

CHAPTER 9

**Development Bureau
Buildings Department**

**Management of
Mandatory Building Inspection Scheme
by the Buildings Department**

**Audit Commission
Hong Kong
28 October 2020**

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. 75 of the Director of Audit contains 10 Chapters which are available on our website at <https://www.aud.gov.hk>

Audit Commission
26th floor, Immigration Tower
7 Gloucester Road
Wan Chai
Hong Kong

Tel : (852) 2829 4210
Fax : (852) 2824 2087
E-mail : enquiry@aud.gov.hk

MANAGEMENT OF MANDATORY BUILDING INSPECTION SCHEME BY THE BUILDINGS DEPARTMENT

Contents

	Paragraph
EXECUTIVE SUMMARY	
PART 1: INTRODUCTION	1.1 – 1.12
Audit review	1.13
Acknowledgement	1.14
PART 2: SELECTION OF BUILDINGS FOR ISSUANCE OF STATUTORY NOTICES	2.1
Selection of buildings for issuance of statutory notices under Mandatory Building Inspection Scheme	2.2 – 2.33
Audit recommendations	2.34
Response from the Government	2.35
Promotion of voluntary building inspection	2.36 – 2.39
Audit recommendation	2.40
Response from the Government	2.41

	Paragraph
PART 3: FOLLOW-UP ACTIONS ON COMPLIANCE WITH STATUTORY NOTICES	3.1 – 3.3
Warning letters for non-compliant statutory notices and registration of statutory notices at Land Registry	3.4 – 3.14
Audit recommendations	3.15
Response from the Government	3.16
Prosecution actions and default works	3.17 – 3.31
Audit recommendations	3.32
Response from the Government	3.33
PART 4: MONITORING OF REGISTERED INSPECTORS' SUBMISSIONS	4.1
Checking of Mandatory Building Inspection Scheme submissions	4.2 – 4.15
Audit recommendations	4.16
Response from the Government	4.17
Record keeping of Mandatory Building Inspection Scheme submissions and checking results	4.18 – 4.24
Audit recommendations	4.25
Response from the Government	4.26
Appendices	Page
A : Buildings Department: Organisation chart (extract) (31 March 2020)	65
B : Acronyms and abbreviations	66

MANAGEMENT OF MANDATORY BUILDING INSPECTION SCHEME BY THE BUILDINGS DEPARTMENT

Executive Summary

1. Building neglect has been a long-standing problem in Hong Kong. Following the enactment of amendments to the Buildings Ordinance (Cap. 123) and the subsidiary Building (Inspection and Repair) Regulation (Cap. 123P) in 2011, the Mandatory Building Inspection Scheme (MBIS) has been fully implemented since 30 June 2012. Founded on the principle of “prevention is better than cure”, MBIS aims to require owners to carry out regular inspection and timely repair for their properties so as to tackle the problem of building neglect at source. Under MBIS, the Buildings Department (BD) is empowered under the Buildings Ordinance to issue statutory notices to owners of private buildings aged 30 years or above (except domestic buildings not exceeding three storeys), requiring them to carry out prescribed inspection and, if necessary, prescribed repair in respect of the common parts, external walls, projections and signboards of their buildings every 10 years. As of December 2019, there were a total of 18,066 buildings covered by MBIS. Up to April 2020, a total of 82,177 statutory notices (involving 5,308 buildings) had been issued under MBIS. Under MBIS, registered inspectors (RIs) are responsible for carrying out the prescribed inspection and/or supervision of the prescribed repair by registered contractors. BD is responsible for ensuring proper regulation of RIs and implementation of MBIS. The Audit Commission (Audit) has recently conducted a review to examine BD’s work in management of MBIS.

Selection of buildings for issuance of statutory notices

2. *Need to keep under review the target number of buildings to be selected for issuance of statutory notices under MBIS and formulate a long-term strategy for MBIS.* BD sets out in its Controlling Officer’s Report (COR) a key performance measure of “buildings targeted for prescribed inspection and, if necessary, prescribed repair under MBIS”. Regarding this performance measure for selection of target buildings under MBIS: (a) since 2013 (i.e. the first full-year implementation of

Executive Summary

MBIS), the target number of buildings had been decreasing from 2,000 in 2014 to 400 in 2019 (i.e. 650 in 2015, 500 in 2016 and 400 in 2017 to 2019), and increased to 600 in 2020; and (b) for 2012 to 2014, the actual numbers of buildings fell short of the target numbers. For 2015 to 2019, the actual numbers were equal to or greater than the target numbers. According to BD, since the commencement of MBIS in 2012, it had kept monitoring the progress of MBIS and noted that its work progress could not meet the target because of huge volume of work and public responses on the implementation of MBIS. With experience gained, BD had adjusted its strategy by adjusting the work priority with more focus on enhancing compliance with served statutory notices. As a result, the target number of buildings since 2014 had been gradually reduced. Audit noted that of the 18,066 buildings covered by MBIS as of December 2019, it was estimated that some 12,000 buildings had not been selected for issuance of statutory notices. Based on the 2020 target of selecting 600 buildings each year, it will take about 20 years to cover these some 12,000 buildings, let alone the new buildings which will be covered by MBIS coming up after 2019. In Audit's view, BD needs to keep under review the target number of buildings for issuance of statutory notices under MBIS, further streamline MBIS and formulate a long-term strategy for MBIS with a view to achieving MBIS's objective of tackling the problem of building neglect. Audit also noted that BD's definition for the abovementioned key performance measure was not clearly set out in its COR (e.g. according to BD, the actual number for this performance measure refers to the number of buildings selected for consideration of issuance of statutory notices). There is merit for BD to consider defining more clearly the key performance measure in its COR to enhance transparency and public accountability (paras. 2.7 to 2.11).

3. *Need to keep under review the selection criteria.* To enhance the transparency and promote community participation, a Selection Panel has been established to tender advice to BD on the selection criteria and the selection of target buildings for the purpose of issuing statutory notices under MBIS. At a Selection Panel meeting in October 2017, the Selection Panel agreed to adopt BD's proposal of revising the selection criteria and Building Score System so that a risk-based approach would be adopted for selection of target buildings under MBIS, and the revisions were then incorporated in BD guidelines. Under the Building Score System, scores will be given to buildings based on four selection criteria (i.e. building age, building condition, building management and risk to public). Priority will be given to buildings with higher scores (i.e. relatively higher potential risk). At the same meeting, BD also informed the Selection Panel that only private residential or composite buildings aged 50 years or above would be selected for issuance of statutory notices under MBIS (i.e. overriding selection criterion). On 25 August 2020, the Selection Panel endorsed the revision of the overriding selection criterion to private residential or composite buildings aged 40 years or above. Audit noted that: (a) the revised overriding

Executive Summary

selection criterion (and the previous one adopted in October 2017) was based on building type and age. However, under the Building Score System, building type was not a selection criterion, and building age was only one of the four selection criteria; (b) some buildings covered by MBIS not meeting this criterion (i.e. of different building type or aged below the specified age of this criterion) might also be of high risk to public safety as indicated by their higher scores or incidents of fallen building elements; and (c) the overriding selection criterion (for both the previous one and the current one) had not been included in BD guidelines. In Audit's view, BD needs to keep under review the use of the overriding selection criterion for selection of target buildings under MBIS, having regard to other selection criteria under the Building Score System, and incorporate all selection criteria of target buildings under MBIS in its guidelines (paras. 2.2, 2.3, 2.12 to 2.14 and 2.18 to 2.20).

4. *Some buildings deleted after selection by Selection Panel.* After the Selection Panel's endorsement of the nomination list, BD may change some buildings in the endorsed building list due to various reasons (e.g. buildings which were recently repaired or with repair works in progress, were or would be demolished). According to BD, it deleted a total of 76 buildings after their selection by the Selection Panel from 2017 to 2019, including 67 buildings with replacement from the list of buffer buildings and 9 buildings without replacement. Audit noted that: (a) for buildings selected in 2017, while BD had informed the Selection Panel about the number of buildings it subsequently deleted with replacement (i.e. 13 buildings) and the reasons for their deletion, it had not done so for the buildings it deleted without replacement (i.e. 6 buildings); and (b) the 67 buildings deleted with replacement included 7 buildings which had been wrongly selected due to data quality problem in BD's Building Condition Information System (BCIS) (para. 2.25).

