

Report No. 44 of the Director of Audit — Chapter 1

DRAINAGE PROBLEMS OF BUILDINGS

Summary

1. The Buildings Department (BD) provides services to owners and occupants of existing buildings by enforcing the Buildings Ordinance (BO). Such services include promoting the 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.

2. *Drainage inspection programme.* The outbreak of the Severe Acute Respiratory Syndrome (SARS) in early 2003 has heightened public concern at the possible dire consequences of building neglect. To allay community concerns, in April 2003 the BD started the drainage inspection programme to examine the external drainage pipes of all private buildings in the territory. The programme was eventually subsumed under the Team Clean Programme.

3. *Audit review.* In view of the implications of poor drainage conditions on environmental hygiene, the Audit Commission (Audit) has conducted a review of the BD's efforts to tackle the drainage problems of buildings. Audit notes that, since the SARS outbreak, the BD has made vigorous efforts to step up its enforcement actions.

Compliance with drainage repair orders

4. *Orders issued under section 28 of the BO.* When the drains of an existing building are found to be defective, inadequate or insanitary, the BD is empowered, under section 28 of the BO, 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.

5. *Audit analysis of compliance with s.28 orders.* Before 2003, the BD issued less than 220 s.28 orders a year. In 2003, due to the SARS outbreak, the number had risen sharply to about 2,000. The number issued in 2004 was 785. Audit found that, as at January 2005, there were 100 repair orders which had been outstanding for more than two years. *As delays in the enforcement of s.28 orders will prolong the environmental nuisance*

caused by the defective drains, Audit has recommended that the Director of Buildings should closely monitor the progress of the BD's enforcement of the long outstanding s.28 orders and expedite action to ensure that all s.28 orders are complied with as soon as possible.

Improvements of drainage conditions in buildings under the Team Clean Programme

6. ***Progress of the drainage inspection programme.*** In the case of over 11,000 buildings **without** any form of building management, towards the end of 2003, the BD staff had by and large completed the inspection of the external drainage pipes. In 2004, the BD was following up with the compliance of the statutory orders issued after the inspections. In the case of 19,000 buildings **with** some form of building management, the BD appealed to the owners' corporations (OCs) and the management companies (MCs) to check the drainage systems of their buildings. The BD had received 12,000 returns from OCs/MCs on the results of voluntary inspections. In addition, the BD had inspected 9,000 buildings, 7,000 of which the OCs/MCs had failed to conduct voluntary inspections and 2,000 of which the OCs/MCs had reported drainage defects. Up to December 2004, the BD had issued 2,325 drainage repair orders, 67% of which had been complied with.

7. ***Need to revise target completion dates and conduct a post-implementation review.*** Despite its vigorous and concerted efforts, the BD had still missed some of the target completion dates for the drainage inspection programme. For example, the target date for completing drainage repairs for buildings **with** some form of building management by end July 2004 had not been met. *Audit has recommended that the Director of Buildings should review the progress to-date, set revised target completion dates, conduct a post-implementation review and consider formulating a long-term strategy on how to facilitate owners to improve/maintain their buildings' drainage conditions.*

8. ***Need to conduct verification checks.*** As 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, it had not yet conducted verification checks on those buildings with voluntary inspections completed by OCs/MCs but with no defects reported. *In order to ascertain the reliability of the information furnished, Audit has recommended that the Director of Buildings should conduct such verification checks.*

9. ***Need to expedite actions in follow-up of the outstanding drainage repair orders.*** As at 31 December 2004, 372 orders for buildings **with** some form of building management and 403 orders for buildings **without** any form of building management were still outstanding. *Audit has recommended that the Director of Buildings should take more vigorous action to follow up these outstanding orders, including expediting the referral of defaulted orders to the default works consultant for action.*

Recovering costs from building owners

10. *Advance account to recover costs from building owners.* Since 1995, the BD has maintained 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. As at end December 2004, the balance of the advance account, comprising 843 outstanding cases, stood at \$51.9 million. In May 2003, the Director of Buildings set up a Cost Recovery Monitoring Committee, chaired by himself, to monitor progress. Since then, the recovery of outstanding amounts has improved considerably. *Nevertheless, Audit has recommended that the Director of Buildings should expedite cost recovery actions.*

11. *Need to register section 33 certificates with the Land Registry as early as possible.* The BD is empowered under section 33 of the BO to register a certificate (s.33 certificate) with the Land Registry (LR) to create a first charge against the title of the subject property. However, such a first charge shall be void if a bona fide purchaser has acquired the property and registered an interest in the property *before* the registration of the s.33 certificate. Audit notes that as at December 2004, no s.33 certificate had been registered with the LR in 177 (or 26%) of 687 cases with works completed by government contractors (GCs). *As the registration of s.33 certificates provides an effective means to safeguard the Government's interest, Audit has recommended that the Director of Buildings should remind the BD staff to proceed with the issue and registration of s.33 certificates as early as possible.*

12. *Need to refer cases to Department of Justice.* Audit notes that, as at December 2004, among those cases with works completed by GCs but without any s.33 certificates having been registered with the LR, 24 cases (involving outstanding balances of \$0.94 million) had *not* been referred to the Department of Justice (DoJ) although they had exceeded the six-year time limit for legal action. There were another 28 cases, involving \$3.2 million, which had been outstanding for between four to six years, but had not been referred to the DoJ. *Audit has recommended that the Director of Buildings should consider referring the cases that were approaching the six-year time limit to the DoJ for necessary action.*

Response from the Administration

13. The Administration has accepted all the audit recommendations. The Director of Buildings has assured Audit that the BD is committed to minimising the health hazard caused by defective drainage systems in existing buildings. The Director is keen to introduce improvements to tackle the drainage problems of buildings.

April 2005