstanding balance (\$'000)	Remarks
A	13.6.1995	6.7.2004	19.10.2004	590	—
<b>B</b>	<b>24.2.1997</b>	—	—	<b>534</b>	<b>The whole project was completed on 4.12.2003. The BD issued an s.33 certificate on 4.2.2005.</b>
C	26.6.1999	25.10.2002	17.2.2003	2,368	The whole project was completed on 31.1.2002.
D	9.10.1999	17.12.2001	2.6.2000	1,625	—
<b>E</b>	<b>31.5.2000</b>	—	—	<b>930</b>	<b>The whole project was completed on 22.9.2004.</b>
<b>F</b>	<b>11.11.2000</b>	—	—	<b>1,585</b>	<b>The whole project was completed on 4.12.2003. The BD issued an s.33 certificate on 4.2.2005.</b>
G	26.3.2001	13.11.2003	15.12.2003	1,537	—
H	15.5.2001	23.9.2004	4.3.2003	678	—
<b>I</b>	<b>4.10.2001</b>	—	—	<b>1,781</b>	<b>The whole project was completed on 22.9.2004.</b>
<b>Total</b>				<b>11,628</b>	

Source: BD records

Note: Cases shaded related to slope repair works.

4.20 Audit noted that 5 of the 9 cases in Table 8 related to slope safety repair works. Slope repair works are usually carried out under different works orders of the same project. According to the BD's practice, cost recovery actions for individual cases would not be initiated until the whole project was completed. For example, the repair works for case B had been completed as early as 1997 but cost recovery action was not taken until December 2003 after the related project was completed. As a slope safety repair project might take a number of years to complete, cost recovery actions for slope safety repair works would be held up. **The BD should consider cost recovery action by stages for such slope safety repair projects.**

*The need to improve management reports produced for the advance account*

4.21 The BD maintains a computer database on the outstanding cases of the advance account. Periodic exception reports are generated on the number of cases not meeting the time frames, including one on cases which had been outstanding for more than six years, but had not yet been referred to the DoJ. **To facilitate monitoring by its senior management, the BD can consider further improving its management reports by providing more information.** Examples of cases calling for management attention as identified in paragraphs 4.14(a) and (b), 4.17 and 4.19 show the types of information that should be submitted for monitoring purposes.

**Audit recommendations**

4.22 **Audit has recommended that the Director of Buildings should:**

- (a) **in order to avoid any loss of public money, urge the BD staff to expedite their cost recovery actions and endeavour to adhere to the time frames set by the Monitoring Committee for each step of cost recovery;**
- (b) **as the registration of s.33 certificates provides an effective means to safeguard the Government's interest, remind BD staff to proceed with the issue and registration of s.33 certificates as early as possible;**
- (c) **remind BD staff to refer cases to the DoJ for legal actions promptly;**
- (d) **review the 37 outstanding cases (i.e. 31 plus 6 cases in para. 4.14) and ascertain the reasons for the prolonged time taken to issue and register s.33 certificates;**
- (e) **consider referring the 25 cases (i.e. 28 less 3 cases in para. 4.17) that were approaching the six-year time limit to the DoJ for necessary action;**



- (f) **consider cost recovery action by stages in respect of slope safety repair projects; and**
- (g) **further improve the management reports produced for the advance account by providing more useful management information (e.g. to generate periodic ageing analyses).**

### **Response from the Administration**

4.23 The **Director of Buildings** accepts Audit's recommendations. He has said that, as reported in paragraph 4.7, in May 2003 he set up a Cost Recovery Monitoring Committee to monitor the progress in cost recovery and to tackle difficult outstanding cases. The BD will continue to improve upon its procedures and efforts in this regard. He has also said that:

- (a) in many cases, the long lead time in cost recovery action is mainly due to the dispute on the amount of payment and/or the change of address of the owners and change of ownership of the properties concerned. The change in property ownership and disputes on the liability and shares of payment have complicated the cost recovery action. For cases involving OCs, sometimes more time has to be allowed for the OCs to collect contributions from the respective owners; and
- (b) he welcomes Audit's recommendation on cost recovery action by stages for slope repair works. Indeed, the BD initiated a study in 2004 on the technical feasibility and legal implications on implementing staged cost recovery for slope works. As a result of the study, a staged cost recovery system for defaulted slope repair works has been implemented since early February 2005.

4.24 The **Secretary for Financial Services and the Treasury** has said that he supports Audit's recommendations that the BD must try its very best to recover the outstanding balances in the advance account and to initiate the necessary legal action the soonest possible to avoid loss of public money, and to safeguard the interest of the Government.

## **PART 5: PROGRESS REPORT TO STAKEHOLDERS ON IMPLEMENTING TEAM CLEAN RECOMMENDATIONS**

5.1 This PART examines the reporting to stakeholders of progress made in implementing the various recommendations in the Team Clean Reports, including improvements made to the building drainage conditions in the territory.

### **Publishing of Team Clean Reports**

5.2 In **May 2003**, Team Clean was set up (see Note 3 in para. 1.3). In the same month, Team Clean published its “*Interim Report on Measures to Improve Environmental Hygiene in Hong Kong*” which included a strategy for improving the state of environmental hygiene in the territory. The drainage inspection programme was at this point subsumed under the Team Clean Programme (see para. 1.3). Team Clean emphasised in its strategy that the improvement initiatives to be implemented must be thorough and sustainable, and early results should be attained.

5.3 In **August 2003**, Team Clean published its Final Report, the “*Report on Measures to Improve Environmental Hygiene in Hong Kong*”. In this Report, Team Clean reported the progress of the Government’s implementation of short-term measures (Phase I measures), including the progress of implementing the drainage inspection programme. In addition, Team Clean reported the way forward and the timetable for implementing the longer-term initiatives (Phase II measures). Appendix I shows some of the Phase II measures for improving building design and maintenance as set out in the Team Clean Final Report.

### **Implementation of Team Clean measures**

5.4 Team Clean was disbanded on 31 August 2003, after which respective policy bureaux had taken up responsibility for overseeing the implementation of Team Clean measures under their purview. To sustain the Team Clean efforts, the Steering Committee on Team Clean Follow-up was set up under the Home Affairs Bureau to monitor and review progress made on Team Clean measures (see para. 3.5). The Secretary for Home Affairs was also tasked to present quarterly progress reports on Phase II measures to the Policy Committee led by the Chief Secretary for Administration. In addition, the Home Affairs Department (HAD) played a central coordinator role in spearheading inter-departmental efforts in district hygiene improvement. Since August 2003, the HPLB and BD had reported their progress of implementing the Team Clean measures monthly to the HAD.

## **Progress Report by the Administration to the House Committee of the Legislative Council**

5.5 At a meeting of the LegCo House Committee held in **July 2004**, LegCo Members were briefed by the Administration on the progress of the various Team Clean measures taken by different government departments in improving Hong Kong's environmental hygiene. It was reported that, under the charge of the Steering Committee, good progress had been made in implementing the various Team Clean initiatives and that there were obvious improvements in the environmental hygiene in the districts. There was also an enhanced awareness among the general public of keeping the environment clean. The Administration further commented that, to achieve lasting cleanliness, the Government would need the continuous support and concerted efforts of the community to sustain high standards of personal and community hygiene.