5. *Need to maintain proper records on assessment of building repairs.* According to BD, it will carry out initial check before serving of statutory notices under MBIS to verify whether the buildings in the nomination list meet the selection criteria for MBIS. It is BD's practice to exclude buildings which have been recently repaired or with voluntary repair works in progress provided that such buildings are in fair condition as verified by the site inspection carried out by BD staff. However, Audit noted that such practice was not included in BD guidelines. Audit also noted that, for the building selection exercise for MBIS in 2019, there were 35 buildings with higher scores than some buildings in the nomination list, but they were not included in the nomination list as they had been recently repaired or repair works were in progress. According to BD, these 35 buildings were excluded from the nomination list based on BD's initial checks in previous years. However, no

Executive Summary

documentation was available showing BD's assessment that such buildings were in fair condition (paras. 2.26 and 2.27).

6. ***Need to strengthen actions in promoting voluntary building inspection.*** According to BD guidelines: (a) a building being assessed for accreditation under the Hong Kong Housing Society's Voluntary Building Assessment Scheme (VBAS) or a building accredited with satisfactory building safety rating under VBAS with inspection/repair carried out within 10 years will not be selected for MBIS; and (b) where inspection/repair of a building has been completed on a voluntary basis without joining VBAS and BD is satisfied that the same requirements as those under MBIS are complied with, the concerned building may not be selected for MBIS within 10 years. Audit noted that, from the commencement of MBIS in June 2012 and up to April 2020, only a low number of buildings covered by MBIS had participated in voluntary building inspection (i.e. 41 buildings were being assessed or were accredited under VBAS, and 139 buildings were with notifications made to BD for conducting prescribed inspection on a voluntary basis) (paras. 2.4, 2.36, 2.37 and 2.39).

Follow-up actions on compliance with statutory notices

7. ***Warning letters not timely issued.*** According to BD, upon receipt of a statutory notice under MBIS, the owners/the owners' corporation of a building should, from the date of the statutory notice, appoint an RI within 3 months to carry out the prescribed inspection, complete the prescribed inspection within 6 months and complete the prescribed repair found necessary within 12 months. For buildings without an owners' corporation, an extra three months will be provided to the owners to organise and arrange the required inspection and repair works. The specified timeframe for each stage is stated in the statutory notice. According to BD guidelines, warning letters should be issued to the building owners for non-compliance of statutory notices under MBIS within one month after the dates specified in the statutory notices for each stage. According to BCIS records, as of April 2020, of 24,639 non-compliant statutory notices, no warning letters had been issued to owners for 6,941 (28%) statutory notices. For almost all (6,862 (99%)) of these 6,941 notices, more than one month had elapsed after completion due dates (i.e. not meeting the one-month time target in BD guidelines). In fact, some of them were very long-outstanding cases (e.g. time elapsed for 621 notices was more than 5 years and up to 6.5 years) (paras. 3.2, 3.4 and 3.8).

Executive Summary

8. ***Need to make timely registration of statutory notices at Land Registry (LR).*** According to BD guidelines (revised in April 2018), under MBIS, for statutory notices served on the common parts of a building, a certified true copy should be sent to LR for registration within one month upon posting of the notices on site in order to facilitate the enforcement action on non-compliance of notices. According to BCIS records, regarding the registration at LR of statutory notices under MBIS issued on the common parts of the buildings from April 2018 to March 2020, as of April 2020, 1,406 statutory notices had been registered at LR and 187 notices had not been registered at LR. Audit noted that BCIS only recorded the referral dates for 467 (33%) of the 1,406 notices. Of these 467 notices, 304 (65%) notices had only been referred to LR for registration more than 1 month and up to 11 months after issuance of the notices (i.e. not meeting the one-month time target in BD guidelines) (paras. 3.11 and 3.12).

9. ***Scope for enhancing BCIS records.*** BD maintains information of statutory notices under MBIS in BCIS. Audit noted that: (a) while BD had set time target of issuing warning letters for non-compliant statutory notices within one month for each stage as specified in the notices, only the issue date of the latest warning letter was kept in BCIS; (b) BCIS records for the issuance of warning letters for some non-compliant statutory notices were not timely updated; and (c) regarding the registration of statutory notices at LR, the referral dates of some notices to LR were not timely updated in BCIS and some notices had data entry problems in BCIS (e.g. incorrectly recorded as notices served on common parts of the buildings) (paras. 3.12 and 3.14).

10. ***Need to continue to step up referral of non-compliant statutory notices to prosecution teams.*** According to BD, to create an effective deterrent, prosecution actions should normally be instigated in case of non-compliance with statutory notices under MBIS without reasonable excuse. These cases may be referred to BD Legal Services Section or Fast Track Prosecution Teams (since January 2019) (collectively referred to as prosecution teams), which will arrange for issuance of summonses on the related building owners for warranted cases. Audit found that, of 1,071 non-compliant statutory notices that had been referred to prosecution teams in 2019 for instigating prosecution, 696 (65%) notices were referred to prosecution teams more than 2 years and up to 6 years after the completion due dates of the statutory notices (paras. 3.17 and 3.21).

Executive Summary

11. ***Scope for improving prosecution actions.*** According to BD guidelines, immediate referral for prosecution should be made for long-outstanding cases or blatant cases. However, BD guidelines had not elaborated on what cases should be regarded as blatant cases for immediate referral for prosecution. Furthermore, according to BD guidelines, for cases convicted by the Court for non-compliance with a statutory notice under MBIS, once continuous non-compliance without reasonable excuse is ascertained, immediate referral to the prosecution teams for second prosecution should be made. Up to April 2020, the defendants of 430 non-compliant statutory notices had been convicted. Audit noted that 130 (30% of 430) statutory notices had not yet been complied with as of April 2020, including 26 statutory notices with non-compliance continuing for more than 1 year and up to 3.5 years after the defendants had been convicted. However, no referral for second prosecution had been made as of April 2020 (para. 3.24).

Monitoring of registered inspectors' submissions

12. ***Some MBIS submissions not timely submitted.*** According to the Building (Inspection and Repair) Regulation, an RI should submit various documents to BD within specified timeframe for the prescribed inspection and the prescribed repair under MBIS. Based on BCIS records, Audit noted that: (a) of 7,408 certificates of building inspection received from RIs under MBIS in 2019, 3,860 (52%) certificates were received by BD more than 7 days and up to 4.5 years (averaging 56 days) after completion of building inspection, not meeting the 7-day statutory requirement; and (b) of 607 certificates of building repair received from RIs under MBIS in 2019, 238 (39%) certificates were received by BD more than 14 days and up to 4.5 years (averaging 162 days) after completion of building repair, not meeting the 14-day statutory requirement (para. 4.6).

13. ***Long time taken to complete BD's audit checks for some MBIS submissions.*** According to BD, to ensure that the inspection and repair works have been carried out in accordance with the Buildings Ordinance, it issues detailed guidelines through the relevant Code of Practice and Practice Notes and conducts checking on MBIS submissions. After fundamental check on the submissions (e.g. verification of the registration status of an RI), BD will select some submissions for audit checks. According to BCIS records, in 2019, BD completed audit checks for 1,174 MBIS submissions. Audit found that BD's audit checks of 213 (18%) submissions were completed more than 1 year and up to 5 years (averaging 1.8 years) after receipt of submissions by BD. Audit also noted that BD had not set time target

Executive Summary

for completing audit checks of MBIS submissions in its guidelines (paras. 4.3 and 4.8 to 4.10).

14. ***Need to take timely follow-up actions on irregularities identified during BD's audit checks.*** According to BD guidelines, for irregularities identified in the submitted documents, BD will issue a reminder letter to the related RI requesting clarification and/or rectification, and in case there is no positive response from the RI within one month or the time limit set out in the reminder letter, BD should issue a warning letter to the related RI. Audit examined the subject files for 10 submissions (out of the 76 submissions with BD's audit checks completed in 2019 and with unsatisfactory results) and noted that, for 5 submissions with irregularities not yet rectified as of April 2020, BD had issued reminder letters to the related RIs regarding the irregularities identified during its audit checks. While the RIs had failed to provide a response within the time limit set out in the reminder letters (exceeding the time limit by 6 to 14 months, averaging 9 months), BD had not issued warning letters to the RIs up to April 2020, contrary to the requirements under BD guidelines (paras. 4.4 and 4.11).

15. ***Discrepancies in BCIS records.*** According to BD guidelines, statutory notices under MBIS are considered to be complied with if notification of appointment of RI, certificates of building inspection and certificates of building repair (if necessary) have been received by BD. According to BCIS records, as of April 2020, a total of 35,639 statutory notices issued under MBIS had been complied with. However, Audit noted that: (a) for 4,747 (13%) statutory notices, there were no BCIS records for receipt of the notification of appointment of RI for building inspection and repair; (b) for 1,314 (4%) statutory notices, there were no BCIS records for receipt of certificates of building inspection; and (c) for 596 (2%) statutory notices, while there were BCIS records for receipt of certificates of building inspection indicating the need for building repair, there were no BCIS records for receipt of certificates of building repair (para. 4.20).

