

BARRIER-FREE FACILITIES AT GOVERNMENT PREMISES

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1. Under the Disability Discrimination Ordinance (DDO — Cap. 487), which is binding on the Government, it is unlawful to discriminate against persons with disabilities (PWDs) in relation to the provision of means of access to any premises that the public is entitled to enter or use, or by refusing to provide goods, services or facilities or in the manner in which goods, services or facilities are provided, except where the provision of such goods, services or facilities would impose unjustifiable hardship.

2. The Building (Planning) Regulations (B(P)R — Cap. 123F) under the Buildings Ordinance (Cap. 123) prescribe the design requirements to ensure that reasonable barrier-free access and facilities are provided on premises to meet the needs of PWDs. The Buildings Department (BD) is responsible for updating a Design Manual (DM) concerning barrier-free access. The latest version is “Design Manual: Barrier Free Access 2008” (DM 2008) which sets out both the mandatory requirements stipulated under the B(P)R and the recommended design requirements for barrier-free access and facilities. While the B(P)R is not applicable to buildings belonging to the Government, it is the established policy of the Government to comply with the prevailing requirements in the DM, and where practicable, achieve standards beyond the statutory requirements in the provision of barrier-free facilities.

3. Under Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (hereinafter referred to as the Convention) which has entered into force for Hong Kong since 31 August 2008, the Government has the obligation to take appropriate measures to ensure to PWDs access, on an equal basis with others, to the physical environment, transportation, information and communications, and other facilities and services open or provided to the public. The objective is to enable PWDs to live independently and participate fully in all aspects of life.

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4. In line with the provisions of the DDO and the Convention, it is the Government's established policy objective to provide barrier-free facilities for PWDs, thereby facilitating them to live independently and fully integrate into the community. In addition, barrier-free facilities could benefit the elderly.

5. The Labour and Welfare Bureau (LWB) is the policy bureau which formulates policies and programmes on provision of barrier-free facilities to PWDs, and oversees and co-ordinates their implementation by government bureaux and departments (B/Ds). B/Ds are required to ensure that policies and measures under their respective purview comply with the requirements of the Convention and overall government policy objective in providing a barrier-free environment for PWDs.

6. In December 2006, the Equal Opportunities Commission (EOC) commenced a formal investigation to examine the progress made on the realisation of a barrier-free environment for PWDs, in particular on accessibility to publicly accessible premises. The EOC conducted access audits on publicly accessible premises including that owned, managed or maintained by eight government departments. In June 2010, the EOC issued a formal investigation report (EOC Report). The EOC Report had made a number of recommendations including the improvement of accessibility for publicly accessible premises. In June 2010, the LWB convened a Task Force comprising representatives of stakeholders within the Government to co-ordinate follow-up actions on the recommendations of the EOC. Among the follow-up actions, a Retrofitting Programme involving premises/facilities of 13 managing departments had been worked out in December 2010.

7. The Audit Commission (Audit) has recently conducted a review to examine barrier-free facilities at government premises. Apart from examining the efforts of the LWB (being the policy bureau) on the matter, Audit selected the Food and Environmental Hygiene Department (FEHD) and the Leisure and Cultural Services Department (LCSD) (being the two major departments with barrier-free facilities retrofitted under the Retrofitting Programme) to examine their provision and management of barrier-free facilities with a view to identifying any areas for improvement and lessons to be learned.

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8. *Retrofitting Programme may not cover all government premises with frequent public interface.* To draw up the Retrofitting Programme, in June and July 2010, the LWB (with its representative serving as the Secretary of the Task Force) requested 15 B/Ds (e.g. the FEHD, the LCSD and the Government Property Agency), which were Task Force members to conduct assessments on the need to upgrade barrier-free facilities under their management. In the event, 13 B/Ds identified the need to do so and 3,692 premises/facilities managed by them were included in the Retrofitting Programme. According to the LWB, the Task Force would, apart from the 8 departments identified by the EOC Report, examine the premises under the management of those B/Ds with frequent public interface. Audit noted that, among the 15 B/Ds requested by the LWB to conduct assessments on the need to upgrade barrier-free facilities, 8 were covered by the EOC Report and 7 were not. There was no documentary evidence showing why only these 7 B/Ds were requested to make assessments. As a result, some B/Ds with premises under their management having frequent public interface might not have been requested to make assessment and thus were not included in the Retrofitting Programme. According to the LWB, the tight and pledged timetable for completing the works under the Retrofitting Programme from mid-2012 onwards might be a consideration at that time (paras. 1.14, 2.5 to 2.7 and 2.9 to 2.11).