### **Audit observations**

5.6 As stated in the Team Clean Reports, the success of Team Clean in keeping Hong Kong a clean city rests on sustainability. The two Team Clean Reports contained more than 200 recommendations on short-term and longer-term measures, the implementation of which is important as they help improve the environmental hygiene in the territory. This is of utmost importance as, apart from the SARS outbreak in early 2003, Hong Kong has witnessed a number of other virus outbreaks and disease attacks in neighbouring regions. To avoid recurrence, the community has to be vigilant and should always persevere to entrench a high standard of environmental hygiene (Note 27). It is therefore in the public interest to have the progress of implementing the various Team Clean initiatives publicised on a regular basis.

5.7 Audit welcomes the Administration's progress report to the LegCo House Committee in July 2004. It has provided a good opportunity for LegCo Members to be apprised of the progress made. **As publishing the Government's achievements will help arouse public awareness and enhance transparency and public accountability, it is desirable to consider posting of Team Clean progress reports regularly onto the Government's website including, for example, an updated assessment of the building drainage conditions in the territory.**

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**Note 27:** *In connection with SARS, Audit noted that, in October 2004, the World Health Organisation (WHO) published two documents, namely the "WHO SARS Risk Assessment and Preparedness Framework" and the "WHO guidelines for the global surveillance of SARS, Updated recommendations". In these two documents, the WHO has set out revised guidelines for the global surveillance and reporting of SARS as an ongoing strategy for rapidly detecting cases and has strongly recommended that all countries should undertake a SARS risk assessment and, based on the result, develop a contingency plan for the detection and management of SARS.*

## Audit recommendation

5.8 **Audit has recommended that, in order to enhance transparency and public accountability, the Secretary for Home Affairs should consider posting regular Team Clean progress reports onto the Government's website.**

## Response from the Administration

5.9 The **Director of Home Affairs** has furnished a consolidated reply for the Home Affairs Bureau and the HAD. She has said that:

- (a) they fully agree with Audit's recommendation. As far as measures under the purview of the HAD are concerned, information has been posted onto the HAD's website under the HAD's Team Clean Corner since January 2004. To further enhance transparency and public accountability, they will request key departments/bureaux to upload progress made by them in their respective websites as well;
- (b) they consider that respective departments should upload progress made under their purview for the following reasons:
  - all government departments have their own websites;
  - they have first-hand information and can ensure prompt uploading and updating. Transferring information to another department would cause delay and is not cost-effective as efforts would be duplicated; and
  - Team Clean measures are part and parcel of their normal business which need not be distinguished from the other information released by them to the public; and
- (c) the HAD's Team Clean Corner will also provide hyperlink to the relevant websites of these departments/bureaux to facilitate public's access to the information.

Case 1

A building in Third Street, Hong Kong

Item	Date	Days elapsed since event in item (1)	Key event
(1)	20.4.1998	—	In a survey carried out under a building safety inspection scheme of the captioned five-storey building, BD staff noted that there were rusty pipes at the front of the building which appeared to have been abandoned as there were new pipes at the rear of the building.
(2)	12.10.1998	175	BD staff carried out another site inspection.
(3)	<b>6.9.1999</b>	<b>504</b>	<b>The BD issued an s.28 order to the owners of the building requiring repair works to be completed on the defective drains and pipes by 6 March 2000. An s.26 order was also issued as the BD considered that the building would become dangerous.</b>
(4)	30.12.1999	619	BD issued a warning letter to the owners of the building on s.26 and s.28 orders.
(5)	26.1.2000	646	The BD received a letter from the owner of the 1 <sup>st</sup> floor of the building. The owner mentioned that the owners had been working with the MC of the adjacent building on a plan to fulfil the s.28 and s.26 orders, but no resolution could yet be reached in terms of the project and cost apportionment. The owner advised that, unless assistance would be available from the BD, he wondered if the owners could reach a resolution on the project before the deadline of 6 March 2000. He further advised the BD that he had no choice but would allow BD to arrange contractors to carry out the related works and he would bear his share of the cost.
(6)	31.3.2000	711	BD issued another warning letter to the owners of the building.
(7)	5.5.2000	746	The owner in (5) above advised the BD that the owners of the building could not reach a consensus and reiterated that he would allow BD to arrange contractors to carry out the related works and he would bear his share of the cost.
(8)	<b>25.4.2003</b>	<b>1,831</b>	<b>BD staff carried out a site inspection of the building under the drainage inspection programme initiated to combat SARS. They recommended the issue of an s.28 order but noticed the outstanding s.28 order which had already expired in March 2000.</b>
(9)	28.4.2003	1,834	BD staff issued an advisory letter on broken pipes identified from the site inspection in (8).
(10)	28.11.2003	2,048	BD staff carried out another site inspection. It was found that no repair or removal of the abandoned rainwater pipe at the front had been carried out. A portion of the drainage pipe was enclosed by the unauthorised flat roof structure that caused obstruction to the repair works.

**Appendix A**  
(Cont'd)  
(para. 2.10 refers)

Item	Date	Days elapsed since event in item (1)	Key event
(11)	1.3.2004	2,142	BD staff recommended GC action on the outstanding s.28 order, but GC action did not appear to have been taken.
(12)	<b>18.3.2004</b>	<b>2,159</b>	<b>The BD issued an s.24 order requiring owners to remove the unauthorised flat roof structure identified in (10) above.</b>
(13)	21.5.2004	2,223	BD staff carried out a compliance inspection. They found that no repair works had been carried out and the unauthorised flat roof structure had not been removed.
(14)	3.6.2004	2,236	The BD issued a warning letter to the owners on the s.24 order.
(15)	<b>1.12.2004</b>	<b>2,417</b>	<b>The BD issued a warning letter to the owners of the building on the outstanding s.26 and s.28 orders.</b> Action to commence the remedial works in 14 days was demanded, else the BD would consider prosecution.
(16)	14.12.2004	2,430	An owners' representative submitted on behalf of the other owners an application for an extension of time (EoT) for complying with the s.24, s.26 and s.28 orders. The owners' representative also advised BD that he had already applied to the Court for vacant possession of the flat roof structure to facilitate its removal.
(17)	<b>23.12.2004</b>	<b>2,439</b>	<b>BD staff had a discussion with the owners' representative and understood that the owners had convened a meeting to discuss the appointment of AP and the repair works. The BD was considering the application for an EoT.</b>
(18)	30.12.2004	2,446	Audit reviewed the case file and noted that the position rested with (17). Audit staff visited the site on 23.12.2004 and found that the broken pipes and the dilapidated conditions of the building remained unchanged (see Photograph 7).

*Source: BD records*

***Audit comments:***

The BD's follow-up actions to enforce the s.28 order had been slow. The s.28 order had been issued as early as September 1999. Up to the time of audit inspection (30.12.2004), it had been outstanding for more than four years (since March 2000).