16. ***Scope for making use of BCIS for compiling management information for BD's audit check results.*** Audit noted that BD had not regularly compiled management information (e.g. highlights or summaries) on its audit check results of MBIS submissions, including nature and seriousness of irregularities found and follow-up actions taken for submissions with irregularities found (e.g. reminder letters and/or warning letters issued) (para. 4.22).

Executive Summary

Audit recommendations

17. 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 Director of Buildings should:

Selection of buildings for issuance of statutory notices

- (a) keep under review the target number of buildings for issuance of statutory notices under MBIS, further streamline MBIS and formulate a long-term strategy for MBIS with a view to achieving MBIS's objective of tackling the problem of building neglect (para. 2.34(a));
- (b) consider defining more clearly the key performance measure of "buildings targeted for prescribed inspection and, if necessary, prescribed repair under MBIS" in BD's COR (para. 2.34(b));
- (c) keep under review the use of the overriding selection criterion for selection of target buildings under MBIS, having regard to other selection criteria under the Building Score System (para. 2.34(c));
- (d) incorporate all selection criteria of target buildings under MBIS in BD guidelines (para. 2.34(d));
- (e) inform the Selection Panel about the number of all buildings BD subsequently deleted after selection by the Panel and the reasons for their deletion (para. 2.34(f));
- (f) take measures to enhance data accuracy in BCIS, thereby providing accurate information for selection of buildings for issuance of statutory notices under MBIS (para. 2.34(g));
- (g) include in BD guidelines the practice of excluding buildings which have been recently repaired or with voluntary repair works in progress and are in fair condition from selection under MBIS (para. 2.34(h));
- (h) maintain proper records on BD assessment in respect of buildings excluded from MBIS selection due to repair works recently completed or in progress (para. 2.34(i));

Executive Summary

- (i) **strengthen actions in promoting voluntary building inspection and encouraging owners to carry out timely and necessary building repair on their own initiative (para. 2.40);**

Follow-up actions on compliance with statutory notices

- (j) **closely monitor the compliance with statutory notices under MBIS and take appropriate follow-up actions (e.g. issuing warning letters) on non-compliant cases (para. 3.15(a));**
- (k) **strengthen actions to ensure that statutory notices served on the common parts of a building under MBIS are timely referred to LR for registration in accordance with BD guidelines (para. 3.15(b));**
- (l) **consider enhancing BCIS to record information of all warning letters issued for non-compliant statutory notices under MBIS and take measures to ensure that BCIS records for warning letters issued are timely updated (para. 3.15(c));**
- (m) **strengthen actions to ensure that information about registration of statutory notices under MBIS at LR is accurately and timely updated in BCIS (para. 3.15(d));**
- (n) **continue to step up referral of non-compliant statutory notices under MBIS to prosecution teams for instigating prosecution actions and explore opportunities to streamline BD's prosecution work (para. 3.32(a));**
- (o) **provide further guidelines for identifying blatant cases of non-compliant statutory notices under MBIS to facilitate making immediate referral of such cases for prosecution (para. 3.32(b));**
- (p) **closely monitor the compliance with statutory notices under MBIS for convicted non-compliant cases and make referral of warranted continuous non-compliant cases for second prosecution (para. 3.32(c));**

Executive Summary

Monitoring of registered inspectors' submissions

- (q) **take measures to strengthen monitoring of RIs' MBIS submissions (para. 4.16(a));**
- (r) **take measures to complete BD's audit checks for MBIS submissions as soon as practicable, consider setting time target for completing the audit checks and take timely follow-up actions on irregularities identified during the audit checks (para. 4.16(b) to (d));**
- (s) **review the record keeping in BCIS for receipt of MBIS submissions and the compliance with statutory notices with a view to ensuring that the records are accurate, complete and up-to-date (para. 4.25(a)); and**
- (t) **make use of BCIS to regularly compile management information on BD's audit check results of MBIS submissions (para. 4.25(c)).**

Response from the Government

18. The Director of Buildings agrees with the audit recommendations.

PART 1: INTRODUCTION

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

Background

1.2 Building neglect has been a long-standing problem in Hong Kong. The presence of ageing buildings which lack proper care and maintenance poses potential threats to residents and the public at large. Following the enactment of amendments to the Buildings Ordinance (Cap. 123) and the subsidiary Building (Inspection and Repair) Regulation (Cap. 123P) in 2011, the Mandatory Building Inspection Scheme (MBIS) has been fully implemented since 30 June 2012 (Note 1). Founded on the principle of “prevention is better than cure”, MBIS aims to require owners to carry out regular inspection and timely repair for their properties so as to tackle the problem of building neglect at source.

1.3 Under MBIS, the Buildings Department (BD — Note 2) is empowered under the Buildings Ordinance to issue statutory notices to owners of private buildings aged 30 years or above (except domestic buildings not exceeding three storeys), requiring them to carry out prescribed inspection and, if necessary, prescribed repair in respect of the common parts, external walls, projections and signboards of their buildings every 10 years (i.e. after a notice has been complied with, a fresh notice in respect of the same part of the building must not be served before the expiry of 10 years after the date of the preceding notice).

1.4 The inspection under MBIS should cover the following building elements:

- (a) external elements and other physical elements (e.g. external walls, drying racks and signboards);

Note 1: *Registration of registered inspectors under MBIS commenced on 30 December 2011 and full implementation of MBIS commenced on 30 June 2012.*

Note 2: *Under the Buildings Ordinance, the authority to issue statutory notices under MBIS is vested in the Building Authority, who is the Director of Buildings. For simplicity, the Building Authority is referred to as BD in this Audit Report.*

Introduction

- (b) structural elements (e.g. columns and beams, staircases and cantilevered projection structures);
- (c) fire safety elements (e.g. means of escape, means of access for fire fighting and rescue, and fire resisting construction);
- (d) drainage systems (e.g. drainage system located at external walls of the building, drainage system in common parts and underground common drainage system); and
- (e) identification of unauthorised building works (UBWs — Note 3) in common parts of the building, on the exterior other than the common parts of the building (e.g. external wall, roof or podium, yard or slope adjoining the building) or on the street on which the building fronts or abuts.

1.5 Common building conditions requiring repair include the following:

- (a) loose plasters and finishes at external walls (see Photograph 1 for an example);
- (b) defective common staircases (see Photograph 2 for an example);
- (c) leaking or broken drainage pipes at external walls (see Photograph 3 for an example); and
- (d) defective fire rated doors (see Photograph 4 for an example).

Note 3: *According to BD, MBIS covers identification of UBWs and assurance of their safety. Although UBWs might not be required to be removed during the stage of mandatory building inspection, BD will carry out enforcement actions against UBWs according to the enforcement policy (including taking priority enforcement actions against UBWs constituting an obvious hazard or imminent danger to lives and properties, and UBWs that are newly constructed).*

Photograph 1

**Loose plasters and finishes
at external wall**



Source: BD records

Photograph 2

Defective common staircases



Source: BD records

Photograph 3

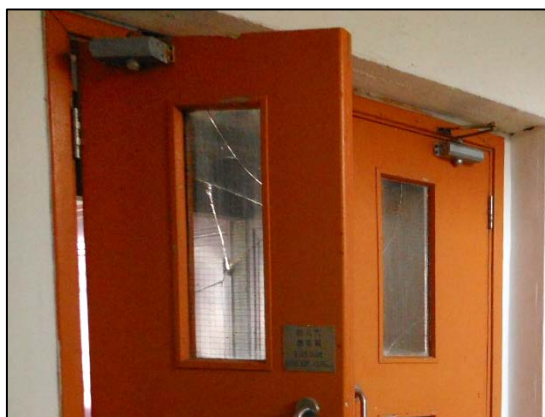
**Leaking or broken drainage pipes
at external wall**



Source: BD records

Photograph 4

Defective fire rated door



Source: BD records

Introduction

Selection of buildings for issuance of statutory notices

1.6 MBIS covers private buildings aged 30 years or above (except domestic buildings not exceeding three storeys) (see para. 1.3). According to BD, as of December 2019, excluding domestic buildings not exceeding three storeys which are not covered by MBIS, there were a total of 28,844 private buildings (Note 4), including 18,066 buildings aged 30 years or above (i.e. buildings covered by MBIS — see Table 1).