9. *Longer time than originally planned in collecting feedback from B/Ds on reviews of their accessibility issues.* On 21 September 2016, the LWB issued a memorandum to all B/Ds advising them to review their respective operational practices and procedures to ensure accessibility to services and facilities for users who are PWDs. In the memorandum, the LWB requested B/Ds to complete the review before end of 2016 so that the first annual return could be sent to the LWB before end of 2017. On the same day, the LWB informed all B/Ds that it would get in touch with them on the proforma of the annual return in early 2017 and the exact return date. The LWB issued a finalised proforma to B/Ds in April 2018 and requested them to return the completed proforma on or before 15 April 2019. According to the LWB, two draft proforma were prepared in April and November 2017. It had also held a meeting and organised a seminar with B/Ds to seek their views on the draft proforma in February and March 2018. Audit noted that the LWB took 1.5 years (from September 2016 to April 2018) to prepare the proforma of the annual return and the date for return of the completed proforma was set for April 2019. Comparing with

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the planned return date of end 2017, the LWB had taken a longer time than it originally planned to collect feedback from B/Ds (paras. 2.13 to 2.15).

10. ***Scope for providing more comprehensive information to Legislative Council.*** The Government undertook to provide a quarterly progress report of the Retrofitting Programme to the Legislative Council (LegCo). Audit noted from the progress reports that, for the positions as reported for the period from March 2011 to June 2014, a total of 103 premises/facilities were taken out from the Retrofitting Programme without providing reasons. According to the LWB, the managing department and the works agent of the relevant premises/facilities, of these 103 premises/facilities, the works for: (a) 32 premises/facilities were completed; (b) 55 premises/facilities were cancelled due to various reasons; (c) barrier-free facilities for 13 premises/facilities had been reviewed and considered not necessary; (d) 2 premises were in progress; and (e) 1 premises would be tied in with a works project. The LWB informed Audit that in compiling the large number of returns from departments for submission to LegCo in the form of regular progress reports, the LWB had endeavoured to provide in each progress report the full information as provided by the B/Ds concerned. Audit considers that the LWB needs to remind B/Ds to ensure the completeness of information in their returns in future (paras. 1.17, 2.16, 2.18 and 2.19).

11. ***Need to take actions to timely update the Design Manual.*** In June 2014, the BD set up a Technical Committee on Design Manual with an aim to keep the DM under regular review. Once a consensus to amend certain parts of DM has been reached in the Technical Committee, a draft corrigendum would be prepared. After endorsement by the Technical Committee, the draft corrigendum would be submitted to the responsible BD officer for review. Between December 2015 and June 2018, the Technical Committee was handling proposals relating to 92 items for improving DM 2008. Regarding these 92 items, amendments for 10 items to the DM were considered not necessary by the Technical Committee and 11 items were being discussed by the Technical Committee. For the remaining 71 items, Audit noted that as of June 2018: (a) for 26 items with amendments made in the DM (which did not require legislative amendments), 19 had taken more than six months (counting from the endorsement of the draft corrigendum by the Technical Committee) to amend DM 2008. The long time was due to delay in submitting the draft corrigendum to the responsible BD officer for review after endorsement given by the Technical Committee (ranging from 7 months to 14 months, averaging 10 months); (b) for 17 items, amendments were considered necessary but had not been made in the DM. For 13 of these 17 items, more than three months had elapsed after endorsement by

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the Technical Committee. Up to June 2018, the relevant draft corrigendum had not been submitted to the responsible BD officer after they were endorsed (ranging from 6 to 16 months, averaging 11 months); and (c) 28 items had not yet been discussed by the Technical Committee. Audit considers that the BD needs to take actions to timely update the DM and closely monitor the progress (paras. 2.24 to 2.27).

Work of FEHD and LCSD in providing and managing barrier-free facilities under their management

12. The LCSD is responsible for providing leisure and cultural facilities and services to the public. The FEHD is responsible for, among others, environmental hygiene services and facilities as well as food safety control. As of June 2018, the LCSD had 1,949 venues (e.g. sports centres, parks and playgrounds, museums and libraries) and the FEHD had 1,741 venues (e.g. public toilets, public markets, cemeteries and crematoria) under their purview (para. 3.2).