**Photograph 7**

**A building in Third Street, Hong Kong**



*Source: Photograph taken by Audit on 23 December 2004*

**Case 2**

**A building in Kwun Tong, Kowloon**

<b>Item</b>	<b>Date</b>	<b>Days elapsed since event in item (1)</b>	<b>Key event</b>
(1)	15.10.2001	—	In response to a public complaint, the BD carried out a site inspection and noted that the vertical pipes attached to the exterior of the building were in dilapidated conditions.
(2)	<b>9.11.2001</b>	<b>25</b>	<b>The BD issued an s.28 order to the OC of the building requiring drainage repair works to be completed by 9 May 2002. In addition, an s.26 order for building repairs was issued.</b>
(3)	5.2.2002	113	The BD received a letter from a District Councillor (DC). The DC mentioned that the OC was working on a plan to fulfil the s.28 and s.26 orders. The owners worried that they would not have enough time to finish their repair works and asked for an EoT of three months.
(4)	23.2.2002	131	The District Officer (Kwun Tong) wrote to the BD asking for the consideration of the OC's application for an EoT of three months.
(5)	13.3.2002	149	In a letter to the DC, BD staff replied that they noted that the OC was inviting tenders for the repair works, but would not consider the request for an EoT as there was still some time before the expiry of the orders. The owners could however apply for an EoT if they could not finish the repair works by the expiry date.
(6)	8.5.2002	205	The appointed AP applied for a six-month EoT for complying with the orders.
(7)	4.10.2002	354	The AP sent a formal notice of AP appointment to the BD.
(8)	16.11.2002	397	The BD acknowledged the AP's letter and the submitted notice of appointment.
(9)	8.7.2003	631	The BD received a telephone complaint. The complainant informed the BD on the loose parts of the rusty drainage pipes having fallen from the external wall of the building (Blocks D, E and F of the building facing the road), and requested the BD to follow up.
(10)	<b>14.7.2003</b>	<b>637</b>	<b>BD staff carried out a site inspection of the building under the drainage inspection programme initiated to combat SARS. They recommended the issue of an s.28 order, having noted the serious rusty pipes found during the inspection.</b> (Apparently, no s.28 order was subsequently issued as an s.28 order had already been issued — see item (2) above.)
(11)	17.7.2003	640	In response to the complaint in (9), the BD carried out a site inspection.



**Appendix B**  
(Cont'd)  
(para. 2.10 refers)

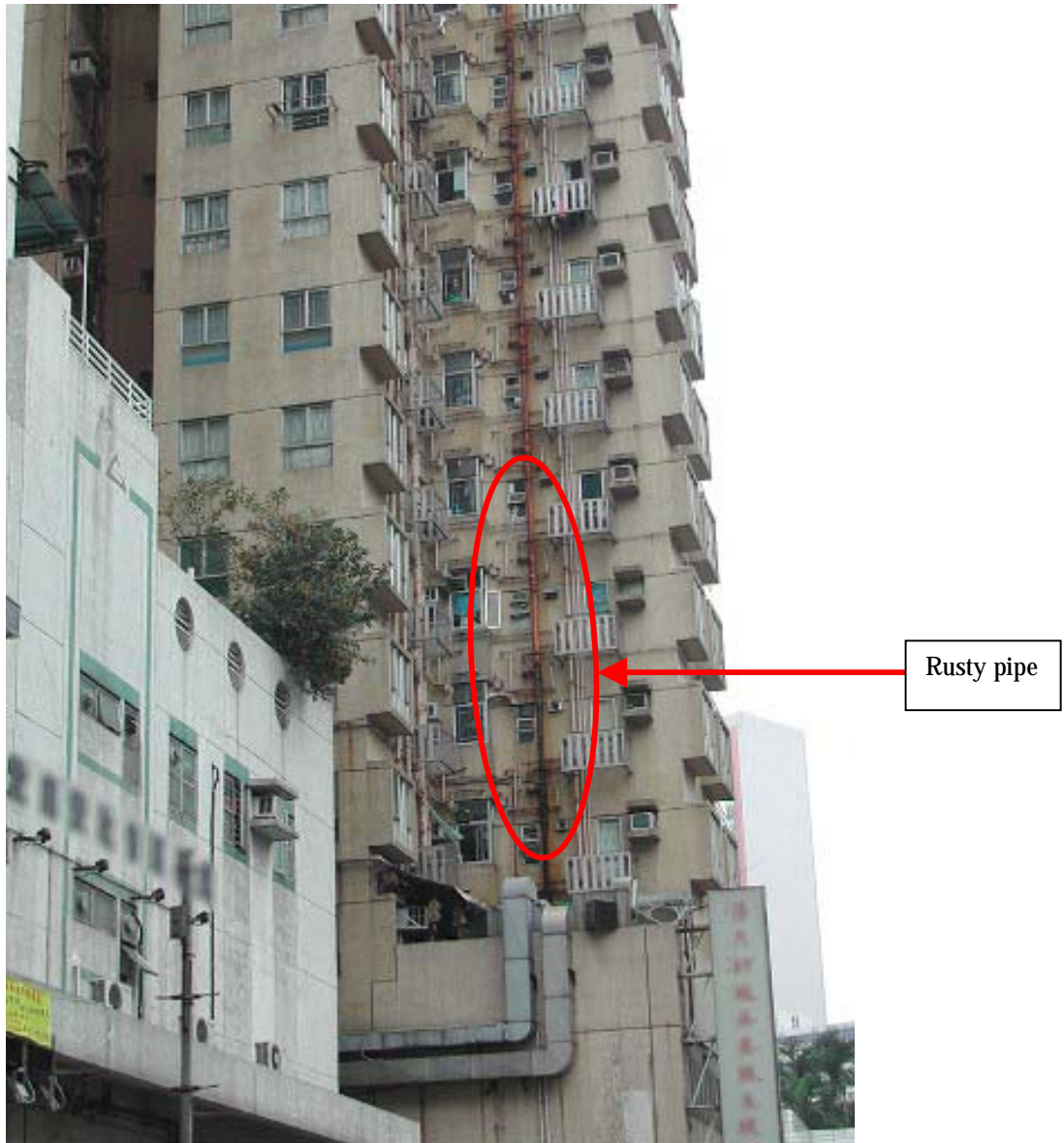
Item	Date	Days elapsed since event in item (1)	Key event
(12)	25.7.2003	648	<p>BD staff issued a warning letter to the OC of the building for non-compliance with the s.28 and s.26 orders.</p> <p>On the same day, BD staff received copy of a complaint letter from one owner of the building to the OC. He complained about the OC's slow action and about the danger of the fallen loose pipes from the building. He urged the OC to take prompt follow-up actions on the building repair works.</p>
(13)	14.9.2003	699	<p>The BD received another complaint letter from one owner of the building. The owner complained about the OC's delay in carrying out the repair works and the BD's slow follow-up action. He was also concerned that the BD had not tried to understand why there was the delay and attempted to assist the OC in dealing with the repair works.</p>
(14)	19.9.2003	704	<p>The BD received a letter from the AP who reported the progress of the drainage repair works and asked for a six-month EoT.</p>
(15)	<b>20.10.2003</b>	<b>735</b>	<p><b>The BD issued another warning letter to the AP. The BD refused to grant any EoT to the AP and informed him that BD would carry out inspection on 1 December 2003, by which time if the orders had not been complied with, the BD would consider prosecution.</b></p>
(16)	12.12.2003	788	<p>The AP advised the BD that he had withdrawn from the appointment.</p>
(17)	<b>22.12.2003</b>	<b>798</b>	<p><b>BD staff carried out a compliance inspection. It was found that both the s.28 and s.26 orders had not been complied with. No repair works had commenced.</b></p>
(18)	27.2.2004	865	<p>The defaulted works were assigned to the DWC.</p>
(19)	12.3.2004	879	<p>The DWC submitted a supervision proposal for the BD's approval.</p>
(20)	19.5.2004	947	<p>The DWC submitted a revised proposal after incorporating the BD's comments.</p>
(21)	<b>17.6.2004</b>	<b>976</b>	<p><b>A programmed walking survey carried out by the BD's outsourced patrol teams (to identify and record any apparent building defects in assigned districts) found rusty drainage pipes and pipe brackets in the subject building.</b></p>
(22)	6.7.2004	995	<p>The BD received a letter from the OC which explained that the delay was due to their lack of experience in handling the repair works, and indicated that it would shoulder the repair costs, appoint the AP and proceed with the repair works.</p>