Table 1

**Number of private buildings
(December 2019)**

Building age (Year)	Number of private buildings (Note)
9 or below	2,237
10 to 19	3,303
20 to 29	5,238
30 to 39	5,472
40 to 49	5,246
50 to 59	4,921
60 to 69	1,772
70 or above	655
Total	28,844

Source: BD records

Note: Domestic buildings not exceeding three storeys were not included, as MBIS does not cover such buildings.

Note 4: *According to BD, the counting of buildings for the purpose of MBIS is based on the building identity number in BD's computer system (i.e Building Condition Information System — see Note 27 in para. 2.25(b)). For example, structures sharing the same means of escape (such as portion of a terraced development) will be counted as one building.*

1.7 Each year, a certain number of target buildings will be selected from the buildings covered by MBIS for issuance of statutory notices. BD issues statutory notices to the owners of selected buildings, as follows:

- (a) for elements at common parts of a building, the notices will be served on the owners' corporation (OC) if such corporation has been formed, otherwise on all owners of the building; and
- (b) for elements owned by individual owners, including privately-owned external walls and projecting structures (e.g. balconies, verandahs and signboards (Note 5)) exclusively used by individual owners, the notices will be served on the owners concerned.

Up to April 2020, a total of 82,177 statutory notices (involving 5,308 buildings) had been issued under MBIS.

Follow-up actions on compliance with statutory notices

1.8 A building owner served with a statutory notice under MBIS is required, within a specified timeframe, to appoint a registered inspector (RI — Note 6) to carry out the prescribed inspection of the building, and if necessary, appoint a registered contractor (RC — Note 7) to carry out the prescribed repair. The major steps in building inspection and repair under MBIS (summarised in Figure 1) are as follows:

Note 5: *Under the Buildings Ordinance, if a signboard is erected on a building, the statutory notice will be served on: (a) the person for whom the signboard is erected; (b) if that person cannot be found, the person who would receive any rent or other money consideration; or (c) if the persons referred to in (a) and (b) above cannot be found, the owner of the premises in the building on which the signboard is erected.*

Note 6: *An RI should be an authorised person, a registered structural engineer or a registered building professional possessing relevant work experience in the field of building construction, repair and maintenance, and whose name is on the inspectors' register maintained by BD.*

Note 7: *An RC appointed to carry out the necessary repair works under MBIS should be a registered general building contractor or a registered minor works contractor who is qualified to carry out the repair works and whose name is on the respective contractors' registers maintained by BD. Registered minor works contractors can only carry out minor works belonging to the class, type and item for which they are registered.*

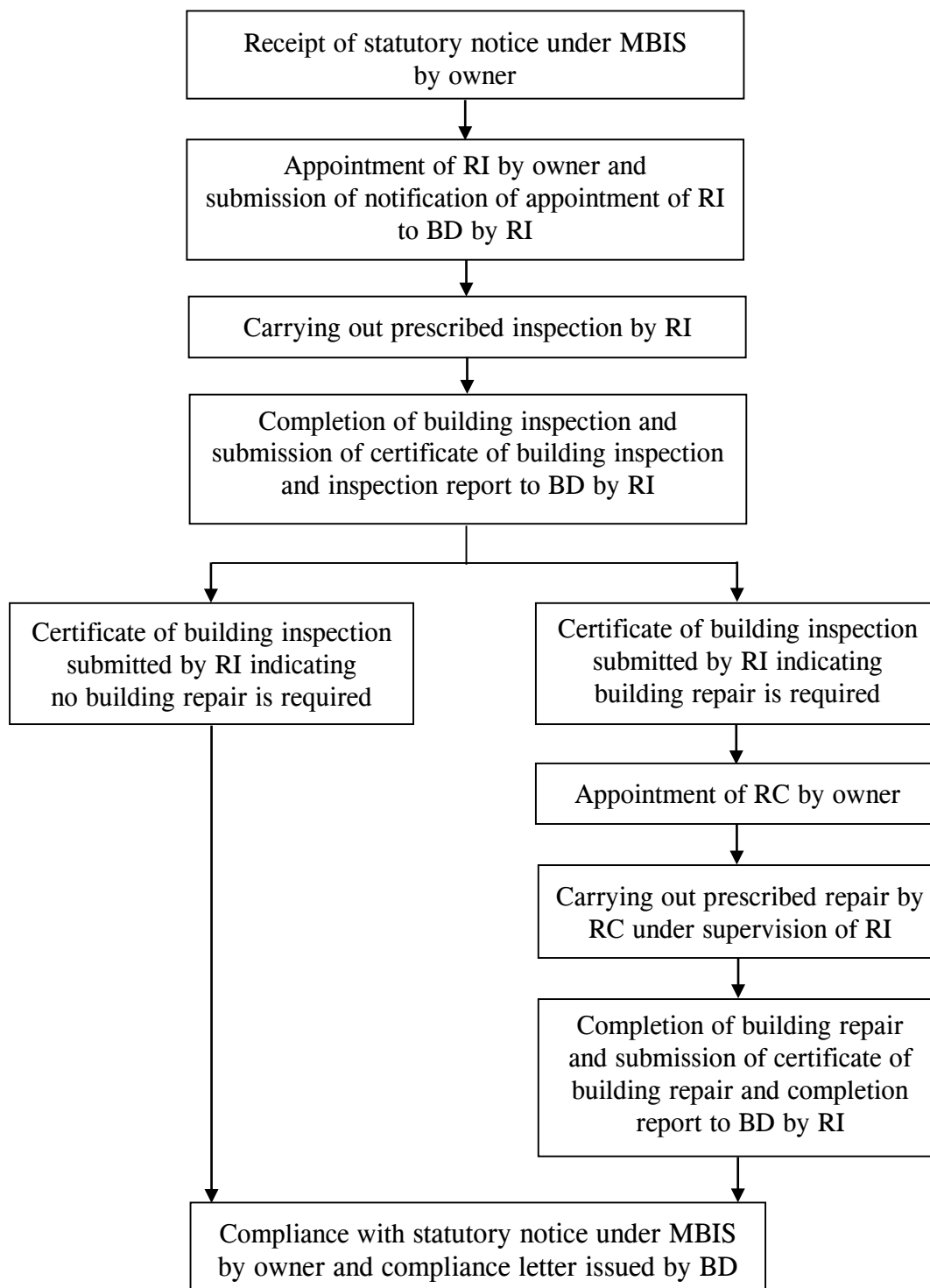
Introduction

- (a) ***Appointment of RI.*** Upon receipt of a statutory notice under MBIS, an owner is required to appoint an RI to carry out the prescribed inspection in respect of common parts or individually owned elements of the building. The RI should submit a notification in specified form notifying the appointment of RI (i.e. notification of appointment of RI) to BD;
- (b) ***Building inspection.*** The RI will carry out the prescribed inspection in respect of common parts or individually owned elements of the building. Upon completion of the building inspection, the RI should submit a certificate in specified form certifying completion of the inspection (i.e. certificate of building inspection) together with an inspection report (including a repair proposal if prescribed repair is required) to BD. If the certificate of building inspection has indicated that the common parts or individually owned elements of the building are safe and no building repair is required, BD will issue a compliance letter to the owner certifying compliance with the statutory notice under MBIS; and
- (c) ***Building repair.*** If the certificate of building inspection has indicated that building repair is required, the owner should appoint an RC to carry out the prescribed repair under the supervision of an RI (Note 8) in accordance with the repair proposal included in the inspection report. Upon completion of the building repair, the RI should submit a certificate in specified form certifying completion of the repair (i.e. certificate of building repair) together with a completion report to BD and declare no business connection with the RC who carried out the repair. After receipt of the completion report and certificate of building repair, BD will issue a compliance letter to the owner certifying compliance with the statutory notice under MBIS.

According to BD, it will conduct random audit checks of certificates, inspection reports and completion reports submitted by RIs (see para. 1.11(c)). For submissions selected for audit checks by BD, it will only issue compliance letters if no irregularities are identified in the audit checks or if the irregularities identified in the audit checks are rectified.

Note 8: *The owner may appoint the same RI who has carried out the prescribed inspection, or appoint another RI for supervision of the prescribed repair.*

Figure 1

Major steps in building inspection and repair under MBIS

Source: BD records

Introduction

1.9 For non-compliances with statutory notices under MBIS, BD may issue warning letters to the owners and instigate prosecution against them. BD may also arrange consultants and contractors to carry out the required inspection and repair works on behalf of the owners (i.e. default works) and recover the related costs from the owners.