13. *Access Co-ordinator and Access Officer Scheme.* The Government has launched an Access Co-ordinator and Access Officer Scheme to enhance the accessibility of government premises, facilities and services. According to the memorandum issued by the LWB, individual B/Ds should appoint an Access Co-ordinator (AC) to co-ordinate accessibility issues within the B/D and serve as the departmental focal point of a government network to facilitate government-wide collaborated efforts in enhancing the accessibility of government premises and facilities. An Access Officer (AO) should be appointed for each venue under the B/Ds' management to serve as the first point of contact on accessibility issues at the venue. As of 30 June 2018, the FEHD and the LCSD had each appointed an AC, and had also appointed 101 and 347 AOs respectively (paras. 3.3 and 3.4).

14. *Maintaining a complete and updated list of barrier-free facilities.* According to the LWB, under the established practice, it is the responsibility of B/Ds to maintain up-to-date lists of barrier-free facilities under their management. Audit noted that the FEHD and the LCSD had not maintained a complete and updated list of barrier-free facilities for all the venues under their management (para. 3.6).

15. *Areas for improvement in conducting access audits.* According to the departmental circulars issued by the FEHD and the LCSD, their AOs should conduct

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regular audit checks and take timely follow-up actions as required to ensure the provision of suitable barrier-free facilities. AOs are required to complete access audit checklists. Audit has found areas for improvement in access audits conducted by the LCSD and the FEHD including: (a) access audits for some venues were not carried out; (b) access audits were not conducted by the designated AOs; and (c) some DM 2008 requirements were not included in their access audit checklists for checking (paras. 3.12, 3.14 and 3.15).

16. ***Deficiencies identified in Audit site visits.*** Audit conducted site visits to 20 FEHD venues and 30 LCSD venues (covering various types of venues across the territory) during May to September 2018 and found deficiencies in 14 (70% of 20) FEHD venues and 26 (87% of 30) LCSD venues including: (a) in the provision of barrier-free facilities, deficiencies (e.g. a notice of “Emergency Call” in both English, Chinese and braille was not provided next to the emergency push button for emergency call bell) were found in 13 FEHD and 25 LCSD venues; (b) in the maintenance of barrier-free facilities, deficiencies (e.g. tactile guide paths were worn out) were found in 4 FEHD and 8 LCSD venues; and (c) in the control of barrier-free facilities, deficiencies (e.g. tactile guide paths were obstructed by goods, carpets, or trolleys) were found in 9 FEHD and 12 LCSD venues (paras. 3.5, 3.20 and 3.21).

17. ***Other administrative issues.*** Audit notes room for improvement in a number of other administrative issues concerning the provision and management of barrier-free facilities under the FEHD and the LCSD including: (a) as of August 2018, for the FEHD, information on accessible toilets was provided on its website. However, accessibility information (e.g. whether and what barrier-free facilities were provided) of other venues under its management (e.g. public markets) was not available. For the LCSD, accessibility information on libraries was not provided on its website. Regarding other venues, while information on accessible toilets was provided, information on other major barrier-free facilities (e.g. accessible lifts and tactile guide paths) was not available on its website for most venues; (b) according to the LWB, B/Ds are required to assess the training needs and organise tailor-made seminars/workshops for AOs and venue-based staff. As of 30 June 2018, 52 out of the 101 AOs of the FEHD and 183 out of 347 AOs of the LCSD had not attended seminars on accessibility issues; and (c) the FEHD and the LCSD did not regularly compile complaint statistics relating to the provision and management of barrier-free facilities (paras. 3.26, 3.27, 3.34, 3.36 and 3.38).

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18. *Way forward.* As the audit findings and recommendations on the FEHD and the LCSD may also be applicable to other B/Ds, there is a need for the LWB to draw attention of other B/Ds to the audit findings and recommendations in this Audit Report with a view to improving the provision and management of barrier-free facilities at premises managed by them (para. 3.42).