**Appendix B**  
(Cont'd)  
(para. 2.10 refers)

Item	Date	Days elapsed since event in item (1)	Key event
(23)	3.8.2004	1,023	The OC reported the progress to the BD that AP selection was in progress. The remedial works would be commenced in due course.
(24)	<b>20.9.2004</b>	<b>1,071</b>	<b>Another AP was appointed.</b>
(25)	5.11.2004	1,117	The BD had a discussion with the AP who advised that he would meet the OC shortly and the tender documents for selecting contractors were under preparation.
(26)	11.11.2004	1,123	The BD advised the DWC to suspend works as the OC was in the process of appointing a contractor to carry out the repair works.
(27)	28.12.2004	1,170	Audit reviewed the case file and noted that the position rested with (26). Audit staff visited the site on 5.1.2005 and found that the defective drains and the dilapidated conditions of the building remained unchanged. See Photograph 8 taken by Audit staff on site.
<i>Source: BD records</i>			
<i>Audit comments:</i> The BD's follow-up actions to enforce the s.28 and s.26 orders had been slow. The s.28 and s.26 orders were issued as early as November 2001, but had been outstanding since May 2002 (i.e. for more than two years).			

**Photograph 8**

**A building in Kwun Tong, Kowloon**



*Source: Photograph taken by Audit on 5 January 2005*

*Note: According to BD records, there were serious rusty stacks at rear and rear re-entrant on the lower floors of the building.*

Case 3

A housing estate in To Kwa Wan, Kowloon

Item	Date	Days elapsed since event in item (1)	Key event
(1)	4.3.1995	—	The BD received a complaint about the defective drains.
(2)	16.3.1995	12	The BD conducted a site inspection.
(3)	3.4.1995	30	The BD issued an advisory letter to the OC urging the latter to investigate and rectify the defective drainage system in three months' time.
(4)	1.6.1995	89	The OC informed the BD that there were several UBW that had prevented the drainage repair works to be done.
(5)	24.6.1995	112	The BD referred the case to another team within the BD to follow up with the UBW.
(6)	<b>19.10.1995</b>	<b>229</b>	<b>The BD issued an s.28 order to the OC requiring the owners to commence repair works by 1 December 1995 and to complete the works by 1 March 1996.</b>
(7)	<b>13.3.1996</b>	<b>375</b>	<b>The BD issued a superseding s.28 order (due to the need to change the name of the recipient) and required the OC to complete the repair works by 1 July 1996.</b>
(8)	19.6.1996	473	An AP submitted on behalf of the OC a notice of appointment to the BD.
(9)	5.9.1996	551	The BD conducted a compliance inspection and noted that repair works had not yet commenced.
(10)	9.9.1996	555	The AP submitted a notice of commencement of building works to the BD.
(11)	3.10.1996	579	The BD conducted another compliance inspection but noted again that no repair works had been carried out.
(12)	<b>3.10.1996</b>	<b>579</b>	<b>The BD sent a warning letter to the OC advising that if works did not commence within four weeks without reasonable cause, prosecution would be considered.</b>
(13)	23.8.1997	903	The AP notified the BD the completion of the repair works.
(14)	<b>9.10.1997</b>	<b>950</b>	<b>The BD conducted a joint inspection with the AP and the contractor, but noted the flooding of waste water in the lightwell. The AP was accordingly informed that the s.28 order had not been complied with.</b>

Item	Date	Days elapsed since event in item (1)	Key event
(15)	3.11.1997	975	The BD conducted another compliance inspection but still noted that the defects had not yet been rectified.
(16)	<b>5.11.1997</b>	<b>977</b>	<b>The BD informed the AP that, in view of the defects found in the joint inspection on 9 October 1997 (see (14)), the order had not been complied with. The AP was further reminded to complete the repair works as required in the order as soon as possible.</b>
(17)	<b>21.1.1998</b>	<b>1,054</b>	<b>The BD issued a warning letter to the AP urging him to complete the rectification works as soon as possible.</b>
(18)	30.3.1998	1,122	The BD conducted a site inspection with the AP and the OC, but the BD still identified several drainage defects.
(19)	<b>20.4.1998</b>	<b>1,143</b>	<b>The BD informed the AP that, due to the defects found in the joint inspection on 30 March 1998 (see (18) above), the order had not been complied with. The AP was further reminded to complete the repair works as soon as possible.</b>
(20)	<b>20.1.1999</b>	<b>1,418</b>	<b>The BD referred the UBW issue to another team within the BD for follow-up.</b>
(21)	24.2.1999	1,453	The BD sent a letter to the owners/occupants of the shops on the G/F urging them to remove the UBW so as to facilitate the drainage repair works.
(22)	4.8.1999	1,614	The BD conducted a compliance inspection and found that the UBW were still there.
(23)	22.5.2000	1,906	The BD contacted the AP and was informed that all defective above-ground drains had been replaced, but access to underground drains was denied due to the presence of UBW.
(24)	23.4.2003	2,972	The BD sent an advisory letter to the concerned owners of the shops on the G/F advising them to remove the UBW and repair the defective drains.
(25)	<b>6.6.2003</b>	<b>3,016</b>	<b>After a site inspection on 28 May 2003, the BD sent an advisory letter to the OC advising it to remove the UBW and repair the defective drains.</b>
(26)	30.7.2003	3,070	The media reported the unsatisfactory conditions of the building. The BD conducted a site inspection.
(27)	6.8.2003	3,077	The BD sent a warning letter to the OC advising it to repair the defective drains.
(28)	11.8.2003	3,082	The BD conducted another site inspection.