Monitoring of RIs' submissions

1.10 Under MBIS, RIs are responsible for carrying out the prescribed inspection and/or supervision of the prescribed repair by RCs (see para. 1.8). As of April 2020, there were 556 RIs.

1.11 BD is responsible for ensuring proper regulation of RIs. According to BD, it monitors RIs through various measures, including:

- (a) keeping an inspectors' register and establishing a regulatory mechanism under the Buildings Ordinance as well as Inspector Registration Committees to assist BD in scrutinising the professional standards for registration as RIs;
- (b) issuing detailed guidelines on the requirements and standards of building inspection and repair works through the Code of Practice for MBIS and Practice Notes; and
- (c) conducting random audit checks of certificates, inspection reports and completion reports submitted by RIs in order to ascertain that the prescribed inspection and prescribed repair have been carried out in accordance with the legislation, as well as the Code of Practice and Practice Notes issued by BD. If RIs have any irregularities, BD may instigate prosecution or disciplinary actions against them (Note 9).

Note 9: *BD may also instigate prosecution or disciplinary actions against RCs if they have any irregularities.*

Responsible division of BD

1.12 The two Mandatory Building Inspection (MBI) Sections under BD's MBI Division (see Appendix A for an extract of BD's organisation chart as at 31 March 2020) are responsible for implementation of MBIS and another scheme (Note 10). As of March 2020, the two MBI Sections had 217 staff (comprising 148 professional and technical staff, 35 supporting staff and 34 non-civil service contract staff). The total recurrent expenditure of the two MBI Sections for 2019-20 was about \$164 million. According to BD, it could not provide a breakdown of the expenditure incurred solely for MBIS.

Audit review

1.13 In May 2020, the Audit Commission (Audit) commenced a review to examine BD's work in management of MBIS. The audit review has focused on the following areas:

- (a) selection of buildings for issuance of statutory notices (PART 2);
- (b) follow-up actions on compliance with statutory notices (PART 3); and
- (c) monitoring of RIs' submissions (PART 4).

Audit has found room for improvement in the above areas, and has made a number of recommendations to address the issues.

Note 10: *Apart from MBIS, the two MBI Sections are also responsible for implementing the Mandatory Window Inspection Scheme which has been fully implemented since 30 June 2012. Under the Scheme, BD may issue statutory notices to owners of private buildings aged 10 years or above (except domestic buildings not exceeding 3 storeys) requiring them to carry out prescribed inspection and prescribed repair found necessary of all windows of the buildings every 5 years.*

Acknowledgement

1.14 During the audit review, in light of the outbreak of coronavirus disease (COVID-19), the Government had implemented various special work arrangements and targeted measures for government employees, including working from home. Audit would like to acknowledge with gratitude the full cooperation of the staff of BD during the course of the audit review amid the COVID-19 epidemic.

PART 2: SELECTION OF BUILDINGS FOR ISSUANCE OF STATUTORY NOTICES

2.1 This PART examines BD's actions in selecting buildings for issuance of statutory notices under MBIS (paras. 2.2 to 2.35) and promoting voluntary building inspection (paras. 2.36 to 2.41).

Selection of buildings for issuance of statutory notices under Mandatory Building Inspection Scheme

2.2 MBIS covers private buildings aged 30 years or above (except domestic buildings not exceeding three storeys). Each year, a certain number of target buildings will be selected from the buildings covered by MBIS for issuance of statutory notices. To enhance the transparency and promote community participation, a Selection Panel (Note 11) has been established to tender advice to BD on the selection criteria and the selection of target buildings for the purpose of issuing statutory notices under MBIS.

2.3 *Selection criteria.* According to BD, a risk-based approach has been adopted in selection of target buildings for issuing statutory notices under MBIS since October 2017. BD has developed a Building Score System to prioritise all buildings covered by MBIS. Under the Building Score System, scores will be given to buildings based on the selection criteria and priority will be given to buildings with higher scores (i.e. relatively higher potential risk) in selection of buildings for issuance of statutory notices under MBIS. The selection criteria are as follows:

Note 11: *The Selection Panel is chaired by an Assistant Director of BD with members from professional institutions (i.e. the Hong Kong Institute of Architects, the Hong Kong Institution of Engineers, the Hong Kong Institute of Surveyors and the Hong Kong Association of Property Management Companies), the Hong Kong Housing Society and 18 District Councils (6 members on a rotational basis to participate in each meeting).*

Selection of buildings for issuance of statutory notices

- (a) **Building age.** Buildings with higher building age should be given priority;
- (b) **Building condition.** Reports on the dilapidated conditions of the buildings, emergency repair works conducted in the previous 12 months, and outstanding repair and investigation orders (Note 12) on the buildings should be considered;
- (c) **Building management.** Three-nil buildings (Note 13) should be given priority;
- (d) **Risk to public.** Buildings with cantilevered slab balcony or cantilevered slab canopy should be given priority; and
- (e) **Building cluster.** For a number of buildings situated on the same land lot with owners being jointly responsible for maintenance and repair of the common parts in the buildings, the buildings concerned will form a building cluster. If a building forming part of a building cluster is selected, all buildings in the building cluster will also be selected together regardless of their scores.

2.4 **Buildings not to be selected.** According to BD guidelines:

- (a) for a building with a statutory notice under MBIS served and complied with, a fresh notice in respect of the same part of the building will not be served within 10 years after the issue date of the preceding notice;

Note 12: *For a building rendered dangerous or liable to become dangerous, BD may issue a repair order (under section 26 of the Buildings Ordinance) to require the owner to carry out repair works of the building. For a building found with dilapidation or defect, BD may issue an investigation order (under section 26A of the Buildings Ordinance) to require the owner to carry out an investigation on the building and submit remedial works proposal.*

Note 13: *Three-nil buildings refer to buildings which do not have OCs or any form of residents' organisations, nor engage property management companies in managing their buildings.*

- (b) a building being assessed for accreditation under the Hong Kong Housing Society's Voluntary Building Assessment Scheme (VBAS — Note 14) or a building accredited with satisfactory building safety rating under VBAS with inspection/repair carried out within 10 years will not be selected for MBIS; and
- (c) where inspection/repair of a building has been completed in accordance with those prescribed under the Buildings Ordinance on a voluntary basis without joining VBAS and BD is satisfied that the same requirements as those under MBIS are complied with, the concerned building may not be selected for MBIS within 10 years.

Need to keep under review the target number of buildings to be selected for issuance of statutory notices under MBIS and formulate a long-term strategy for MBIS

2.5 In May 2008, in providing information about the proposed MBIS, the Development Bureau (DEVB) informed the Panel on Development of the Legislative Council (LegCo) that 2,000 private buildings would be selected each year to undergo building inspection under MBIS. In June 2012, MBIS was fully implemented (see para. 1.2).

2.6 In November 2013, after a full-year implementation of MBIS, DEVB informed LegCo's Panel on Development that BD:

- (a) had encountered major difficulties in meeting the planned progress in issuing statutory notices under MBIS (e.g. an under-estimation of workload associated with the implementation of MBIS and an overwhelming volume of public enquiries and requests for ad-hoc on-site briefing sessions from the affected building owners of individual target buildings and estates), and

Note 14: *To encourage building owners to properly manage and maintain their buildings on their own initiatives, the Hong Kong Housing Society commenced VBAS in July 2012. All private domestic buildings and composite buildings with building management are eligible to join VBAS, and buildings certified under VBAS will be recognised by BD for having fulfilled the requirements under MBIS within 10 years.*

Selection of buildings for issuance of statutory notices

considered it necessary to adjust downwards the annual number of target buildings under MBIS; and

- (b) would formulate a revised target for MBIS taking into account operational experience gained.

2.7 BD sets out in its Controlling Officer's Report (COR) a key performance measure of "buildings targeted for prescribed inspection and, if necessary, prescribed repair under MBIS" and reports the target, planned and actual numbers for this performance measure each year. According to BD:

- (a) the target and planned numbers refer to the number of buildings to be selected for consideration of issuance of statutory notices; and
- (b) the actual number refers to the number of buildings selected for consideration of issuance of statutory notices. This figure reflects the information available at the cut-off time for reporting in the COR, and is subject to change arising from latest information available subsequently (e.g. initial check conducted for selected buildings — see para. 2.26(a)). Accordingly, the actual number of buildings selected and issued with statutory notices might be different from the actual number as reported in BD's CORs.

Table 2 shows the numbers as reported in BD's CORs from 2012 (MBIS fully implemented in June 2012) to 2020.