Management of retrofitting works for barrier-free facilities at government premises

19. The Architectural Services Department (ArchSD) is the works agent for implementing barrier-free facilities improvement works initiated by managing departments. According to the ArchSD, the retrofitting works for barrier-free facilities at government premises are carried out through: (a) the Retrofitting Programme; and (b) the refurbishment of government buildings (e.g. the Public Toilet Refurbishment Programme). They were funded under two block votes (controlled by the ArchSD) of the Capital Works Reserve Fund. According to the ArchSD, from 2011-12 to 2017-18, the actual expenditure under the Retrofitting Programme was \$1.07 billion, which was funded under the related block vote. The ArchSD had engaged 11 consultants for conducting feasibility studies and awarded 10 design-and-build (D&B) term contracts for carrying out design and construction of barrier-free facilities. The ArchSD is responsible for administering these term contracts (paras. 4.2 to 4.4 and 4.6 to 4.8).

20. *Need to closely monitor the timely submission of documents relating to implementation of works orders by contractors.* The ArchSD had issued 5,139 works orders from 2011 to 2017 for upgrading the barrier-free facilities under the Retrofitting Programme. Audit noted 414 works orders (8% of 5,139) with delay in completion, of which the delay of 30 works orders was particularly long (ranging from 730 days to more than 1,095 days). According to the ArchSD, for these 30 works orders: (a) the delay for 29 works orders was mainly due to the contractors' late submission of documents which were required under the contracts and there was no delay in the provision of barrier-free facilities on site for use by the public. Without such documents, the ArchSD could not certify the works completion under the terms and conditions of these contracts. In view of such delay, the ArchSD had imposed liquidated damages; and (b) for the remaining works order, the delay was due to the time taken to resolve land issue during the design stage. Audit considers that the ArchSD needs to take measures to closely monitor the timely submission of documents relating to implementation of works orders by contractors (paras. 4.9 and 4.10).

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21. *Need to learn from incidents involving slippery tactile guide paths.* Shortly after the completion of the installation of tactile guide path in Lai Chi Kok Park, the LCSD received four complaints about tactile guide path being slippery (two expressly mentioned that the path was slippery after the rain) and posing safety risks to the public. After investigation, the LCSD noted that 14 other venues also had incidents involving slippery tactile guide paths. According to the ArchSD, the materials used in the tactile guide paths in the 15 venues concerned complied with the slip resistance requirements of DM 2008. Upon the LCSD's request, the ArchSD carried out remedial works by applying anti-slip coating to tactile guide paths in 15 venues where 9 accidents (mainly involving visitors who slipped on the ground) had occurred and 23 complaints (concerning slippery floor) were received. According to the ArchSD, the anti-slip coating once applied could improve the friction of the surface and last up to five years. However, the LCSD still found the tactile guide paths of eight venues slippery. For five venues, anti-slip coating had been re-applied within 9 to 13 months after applying the first coating. For the remaining three venues, the tactile floor tiles at inclined or steeper areas had been removed. In this connection, Audit noted that the issue of slip resistance requirements on tactile guide path was being reviewed by the Technical Committee on Design Manual since September 2014. The issue was discussed again at the Technical Committee meeting in April 2018. According to the BD, the review of slip resistance requirements for tactile guide path by the relevant departments was still in progress. Audit considers that: (a) the ArchSD needs to learn from the incidents involving slippery tactile guide paths; and (b) the BD needs to closely liaise with the departments concerned regarding the updating of slip resistance requirements for tactile guide path in DM 2008 (paras. 4.11 to 4.16 and 4.18 to 4.21).

22. *Scope for improving ArchSD's work in project administration for retrofitting works.* In March 2012, in the course of submitting funding application for the retrofitting works, the ArchSD informed the LCSD that the D&B term contractor estimated the cost of retrofitting works of barrier-free facilities in the Victoria Park to be \$10.66 million. Such works would proceed in two phases. Phase I works were targeted to complete by May 2012. Phase II works were targeted to commence in May 2012. Four works orders with a total cost of \$12.8 million were issued between February 2013 and May 2014. Audit noted that the ArchSD had instructed the contractor to commence works before the issuance of works orders and the total cost for the four works orders had exceeded the cost estimates by \$2.14 million. According to the ArchSD: (a) to meet the Government's target firmly set to complete the works by June 2012, the contractor was instructed to commence works first and works orders were subsequently issued to the contractor; (b) in some circumstances under the term contracts, the ArchSD could instruct the contractor to

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proceed works first and issue works order later. The ArchSD was committed to reviewing its operational procedures to clarify the circumstances under which this applied and the related procedures; and (c) the excess in works costs was to cater for additional barrier-free facilities works carried out concurrently with the barrier-free facilities retrofitting works. Audit considers that there is scope for the ArchSD to improve its project administration work (paras. 4.23 to 4.27).