Item	Date	Days elapsed since event in item (1)	Key event
(29)	20.8.2003	3,091	The BD conducted a follow-up inspection.
(30)	28.8.2003	3,099	The BD issued a warning letter to the OC.
(31)	<b>3.9.2003</b>	<b>3,105</b>	<b>The BD included the case in the “Clean Hong Kong Campaign” and issued s.24 orders to 58 owners for removal of the UBW.</b>
(32)	25.9.2003	3,127	The BD sent a letter to the OC, advising the owners its intention of invoking section 28(8) of the BO to carry out the necessary emergency drainage repair works to the defective drainage system at the captioned building on behalf of the OC.
(33)	19.11.2003	3,182	The BD conducted a compliance inspection noting that 13 of 58 s.24 orders had been complied with.
(34)	<b>9.1.2004</b>	<b>3,233</b>	<b>The BD issued a works order to the GC to carry out high pressure water jetting to the drains emanating from the manhole at a lightwell of the building.</b>
(35)	12.1.2004	3,236	The GC commenced the repair works accordingly.
(36)	17.1.2004	3,241	The BD conducted a compliance inspection noting that another 14 of 58 s.24 orders had been complied with.
(37)	29.4.2004	3,344	The BD commenced to take legal actions against the remaining defaulted s.24 orders.
(38)	12.7.2004	3,418	The BD certified the repair works undertaken by the GC as completed on 30.6.2004.
(39)	<b>21.7.2004</b>	<b>3,427</b>	<b>The BD informed the OC that the emergency works undertaken by the GC had been completed, however its completion should not be regarded as compliance with the s.28 order which was still enforceable.</b>
(40)	<b>10.8.2004</b>	<b>3,447</b>	<b>The BD informed the OC that the s.28 order had still not been fully complied with and it would invoke section 28(7) of the BO for arranging GC action to carry out the necessary repair works.</b>
(41)	12.8.2004	3,449	The BD assigned the case to the DWC for follow-up, indicating that compliance with the s.28 order was not achieved due to the presence of UBW, which prevented the repair/replacement of the defective underground drains. The DWC was asked to conduct an investigation to determine the scope of the requisite repair works and then to prepare the works order for GC action.

Item	Date	Days elapsed since event in item (1)	Key event
(42)	2.11.2004	3,531	The DWC carried out an initial investigation.
(43)	18.11.2004	3,547	The DWC submitted his initial investigation proposal to the BD.
(44)	19.11.2004	3,548	The BD conducted a compliance inspection and found that another 7 of 58 s.24 orders had been complied with.
(45)	25.11.2004	3,554	The BD staff had a site inspection jointly with a new owner and the OC Chairman who told the BD that he had the intention to arrange for the necessary repair works by himself.
(46)	6.12.2004	3,565	The AP informed the BD that he was re-appointed to oversee the repair works.
(47)	22.12.2004	3,581	BD staff advised the DWC that the assignment was to be withheld and the BD had agreed to the AP's proposal to proceed with the repair works.
(48)	23.12.2004	3,582	Audit reviewed the case file and made enquiries with BD staff who advised Audit that some 80% of the UBW that had blocked the repair works had been removed. Audit staff made a site visit and found that the drainage defects (such as choked manhole) had not entirely been rectified. See Photographs 9 and 10 taken by audit staff.

*Source: BD records*

***Audit comments:***

The s.28 order was expected to be complied with by July 1996. However, as at 23 December 2004, more than eight years later, it was still not fully complied with. From 1999 to 2002, little progress was made in enforcing the removal of the UBW which had prevented the proper repair/replacement of the defective underground drains. The BD issued s.24 orders on the UBW only in September 2003. Towards the end of 2004, 80% of the UBW had been removed. However, up to 23 December 2004, the underground drainage defects still remained unrectified. The OC has recently appointed an AP to oversee the drainage repair works. The BD may wish to keep in view the development closely.

**Photographs 9 and 10**

**A housing estate in To Kwa Wan, Kowloon**



*Source: Photograph taken by Audit on 23 December 2004*



Manhole in the lightwell was found choked and covered with flooding waste water and debris.

*Source: Photograph taken by Audit on 16 January 2005*

*Note: According to BD records, an inspection carried out in November 2004 indicated that the site condition was not satisfactory. Most of the manhole covers were broken, missing, obstructed by UBW, or covered by concrete pavement, debris, materials and rubbish. The inspection officers recommended full investigation to be carried out on the underground drainage system and surface drainage at the ground floor of the subject building.*



Case 4

A building in Tung Lo Wan Road, Hong Kong

Item	Date	Days elapsed since event in item (1)	Key event
(1)	18.7.2003	—	Under the drainage inspection programme of Team Clean, BD staff conducted a site inspection and found that the vertical pipes were broken.
(2)	9.9.2003	53	The BD sent a request to the Land Registry (LR) for details of the OC of the building.
(3)	24.9.2003	68	The BD received the OC details from the LR.
(4)	<b>10.10.2003</b>	<b>84</b>	<b>The BD issued an s.28 order requiring the OC of the building to repair or renew the defective common drains of the building and remove the abandoned pipes, and to have the repair works completed by 8.12.2003.</b>
(5)	14.11.2003	119	The OC complained that the UBW at the 12/F had obstructed the drainage improvement works under the s.28 order.
(6)	24.11.2003	129	BD staff carried out a compliance inspection. It was found that no drainage repair works had been carried out and the UBW at the 12/F had not been removed.
(7)	25.11.2003	130	The BD replied to the OC stating that an s.24 order was issued in February 2001 for removal of the relevant UBW and action had been taken in early 2003 to prosecute the owner of that building unit.
(8)	<b>8.12.2003</b>	<b>143</b>	<b>The s.28 order expired.</b>
(9)	2.6.2004	320	BD staff recommended GC action to remove the UBW which had blocked the drainage repair works. The recommendation was endorsed by BD's Section Head on 8.6.2004.
(10)	<b>4.6.2004</b>	<b>322</b>	<b>The BD conducted a compliance inspection. The drainage repair works had not yet been started.</b>
(11)	10.6.2004	328	BD staff posted on site a Notice of Intention to apply to the court for a Closure Order under the BO on 20.7.2004 in relation to unit D, 12/F.
(12)	18.6.2004	336	The BD issued a warning letter to the OC stating that BD would employ a DWC to undertake the required repair works and would recover the cost plus supervision charges from the owners.  On the same day, the BD received a letter of 17.6.2004 from the AP reporting the existence of UBW on the rooftop of the building and the dilapidated conditions of the building on the external walls. The AP asked the BD to conduct a site inspection.