Selection of buildings for issuance of statutory notices

Table 2

**Selection of buildings for issuance of statutory notices under MBIS
as reported in BD's CORs
(2012 to 2020)**

Year	Target number of buildings to be selected for consideration of issuance of statutory notices	Actual number of buildings selected for consideration of issuance of statutory notices (Note 1)
2012	2,000 (Planned: 1,500 — Note 2)	949 (Note 3)
2013	2,000	1,576
2014	2,000 (Planned: 1,000 — Note 2)	1,018
2015	650	650
2016	500	500
2017	400	436
2018	400	427
2019	400	403
2020	600	Not yet published (Note 4)

Source: BD's CORs

Note 1: According to BD: (a) the issuance of statutory notices for 403 target buildings selected in 2019 was still in progress as of August 2020; and (b) the actual total number of buildings selected from 2012 to 2018 and issued with statutory notices was 5,308 buildings, which was less than the total of 5,556 buildings as reported in BD's CORs due to various reasons (e.g. buildings demolished, to be demolished, recently repaired or under repair — see para. 2.25(b)). The variances were below 5% in recent years (e.g. the actual numbers of buildings selected from 2016 to 2018 and issued with statutory notices were 476 (versus COR figure of 500 (4.8%)), 430 (versus COR figure of 436 (1.4%)) and 424 (versus COR figure of 427 (0.7%)) respectively).

Note 2: In its CORs, BD set out both the target and planned numbers of buildings to be selected for consideration of issuance of statutory notices under MBIS. Except for 2012 and 2014, both numbers were the same for other years (i.e. 2013 and 2015 to 2020). According to the CORs, the planned numbers for 2012 and 2014 were less than the target numbers due to the following reasons: (a) for 2012 (1,500 (planned) versus 2,000 (target)), full implementation of MBIS was expected to commence in the second quarter of 2012; and (b) for 2014 (1,000 (planned) versus 2,000 (target)), major difficulties were encountered in implementing MBIS (see para. 2.6(a)).

Note 3: Full implementation of MBIS commenced on 30 June 2012.

Note 4: According to BD, on 25 August 2020, the Selection Panel endorsed the selection of 600 target buildings and another 300 buffer buildings (for replacing target buildings selected if needed) for issuance of statutory notices under MBIS for 2020.

Selection of buildings for issuance of statutory notices

2.8 As shown in Table 2, regarding the performance measure for selection of target buildings under MBIS (see para. 2.7):

- (a) for 2012 (MBIS fully implemented in June 2012) and 2014, the planned numbers of buildings ((1,500 and 1,000 respectively) were less than the target number of 2,000 due to various reasons (see Note 2 to Table 2 in para. 2.7);
- (b) since 2013 (i.e. the first full-year implementation of MBIS), the target number of buildings had been decreasing from 2,000 in 2014 to 400 in 2019 (i.e. 650 in 2015, 500 in 2016 and 400 in 2017 to 2019). The number increased to 600 in 2020; and
- (c) for 2012 and 2013, the actual numbers of buildings fell short of both the target and planned numbers. For 2014, the actual number fell short of the target number but was greater than the planned number. For 2015 to 2019, the actual numbers were equal to or greater than the target numbers (same as the planned numbers).

2.9 In August and September 2020, BD informed Audit that:

- (a) since the commencement of MBIS in 2012, BD had kept monitoring the progress of MBIS. BD noted that its work progress could not meet the target because of huge volume of work and public responses on the implementation of MBIS. With experience gained, BD had adjusted its strategy by adjusting the work priority with more focus on enhancing compliance with served statutory notices. As a result, the target number of buildings since 2014 had been gradually reduced;
- (b) in response to the adjustment on the target number of buildings and for better utilisation of the available resources, BD had adopted a risk-based approach in selecting target buildings with a Building Score System under which buildings with higher score (i.e. relatively higher potential risk) would be selected for implementation of MBIS;
- (c) BD encouraged building owners to carry out voluntary inspection and repair as necessary to ensure good maintenance and safety of building through various public education campaigns;

Selection of buildings for issuance of statutory notices

- (d) BD would review the target number of buildings each year, taking into account the manpower required to implement MBIS, the actual operational experience, market situation, the opinions of stakeholders and members of community as well as the available assistance schemes provided to the owners; and
- (e) BD would further streamline MBIS with a view to stepping up the pace of MBIS implementation, and review the progress of compliance by the owners in formulating the long-term strategy for MBIS.

2.10 Audit noted that of the 18,066 buildings covered by MBIS as of December 2019, it was estimated that some 12,000 buildings had not been selected for issuance of statutory notices (Note 15). Based on the 2020 target of selecting 600 buildings each year, it will take about 20 years (Note 16) to cover these some 12,000 buildings, let alone the new buildings which will be covered by MBIS coming up after 2019 (Note 17). Given that MBIS is founded on the principle of “prevention is better than cure” and aims to require owners to carry out regular inspection and timely repair for their properties so as to tackle the problem of building neglect at source (see para. 1.2), in Audit’s view, BD needs to keep under review the target number of buildings for issuance of statutory notices under MBIS, further streamline MBIS and formulate a long-term strategy for MBIS, having regard to all relevant factors (e.g. operational experience and compliance by the owners of buildings) in implementing MBIS, with a view to achieving MBIS’s objective of tackling the problem of building neglect.

2.11 Audit also noted that BD’s definition (see para. 2.7) for the key performance measure of “buildings targeted for prescribed inspection and, if necessary, prescribed repair under MBIS” was not clearly set out in BD’s COR.

Note 15: *The calculation of the some 12,000 buildings is based on the difference between the 18,066 buildings covered by MBIS and the total of 5,959 target buildings selected from 2012 to 2019 (see Table 2 in para. 2.7).*

Note 16: *In view of the small number of buildings covered by MBIS having participated in voluntary building inspection (see para. 2.37), its effect on the estimation of the 20-year period is considered negligible.*

Note 17: *For example, 572, 668 and 504 buildings will reach the building age of 30 years in 2020, 2021 and 2022 respectively, and these will become buildings covered by MBIS.*

Selection of buildings for issuance of statutory notices

There is merit for BD to consider defining more clearly this key performance measure in its COR to enhance transparency and public accountability.

Need to keep under review the selection criteria

2.12 At a Selection Panel meeting in October 2017, BD informed the Selection Panel that:

- (a) in view of a recent incident involving partial collapse of a balcony of a private building, BD reviewed the selection criteria of target buildings under MBIS and considered that a risk-based approach should be adopted. In selecting the buildings for mandatory inspection under MBIS, buildings with relatively higher potential risk should be given priority for effective use of resources and to protect public and building safety; and
- (b) some existing selection criteria which had no direct relationships with safety risk or could not effectively reflect the actual building conditions should be deleted (Note 18). Therefore, BD proposed to revise the selection criteria (including deleting some criteria) and Building Score System so that a risk-based approach would be adopted.

2.13 The Selection Panel agreed to adopt the revised selection criteria and Building Score System proposed by BD, and the revisions were then incorporated in BD guidelines. Under the Building Score System, scores will be given to buildings based on the following four selection criteria:

- (a) building age;
- (b) building condition;
- (c) building management; and
- (d) risk to public.

Note 18: *According to BD, some existing selection criteria (e.g. history of general building repair and number of UBWs) had no direct relationships with safety risk or could not effectively reflect the actual building conditions and these criteria were proposed to be deleted.*

Selection of buildings for issuance of statutory notices

2.14 At the same Selection Panel meeting in October 2017, BD also informed the Selection Panel that only private residential or composite buildings aged 50 years or above would be selected for issuance of statutory notices under MBIS. In the event, the nomination list of buildings (comprising only private residential or composite buildings aged 50 years or above) was endorsed by the Selection Panel. However, Audit noted that this overriding selection criterion had not been included in BD guidelines. Audit's findings related to the use of overriding selection criterion, which was based on building type and age, are set out in paragraphs 2.15 to 2.20.

2.15 *Some buildings not meeting the overriding selection criterion had higher scores.* For the building selection exercise for MBIS in 2019, 9,994 buildings were given scores by BD in accordance with the Building Score System (hereinafter referred to as scored building list — see also para. 2.22). In August 2019, BD informed the Selection Panel that:

- (a) there were 2,986 buildings which were private residential or composite buildings aged 50 years or above and eligible for implementation of MBIS; and
- (b) the top 400 buildings were nominated to be selected as target buildings under MBIS and the following 200 buildings would be reserved as buffer buildings (Note 19) (i.e. a total of 600 buildings in the nomination list).