23. *Need to ensure that improvement works for barrier-free facilities are completed as soon as practicable.* A total of 90 premises had been taken out from the Retrofitting Programme and transferred to other improvement programmes. As of September 2018, the retrofitting works for barrier-free facilities in 66 premises were completed and 10 premises were cancelled mainly because the premises were demolished or subject to re-development. The retrofitting works for the remaining 14 premises had not been completed. These 14 premises were public toilets under the FEHD's Public Toilet Refurbishment Programme. The works for 7 public toilets were in progress and 7 public toilets were at planning stage. According to the FEHD and the ArchSD, a Public Toilet Refurbishment project involves various stages, including clarification on land status, comprehensive design and seeking approval of design. Audit considers that the FEHD needs to, in collaboration with the ArchSD, take measures to complete the improvement works for barrier-free facilities under its management as soon as practicable (paras. 4.34 to 4.37).

Audit recommendations

24. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has recommended that the Government should:**

Work of LWB over barrier-free facilities at government premises and BD in updating Design Manual

- (a) **take measures to ensure that all relevant B/Ds are consulted as far as practicable in co-ordinating issues on provision of barrier-free environment in government premises and facilities in future (para. 2.22(a));**
- (b) **with regard to the B/Ds' reviews of accessibility issues, in collecting their feedback in future, make a better assessment of the difficulties**

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involved in setting the time target for collecting their feedback and endeavour to meet the target (para. 2.22(b)(ii));

- (c) in co-ordinating returns from a large number of B/Ds for submission to LegCo in future, remind B/Ds to ensure the completeness of information in their returns (para. 2.22(c));
- (d) take actions to timely update the DM and closely monitor the progress (para. 2.28(a));
- (e) take follow-up actions as soon as practicable on the 28 items (involving proposals for improving DM) that had not been discussed by the Technical Committee on Design Manual (para. 2.28(b));

Work of FEHD and LCSD in providing and managing barrier-free facilities under their management

- (f) maintain a complete and updated list of barrier-free facilities at venues managed by the FEHD and the LCSD for monitoring and planning purposes (para. 3.8);
- (g) take follow-up actions on the areas for improvement in conducting access audits as identified by Audit and take measures to enhance access audits of the FEHD and the LCSD (para. 3.17(a) and (b));
- (h) take follow-up actions on the deficiencies in the provision, maintenance and control of barrier-free facilities at venues managed by the FEHD and the LCSD as identified by Audit (para. 3.23(a));
- (i) take measures to strengthen the work of the FEHD and the LCSD in providing, maintaining and controlling barrier-free facilities at venues managed by them (para. 3.23(b));
- (j) take measures to ensure that adequate information about accessibility of venues is promulgated on the websites of the FEHD and the LCSD and/or at venues managed by them (para. 3.39(a));

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- (k) **assess the training needs of and organise suitable training for AOs and venue-based staff of the FEHD and the LCSO (para. 3.39(c));**
- (l) **ensure that complaint statistics relating to the provision and management of barrier-free facilities are regularly compiled and submitted to the senior management (para. 3.39(d));**
- (m) **draw attention of other B/Ds to the audit findings and recommendations on the FEHD and the LCSO as mentioned in this Audit Report (para. 3.43);**

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- (n) **take measures to closely monitor the timely submission of documents relating to implementation of works orders by ArchSD contractors (para. 4.30(a));**
- (o) **learn from the incidents involving slippery tactile guide paths (particularly those at outdoor venues) and closely liaise with the departments concerned regarding the updating of slip resistance requirements for tactile guide path in DM 2008 (paras. 4.30(b) and 4.31);**
- (p) **strengthen measures for controlling the issuance of works orders and remind ArchSD staff and consultants to make more accurate cost estimates for works orders as far as practicable (para. 4.30(c)); and**
- (q) **take measures to complete the improvement works for barrier-free facilities managed by the FEHD as soon as practicable (para. 4.38).**

Response from the Government

25. The Government agrees with the audit recommendations.