**Appendix D**  
(Cont'd)  
(para. 3.18 refers)

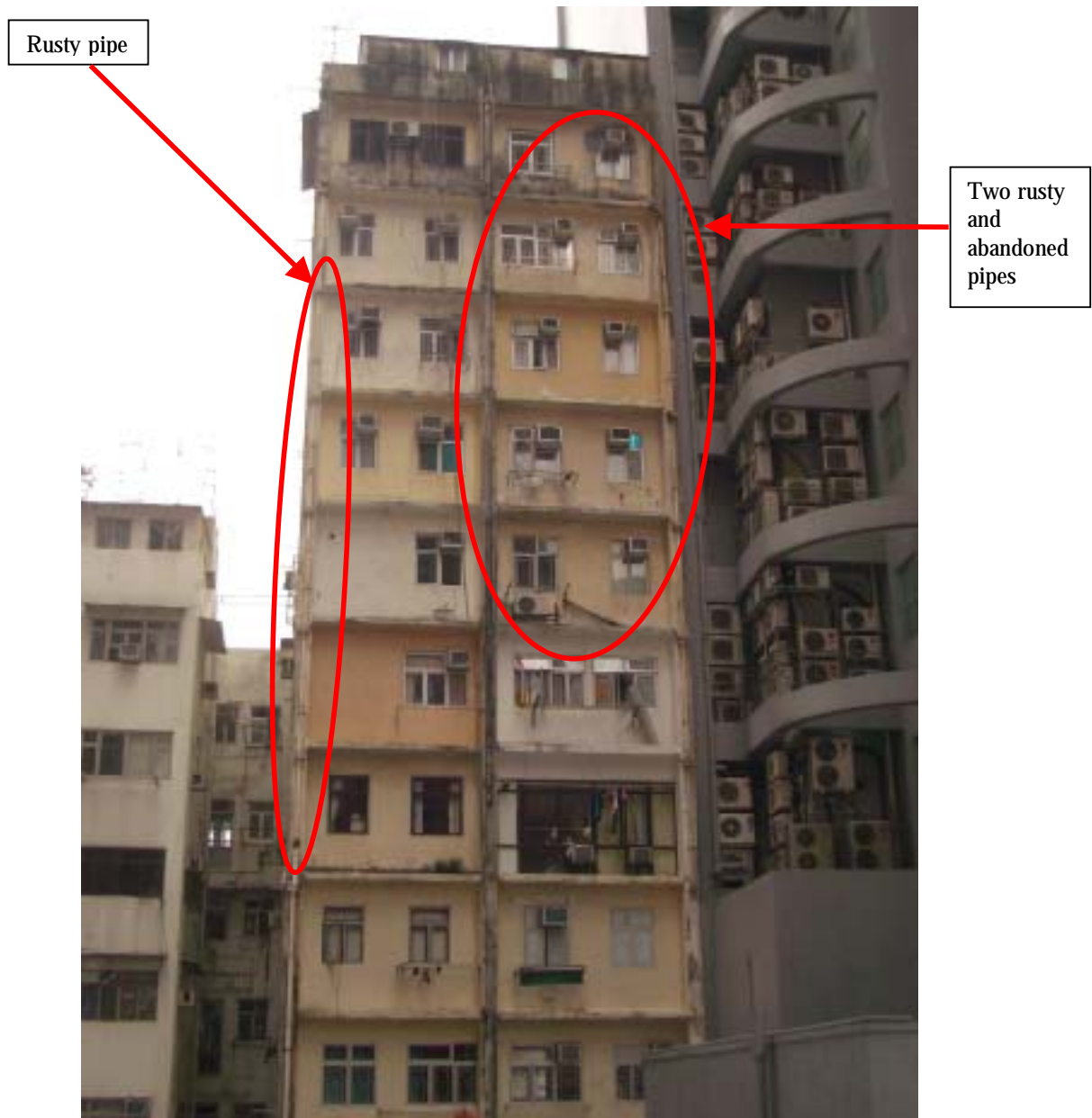
Item	Date	Days elapsed since event in item (1)	Key event
(13)	20.7.2004	368	Police executed the Closure Order of 20.7.2004.
(14)	22.7.2004	370	The Environmental Protection Department (EPD) informed the BD that it received a complaint of 5.7.2004 about polluting effluent discharged by the captioned building which was caused by its defective and deteriorating drains and pipes. The EPD recommended the BD to advise the OC to expedite its works so that the drainage improvements could be completed as soon as possible.
(15)	<b>7.8.2004</b>	<b>386</b>	<b>The BD issued another warning letter stating that a GC would be appointed five days after issue of this letter to complete the required works, and that the BD would consider prosecuting the OC if no reasonable excuse could be given for not complying with the s.28 order.</b>
(16)	9.8.2004	388	The OC applied for an EoT since they had already started the tendering process and a detailed time schedule was enclosed for BD's information. The OC also informed the BD that it had appointed an AP in April 2004.
(17)	<b>2.9.2004</b>	<b>412</b>	The BD contacted the AP urging him to remove the abandoned pipe as early as possible as it would pose imminent danger. <b>The AP however advised BD staff that the OC had stopped him from proceeding with any repair action because the civil action between one owner and the OC had not been settled.</b> On considering the case, BD staff took the line that should the BD receive any emergency call, they would arrange for immediate GC removal action.
(18)	13.9.2004	423	GC commenced its removal works on the UBW.
(19)	28.10.2004	468	The BD issued a letter to the GC certifying the completion of the removal works.
(20)	15.11.2004	486	The OC and the AP had performed a preliminary vetting of tenders received from prospective contractors.
(21)	<b>10.12.2004</b>	<b>511</b>	<b>The BD issued a warning letter to the OC urging it to commence the repair works by 31.12.2004, else the DWC and GC would be appointed to carry out the remedial works.</b>
(22)	<b>18.12.2004</b>	<b>519</b>	<b>The BD received a revised time schedule from the OC on the repair works which were scheduled to commence in March 2005. The OC applied for a six-month EoT to 30 June 2005.</b>
(23)	29.12.2004	530	Audit reviewed the case file and the progress rested with the position in (22). Audit staff visited the site on 23.12.2004 and found that the broken parts of two drains had been removed, but the other defective drains were not repaired. See Photograph 11 taken by Audit staff on site.
<i>Source: BD records</i>			

***Audit comments:***

In this case, the s.28 order had expired by 8 December 2003. However, the BD did not conduct a compliance inspection until June 2004 which was almost seven months later. In August 2004, the OC applied for an EoT to the s.28 order, but the BD had not replied thereto. In September 2004, the AP informed the BD that he was advised by the OC not to proceed with any repair action. Action appeared to have resumed only in November 2004.

**Photograph 11**

**A building in Tung Lo Wan Road, Hong Kong**



*Source: Photograph taken by Audit on 23 December 2004*

Case 5

A building in Yuen Long On Hing Street, Yuen Long

Item	Date	Days elapsed since event in item (1)	Key event
(1)	5.7.2003	—	The BD conducted a site inspection and found that the drainage pipes for the building were entirely rusty. BD staff recommended the issue of an s.28 order to demand the owners to repair the drainage pipes.
(2)	23.7.2003	18	The BD made a request to the LR for details of the OC and the Deed of Mutual Covenant (DMC), if one had been registered. The BD conducted another site inspection under the drainage inspection programme of Team Clean.
(3)	24.7.2003	19	The BD issued an advisory letter to the owners urging them to appoint an AP to arrange for repairing or replacing the defective drainage pipes and informing them that the BD would issue an order shortly.
(4)	29.7.2003	24	LR provided the BD with details of the OC and DMC.
(5)	<b>20.8.2003</b>	<b>46</b>	<b>BD issued an s.28 order requiring the OC to repair or replace the defective rainwater, waste, soil and vent pipes. The order had to be complied with by 20.12.2003.</b>
(6)	11.12.2003	159	BD conducted a compliance inspection, but noted that the repair works had not yet been done.
(7)	16.12.2003	164	District Officer (Yuen Long) informed the BD that, although the Home Affairs Department (HAD) had rendered mediation and assisted the OC in organising meetings, the owners had not reached consensus about the repair works.
(8)	<b>20.12.2003</b>	<b>168</b>	<b>The s.28 order expired.</b>
(9)	12.1.2004	191	The BD issued a warning letter to the OC and stated that arrangements would soon be made under section 28(7) of the BO to carry out the repair works. The BD also warned that it would consider initiating prosecution action.
(10)	15.1.2004	194	The warning letter was returned undelivered on the grounds that the OC had been dissolved.
(11)	2.2.2004	212	The BD consulted HAD verbally and was informed that no record could be found about the dissolution of the OC.
(12)	3.2.2004	213	BD requested ownership details from LR in order to issue s.28 orders to individual owners.