In the event, the Selection Panel endorsed the selection of the 600 buildings in the nomination list (see (b) above) for issuance of statutory notices under MBIS.

2.16 Based on the scored building list of 9,994 buildings, Audit noted that 404 buildings were with higher scores than some buildings in the nomination list to the Selection Panel (Note 20). However, these buildings were not included in the nomination list as they did not meet the overriding selection criterion (i.e. private

Note 19: *According to BD, since 2015, it has nominated buffer buildings for replacing target buildings selected under MBIS if needed.*

Note 20: *In the nomination list of 600 buildings (with scores ranging from 10 to 75 points), some buildings formed part of building cluster and were selected together regardless of their scores (see para. 2.3(e)). Excluding those buildings selected due to building cluster, the other buildings were with scores of 25 to 75 points.*

Selection of buildings for issuance of statutory notices

residential or composite buildings aged 50 years or above). The 404 buildings were as follows:

- (a) 176 private residential or composite buildings aged between 30 and 49 years (i.e. aged below 50) (Note 21) (of which 75 buildings aged between 30 and 39 years (i.e. aged below 40)); and
- (b) 228 private buildings other than residential or composite buildings (e.g. industrial or commercial buildings) aged 30 years or above (some were pre-war buildings) (Note 22).

2.17 ***Incidents involving fallen building elements from private buildings not meeting the overriding selection criterion.*** Audit noted that there were incidents involving fallen building elements (e.g. concrete) from private buildings over the years. According to BD, from January 2017 to June 2020, there were 435 incidents (Note 23) involving fallen building elements from the buildings covered by MBIS. Of these 435 incidents:

Meeting the overriding selection criterion

- (a) 208 (48%) incidents were related to private residential or composite buildings aged about 50 years or above (some were pre-war buildings) at the time of incidents;

Note 21: *Of the 176 private residential or composite buildings aged between 30 and 49 years and with higher scores than some buildings in the nomination list: (a) 147 buildings were with higher scores than some of the top 400 buildings in the nomination list; and (b) 29 buildings were with higher scores than some of the 200 buffer buildings in the nomination list.*

Note 22: *Of the 228 private buildings other than residential or composite buildings aged 30 years or above and with higher scores than some buildings in the nomination list: (a) 160 buildings were with higher scores than some of the top 400 buildings in the nomination list; and (b) 68 buildings were with higher scores than some of the 200 buffer buildings in the nomination list.*

Note 23: *According to BD, it had not maintained statistics on the casualty records related to incidents involving fallen building elements from private buildings.*

Not meeting the overriding selection criterion

- (b) 173 (40%) incidents were related to private residential or composite buildings aged about 30 to 49 years at the time of incidents (i.e. aged below 50) (of which 60 buildings aged between 30 and 39 years at the time of incidents (i.e. aged below 40)); and
- (c) 54 (12%) incidents were related to private buildings other than residential or composite buildings (e.g. industrial or commercial buildings) aged about 30 years or above (some were pre-war buildings) at the time of incidents.

Of the 435 incidents, the buildings in 227 (52% — see (b) and (c) above) incidents involving fallen building elements did not meet the overriding selection criterion. As a result, these buildings would not be included in BD's nomination list of target buildings to the Selection Panel.

2.18 In September and October 2020, BD informed Audit that:

- (a) as younger buildings were generally better managed and maintained, in order to better utilise the available resources and follow government policy on timely maintenance of old buildings, a risk-based approach was adopted in 2017. The selection of target buildings for MBIS would focus on private residential or composite buildings aged 50 years or above as these buildings posed relatively higher potential building safety risks and the building owners were less coordinated in carrying out building maintenance and repairs. Joining MBIS would help these building owners better understand their responsibility on timely and preventive maintenance of their buildings. The risk-based approach and the overriding selection criterion had been deliberated and endorsed by the Selection Panel in 2017;
- (b) the overriding selection criterion had been reviewed. On 25 August 2020, the Selection Panel endorsed the revision of the overriding selection criterion to private residential or composite buildings aged 40 years or above. The revised criterion was used for selection of target buildings in 2020 (see Note 4 to Table 2 in para. 2.7); and

Selection of buildings for issuance of statutory notices

- (c) BD would continue to follow up on building defects of other buildings that did not fall within the overriding selection criterion by issuing investigation or repair orders (see Note 12 in para. 2.3(b)) under the Buildings Ordinance to ensure building safety. In addition to following up on public reports on building defects, BD also proactively conducted large-scale operations to take enforcement actions against UBWs and dilapidated or defective buildings. If obvious defects were found on the exterior of a building, BD would consider issuing repair orders to mandate owners to carry out repair works or arrange emergency repair works when there was imminent danger to the public.

2.19 While noting that the overriding selection criterion for selection of target buildings under MBIS was revised on 25 August 2020 (see para. 2.18(b)), the revised overriding selection criterion is still based on building type and age (i.e. private residential or composite buildings aged 40 years or above). Audit noted that:

- (a) under the Building Score System, building type was not a selection criterion, and building age was only one of the four selection criteria (see para. 2.13). Regarding the three other criteria, building condition is an important one with maximum score (60 points) higher than building age (20 points);
- (b) some buildings covered by MBIS not meeting this criterion (i.e. of different building type (e.g. industrial buildings) or aged below the specified age of this criterion) might also be of high risk to public safety as indicated by their higher scores or incidents of fallen building elements (see paras. 2.16 and 2.17(b) and (c)); and
- (c) the overriding selection criterion (for both the previous one adopted in October 2017 (see para. 2.14) and the current one adopted in August 2020) had not been included in BD guidelines.

2.20 In Audit's view, BD needs to keep under review the use of the overriding selection criterion for selection of target buildings under MBIS, having regard to other selection criteria (e.g. building condition) under the Building Score System, with a view to achieving MBIS's objective of tackling the problem of building neglect. BD also needs to incorporate all selection criteria of target buildings under MBIS in its guidelines.

***Some buildings covered by MBIS not given scores
in accordance with Building Score System***

2.21 In May 2019, in response to a LegCo Member's enquiry about whether the Selection Panel would give a lower priority to buildings that had previously undergone the prescribed inspection and repair when selecting target buildings under MBIS, BD informed LegCo's Panel on Development and Panel on Home Affairs that:

- (a) the Selection Panel adopted a risk-based approach and took into account various factors in selecting target buildings under MBIS on an annual basis; and
- (b) all buildings, including those that had completed MBIS, would be scored to determine the priority of action for MBIS.

According to BD, the reason for scoring all buildings covered by MBIS is to form a database for reviewing purpose.

2.22 For the building selection exercise for MBIS in 2019, Audit noted that BD had prioritised the buildings based on the list of private buildings as of December 2018. While there were a total of 17,508 buildings covered by MBIS as of December 2018, only 9,994 (57%) buildings were given scores by BD in accordance with the Building Score System and the remaining 7,514 (i.e. 17,508 – 9,994) buildings were not given scores by BD.

2.23 In September 2020, BD informed Audit that the main reason for not giving scores to the 7,514 buildings (see para. 2.22) was due to the fact that a majority of them had already been selected under MBIS within the past 10 years (see para. 2.4(a)).

2.24 In Audit's view, BD needs to take measures to ensure that all buildings covered by MBIS are scored as needed in accordance with the Building Score System for reviewing purpose.