**Appendix E**  
(Cont'd)  
(para. 3.18 refers)

Item	Date	Days elapsed since event in item (1)	Key event
(13)	11.2.2004	221	The LR provided the ownership details of the building.
(14)	3.3.2004	242	The BD conducted another compliance inspection, but found that the s.28 order was still in default.
(15)	16.3.2004	255	The BD informed the owners that as the owners had not complied with the s.28 order, the BD had appointed a consultant to carry out the defaulted works. The owners were also requested to provide building access for BD staff and the consultant.
(16)	17.3.2004	256	The BD assigned the defaulted case to the DWC for follow-up.
(17)	19.3.2004	258	The BD withheld the assignment action in (16) above.
(18)	22.3.2004	261	Some owners of the building contacted the BD and expressed their willingness to carry out the works by themselves. But some preferred the case to be handled by the DWC. The BD urged the owners to arrange an OC meeting to reach a decision and informed the BD. The BD had the case kept under review.
(19)	1.4.2004	271	Three District Councillors (DCs) applied on behalf of the OC for an EoT to the s.28 order for six months so that the owners could re-organise their OC and start with the drainage repair works.
(20)	25.5.2004	325	The BD informed the DCs that the case had been withheld from referring to the DWC for follow-up, but, in case the required repair works could not be completed by 15.6.2004, the BD would assign the case to the DWC again.
(21)	3.6.2004	334	The DCs invited BD staff to attend the OC meeting and to discuss issues about the s.28 order.
(22)	9.6.2004	340	BD declined the invitation, stating that BD staff had explained details of the order to owners for several times.
(23)	12.6.2004	343	The DCs informed the BD that as a meeting would be held on 29.6.2004 for the re-organisation of OC and for the discussion of tendering of the construction works, the owners would like to apply for an EoT for the s.28 order.
(24)	5.7.2004	366	The BD was verbally informed by an OC representative that tendering work was in progress.
(25)	9.9.2004	432	The BD contacted the OC representative, but was informed that the owners could not reach consensus about the repair works. As the order would unlikely be complied with, the BD decided to refer the case to the DWC for follow-up.

**Appendix E**  
(Cont'd)  
(para. 3.18 refers)

Item	Date	Days elapsed since event in item (1)	Key event
(26)	<b>10.9.2004</b>	<b>433</b>	<b>The BD informed the owners that it had assigned the case to the DWC for conducting the necessary surveying works and for overseeing the repair works to be done by a GC.</b>
(27)	22.9.2004	445	The BD assigned the case to the DWC for follow-up for the second time.
(28)	29.10.2004	482	The DWC conducted a site inspection.
(29)	17.12.2004	531	The DWC submitted a supervision proposal to the BD for approval.
(30)	22.12.2004	536	The BD provided comments on the supervision proposal to the DWC.
(31)	30.12.2004	544	Audit inspected the case files. Audit staff also visited the site on 5.1.2005. It was found that the drainage pipes were still in defective conditions (Photographs 12 and 13).
(32)	24.1.2005	569	The DWC resubmitted his supervision proposal to the BD for approval.
(33)	2.2.2005	578	The BD endorsed the revised supervision proposal. On the same day, a works order was issued to the GC to start the repair works.

*Source: BD records*

***Audit comments:***

In this case, the s.28 order had expired since December 2003. The case was only referred to the DWC on 22 September 2004. The DWC however submitted his supervision proposal to the BD on 17 December 2004, which was almost three months after the referral. There is scope for improvement in the DWC's progress of handling the case.

**Photographs 12 and 13**

**A building in Yuen Long On Hing Street, Yuen Long**

Rear view  
of the building



Rusty  
pipes

Front view  
of the building



*Source: Photographs taken by Audit on  
5 January 2005*

*Note: According to BD records, almost the entire  
drainage pipes of the subject building were  
rusty and in a defective condition, with pipe  
leakage at the rear of the building.*



Case 6

A building in Hang Lok Lane, Shatin

Item	Date	Days elapsed since event in item (1)	Key event
(1)	11.7.2003	—	Under the drainage inspection programme of Team Clean, the BD conducted a site inspection of this building and found that the above-ground drainage pipes of the building were rusty.
(2)	18.9.2003	69	<b>The BD issued an s.28 order requiring the owners to repair or renew as necessary the defective rainwater, waste, soil and/or vent pipes. The expiry date of the order was 17.1.2004.</b> A copy of the s.28 order was posted on the entrance of the building.
(3)	23.2.2004	227	<b>The BD conducted a compliance inspection and found that the drainage repair works had not yet commenced.</b>
(4)	2.3.2004	235	<b>The BD issued warning letters to the owners of the building stating that BD would arrange for repair works to be done by a GC on behalf of the owners and would recover the costs from the latter. In addition, prosecution proceedings would be considered if the owners had no reasonable excuse for not complying with the s.28 order.</b>
(5)	30.4.2004	294	The BD received a letter from an AP notifying the BD of his appointment for carrying out the repair and improvement works as required in the s.28 order for the owners.
(6)	5.5.2004	299	The BD verbally reminded the AP that he should deal with another outstanding s.26 order (issued in 2001) as well. In addition, the AP advised that he was required to submit an alterations and additions proposal for the BD's approval.
(7)	24.5.2004	318	The BD verbally reminded the AP once again to deal with the outstanding s.26 order.
(8)	1.12.2004	509	Audit reviewed the case files. Audit staff also visited the site on 23.12.2004. It was found that the repair works to comply with the s.28 order had not yet been conducted (see Photographs 14 and 15).
(9)	31.1.2005	570	The AP submitted an alterations and additions proposal to the BD for approval.
<i>Source: BD records</i>			
<b>Audit comments:</b>			
In this case, the BD had not taken prompt follow-up action to enforce the s.28 order. The s.28 order had expired by January 2004. However, as at 1.12.2004, the order was still outstanding.			

**Photographs 14 and 15**

**A building in Hang Lok Lane, Shatin**

Front view  
of the  
building



Rusty  
pipes

Side view  
of the  
building



*Source: Photographs taken by Audit on 23 December 2004*

*Note: According to BD records, the above-ground drainage pipes of the subject building were found rusty.*

**Case 7**

**A building in Bowrington Road, Causeway Bay**

<b>Item</b>	<b>Date</b>	<b>Days elapsed since event in item (1)</b>	<b>Key event</b>
(1)	23.4.2003	—	The BD conducted a site inspection of the building under the drainage inspection programme of Team Clean. Rusty drainage pipes, pipe misconnection and water stain were found.
(2)	5.5.2003	12	The BD issued an advisory letter to owners requiring them to rectify the drainage problem as early as possible.
(3)	25.6.2003	63	The BD conducted another site inspection and found that the drainage defects remained unrectified.
(4)	25.7.2003	93	The BD obtained ownership details from the LR.
(5)	<b>31.7.2003</b>	<b>99</b>	<b>The BD issued an s.28 order requiring the owners to repair or renew the defective common drains and pipes. The works should be completed by 28.9.2003.</b>
(6)	<b>27.1.2004</b>	<b>279</b>	<b>The BD conducted a compliance inspection and found that s.28 order had not been complied with.</b>
(7)	<b>2.2.2004</b>	<b>285</b>	<b>The BD informed the owners that as the s.28 order had not been complied with, it had referred the case to the DWC for follow-up with the repair works. On the same day, the BD referred the case to the DWC for action.</b>
(8)	10.2.2004	293	The DWC submitted his supervision proposal for the case to the BD for consideration.
(9)	23.2.2004	306	BD staff completed the inspection report for the inspection conducted on 27.1.2004.
(10)	16.7.2004	450	The BD provided feedback to the DWC on the proposed supervision proposal and expected the DWC to submit a revised supervision proposal.
(11)	7.12.2004	594	Audit reviewed the case file and found that there was no further development. The DWC had not submitted a revised supervision proposal. Audit staff visited the site on 23.12.2004 and found that the drainage defects remained unrectified (Photograph 16).

*Source: BD records*

***Audit comments:***

Since the last compliance inspection conducted in January 2004, the BD had not pursued actively with the owners on the compliance of the s.28 order. The BD referred the case to the DWC in February 2004, but as at 7 December 2004 (as at the time of audit inspection), a revised supervision proposal had not been submitted by the DWC. Again, the BD did not pursue vigorously with the DWC on the progress and it was still not known as to when the s.28 order could be complied with.

**Photograph 16**

**A building in Bowrington Road, Causeway Bay**



*Source: Photograph taken by Audit on 23 December 2004*

*Note: According to BD records, the drains of the subject building were in a defective condition and the owners were required to repair or renew the defective drainage pipes.*

**Examples of cases where the BD's default works consultant had taken prolonged time to prepare and submit supervision proposals**

(as at 25 January 2005)

<b>Case</b>	<b>Date of referral</b>	<b>Date of submission of supervision proposal</b>	<b>Days elapsed</b>
I	13.7.2004	9.11.2004	<b>119</b>
II	22.9.2004	24.1.2005	<b>124</b> (Note 1)
III	19.7.2004	29.11.2004	<b>133</b>
IV	20.8.2004	not yet submitted	<b>158</b> (Note 2)
V	8.4.2004	15.9.2004	<b>160</b> (Note 1)
VI	4.6.2004	27.11.2004	<b>176</b> (Note 1)
VII	2.7.2004	revised proposal not yet submitted	<b>207</b> (Note 1)
VIII	15.1.2004	not yet submitted	<b>376</b> (Note 2)

Source: *BD records*

*Note 1: In these cases, the DWC had re-submitted a revised supervision proposal. Therefore, in cases II, V and VI, the number of days elapsed was counted up to the date of the DWC's re-submission. However, in case VII, because the revised supervision proposal had not yet been submitted (up to the time of audit inspection), the number of days elapsed was counted up to 25 January 2005.*

*Note 2: The number of days elapsed was counted up to 25 January 2005.*

**Timetable set for some of the Team Clean Phase II measures**

Measures	Timetable
<p><b>A. Building management and maintenance</b></p> <ol style="list-style-type: none"> <li>1. To consult the public on the mandatory building management proposal and various support measures (such as encouraging the development of an all-round building management and maintenance industry)</li> <li>2. Subject to the above outcome, to introduce the agreed measures, including any necessary legislative amendment proposals</li> </ol>	<p>Before end 2003</p> <p>From 2004 onwards</p>
<p><b>B. Building design</b></p> <p><i>Drainage System</i></p> <ol style="list-style-type: none"> <li>1. To consult the industry on various measures including: reviewing the technical guidelines and procedures to promote compliance with the standards; specifying the minimum dimensions for internal drainage pipe ducts; and designing a code of practice for the design and construction of drainage systems; etc.</li> <li>2. To incorporate the proposal for bringing certain drainage works within the minor works control regime in the Buildings (Amendment) Bill 2003</li> </ol> <p><i>Ventilation in hotels</i></p> <ol style="list-style-type: none"> <li>3. To prepare the specific measures on building design for future adoption, taking full consideration of the contents of a report prepared by a member of the hotel industry on “Hotel Sanitation and Hygiene Best Practices for the 21<sup>st</sup> Century Hotel”</li> </ol> <p><i>New and improved building design</i></p> <ol style="list-style-type: none"> <li>4. To bring on board measures that help improve the environmental hygiene of our community for expert discussions at the new working group under the Authorised Persons and Registered Structural Engineers Committee and the Building Sub-Committee of the Land and Building Advisory Committee</li> </ol>	<p>As soon as consensus reached with the industry</p> <p>— ditto —</p> <p>On-going</p> <p>On-going</p>

Measures	Timetable
<p><b>C. Sustainability</b></p> <p><i>Reinforce the message of “zero tolerance”</i></p> <ol style="list-style-type: none"> <li>1. To set out clear enforcement intentions through websites or publicity materials; convey clear messages to the public on what will and will not be tolerated, measures for tackling existing nuisances, and ways to deal with the roots of these problems</li> <li>2. To review the relevant ordinances to make the creation of an environmental nuisance an offence</li> </ol> <p><i>Streamline enforcement procedures</i></p> <ol style="list-style-type: none"> <li>3. To review the enforcement procedures prescribed under the relevant ordinances</li> </ol> <p><i>Cut red tape</i></p> <ol style="list-style-type: none"> <li>4. To review the time and costs of individual enforcement steps and procedures</li> <li>5. To consider alternative operational procedures (such as contracting out work relating to identifying and locating owners) to expedite the enforcement process and to increase efficiency and productivity</li> </ol> <p><i>Break traditional boundaries</i></p> <ol style="list-style-type: none"> <li>6. To widen the use of provisions in the BO to deal with environmental hygiene issues associated with building structures</li> </ol> <p><i>Establish an enhanced cost recovery mechanism</i></p> <ol style="list-style-type: none"> <li>7. To apply “act first, recover costs later” in emergencies — the Government will recover the costs of works done or services rendered, for situations involving emergencies or non-compliance of statutory orders, under the civil debts framework. For non-emergency cases, the Government will order abatement by those responsible.</li> </ol>	<p>On-going</p> <p>To complete the review of the ordinances by October 2003</p> <p>On-going, consider legislative amendment if necessary</p> <p>To come up with improved procedures by October 2003</p> <p>On-going</p> <p>On-going</p>

Source: Team Clean Final Report of August 2003

**Acronyms and abbreviations**

AP	Authorised person
Audit	Audit Commission
BCIS	Buildings Condition Information System
BD	Buildings Department
BO	Buildings Ordinance, Cap.123
DC	District Councillor
DMC	Deed of Mutual Covenant
DoJ	Department of Justice
DWC	Default works consultant
EoT	Extension of time
EPD	Environmental Protection Department
GC	Government contractor
HAD	Home Affairs Department
HPLB	Housing, Planning and Lands Bureau
LegCo	Legislative Council
LR	Land Registry
MCs	Management companies
OCs	Owners' corporations
SARS	Severe Acute Respiratory Syndrome
s.24, s.26 and s.28 orders	Statutory orders issued under sections 24, 26 and 28 of the Buildings Ordinance
s.33 certificates	Certificates issued under section 33 of the Buildings Ordinance
UBW	Unauthorised building works
WHO	World Health Organisation