Some buildings deleted after selection by Selection Panel

2.25 After the Selection Panel's endorsement of the nomination list, BD may change some buildings in the endorsed building list due to various reasons (see (b) below). According to BD, it deleted a total of 76 buildings after their selection by the Selection Panel from 2017 to 2019, including 67 buildings with replacement from the list of buffer buildings and 9 buildings without replacement (Note 24). Audit noted the following issues:

- (a) ***Selection Panel not informed of the deletion of some selected buildings.*** For buildings selected in 2017 (Note 25), while BD had informed the Selection Panel about the number of buildings it subsequently deleted with replacement (i.e. 13 buildings) and the reasons for their deletion, it had not done so for the buildings it deleted without replacement (i.e. 6 buildings). In Audit's view, BD needs to inform the Selection Panel about the number of all buildings it subsequently deleted after selection by the Panel (including those deleted without replacement) and the reasons for their deletion; and
- (b) ***Need to enhance data accuracy in BD computer system.*** For the 67 buildings selected during 2017 to 2019 and deleted with replacement from the list of buffer buildings, according to BD, one of the reasons (Note 26) was due to data quality problem in BD's computer system (i.e. the Building Condition Information System (BCIS — Note 27)), which led

Note 24: *Of 67 buildings deleted with replacement, 13, 34 and 20 buildings were selected in 2017, 2018 and 2019 respectively. Of 9 buildings deleted without replacement, 6 and 3 buildings were selected in 2017 and 2018 respectively.*

Note 25: *According to BD, for buildings selected in 2018, it had informed the Selection Panel of all buildings it had subsequently deleted (i.e. 34 deleted buildings with replacement in August 2019 and 3 deleted buildings without replacement in August 2020).*

Note 26: *The other reasons included buildings which: (a) were recently repaired or with repair works in progress; (b) were or would be demolished; and (c) were cluster buildings (see para. 2.3(e)) of those buildings deleted.*

Note 27: *BCIS is a computer system for recording, processing and retrieving details of public reports, planned surveys, statutory orders, works orders and consultancy assignments. In selection of buildings for issuance of statutory notices under MBIS, BD will retrieve relevant data (e.g. number of public reports received and outstanding repair or investigation orders) relating to buildings covered by MBIS in BCIS for analysis.*

to 7 buildings wrongly selected. For example, the number of public reports received on building conditions was overstated in BCIS. In Audit's view, BD needs to take measures to enhance data accuracy in BCIS, thereby providing accurate information for selection of buildings for issuance of statutory notices under MBIS.

Need to maintain proper records on assessment on building repairs

2.26 According to BD:

- (a) after the Selection Panel's endorsement of the nomination list, it will carry out initial check by means of desk study of records in BCIS and site inspection before serving of the statutory notices under MBIS (e.g. buildings demolished, to be demolished, recently repaired or under repair). The purposes of the initial check are to verify whether the buildings in the nomination list meet the selection criteria for MBIS and to identify the possible data quality problem in BCIS (see para. 2.25(b)). In addition, BD will also make reference to the past records of the initial check to exclude those previously deleted buildings from the nomination list to be submitted to the Selection Panel for endorsement; and
- (b) with the objective to minimise disturbance to the owners, it is BD's practice to exclude buildings which have been recently repaired or with voluntary repair works in progress provided that such buildings are in fair condition as verified by the site inspection carried out by BD staff.

However, Audit noted that BD's practice in (b) above was not included in BD guidelines. In Audit's view, BD needs to incorporate such practice in its guidelines.

2.27 For the building selection exercise for MBIS in 2019, Audit noted that there were 35 buildings with higher scores than some buildings in the nomination list, but they were not included in the nomination list as they had been recently repaired or repair works were in progress. In September 2020, BD informed Audit that these 35 buildings were excluded from the nomination list based on BD's initial checks in previous years. However, no documentation was available showing BD's assessment that such buildings were in fair condition (see para. 2.26(b)). In Audit's view, BD needs to maintain proper records on such assessment.

Need to strengthen monitoring of consultant's work for issuing statutory notices

2.28 According to BD, for better utilisation of resources and enhancing cost effectiveness, it has outsourced certain administrative work for issuing statutory notices under MBIS to consultants. According to BD guidelines, consultants' performance should be monitored to ensure timely completion of assignments and achievement of objectives of the consultancy through strict adherence to the approved programme and time frame. For unsatisfactory performance, BD may issue warning letters and adverse performance reports (Note 28) to the consultants.

2.29 Regarding the issuance of statutory notices under MBIS for buildings selected in 2018, BD engaged a consultant (Consultant A) for carrying out the work (Note 29) within a contract period of 12 months (from 17 October 2018 to 16 October 2019). Consultant A was required to carry out the following four work tasks:

- (a) ***Submitting desk study reports.*** Consultant A should conduct desk study and site visits, and compile desk study reports identifying all items that warrant service of statutory notices under MBIS and on whom the notices would be served;
- (b) ***Preparing notices.*** After endorsement of the desk study reports by BD, Consultant A should prepare statutory notices (Note 30) together with covering letters for endorsement by BD;

Note 28: *During the contract period, BD will issue to a consultant quarterly performance reports and a final performance report upon completion of an agreement. BD may issue an adverse performance report after issuing a warning letter to the consultant. A consultant having received two and three consecutive adverse performance reports under the same consultancy will be suspended from bidding BD's consultancy work of the same category for at least 3 and 12 months respectively.*

Note 29: *The consultancy agreement, with contract sum of about \$2 million, was for issuing statutory notices for 400 buildings selected for both MBIS and the Mandatory Window Inspection Scheme.*

Note 30: *According to BD: (a) before 2018, prior to serving statutory notices under MBIS, pre-notification letters would be issued to building owners advising them of the selection of their buildings for MBIS to allow them ample time to get prepared and plan ahead; and (b) from 2018, no pre-notification letters would be issued to owners of buildings selected and statutory notices would be issued directly.*

Selection of buildings for issuance of statutory notices

- (c) ***Serving notices.*** After signing of the statutory notices by BD, Consultant A should serve the notices, including dispatching the notices (including covering letters and pamphlets) to the owners and posting the notices on a conspicuous and prominent position of the building; and
- (d) ***Updating BCIS records.*** Upon issuance of statutory notices, Consultant A should update the information of statutory notices served in BCIS (Note 31), scan the notices and upload the scanned notices onto BCIS.

2.30 Audit noted that, while the original contract completion date was October 2019 (see para. 2.29), Consultant A completed all the work in June 2020 (i.e. about eight months later than the original contract completion date) (Note 32). In the event, BD only issued one warning letter and one reminder letter to Consultant A in May 2019 and May 2020 respectively for the slippage.

2.31 In September and October 2020, BD informed Audit that:

- (a) in addition to the monthly progress reports, emails and reminders were sent to Consultant A for monitoring the work progress. In view of slippage in preparation and serving of notices, a warning letter was issued to Consultant A in May 2019. The performance of Consultant A was then improved with statutory notices gradually issued since early June 2019 and the relevant work tasks were completed by December 2019, about four months later than the target completion date of August 2019; and
- (b) the remaining work task (i.e. notice scanning and uploading onto BCIS) was a new item in this kind of consultancy agreement and did not affect the implementation of MBIS and critical path of the programme under the

Note 31: *To enhance transparency, based on BCIS records, BD would update information about issuance and compliance status of statutory notices under MBIS on BD's website and a mobile application (mobile app) for searching by the public.*

Note 32: *There were different target completion dates for the four work tasks (see para. 2.29). For example: (a) the task of serving statutory notices (see para. 2.29(c)) was completed in December 2019 (i.e. about four months later than the target completion date of August 2019); and (b) the task of uploading scanned statutory notices onto BCIS (see para. 2.29(d)) was completed in June 2020 (i.e. about nine months later than the target completion date of September 2019).*

Selection of buildings for issuance of statutory notices

agreement. It had taken quite some time for Consultant A to tackle the teething problems encountered in liaison with BD's Information Technology Unit at the beginning. Besides, for the notices scanned and uploaded onto BCIS, BD had to verify the softcopy in BCIS. Due to the outbreak of COVID-19 and implementation of special work arrangements in the past few months, this remaining work task was eventually completed in June 2020 while a reminder letter urging rectification of the record scanning in BCIS was also issued to Consultant A in May 2020.

2.32 In Audit's view, BD needs to strengthen actions on monitoring consultants' work for issuing statutory notices under MBIS.

Scope for improving the accuracy in reporting MBIS information

2.33 In May 2019, DEVB informed LegCo's Panel on Development and Panel on Home Affairs that the total number of buildings issued with statutory notices under MBIS up to 2018 was 5,556 buildings. However, Audit noted that the actual number should be 5,308 buildings. In September 2020, BD informed Audit that it had inadvertently reported the figure in its CORs (which referred to the actual number of buildings selected for consideration of issuance of statutory notices — see Note 1(b) to Table 2 in para. 2.7). In Audit's view, BD needs to improve the accuracy in reporting MBIS information.

Audit recommendations

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

- (a) **keep under review the target number of buildings for issuance of statutory notices under MBIS, further streamline MBIS and formulate a long-term strategy for MBIS, having regard to all relevant factors (e.g. operational experience and compliance by the owners of buildings) in implementing MBIS, with a view to achieving MBIS's objective of tackling the problem of building neglect;**

Selection of buildings for issuance of statutory notices

- (b) consider defining more clearly the key performance measure of “buildings targeted for prescribed inspection and, if necessary, prescribed repair under MBIS” in BD’s COR to enhance transparency and public accountability;**
- (c) keep under review the use of the overriding selection criterion for selection of target buildings under MBIS, having regard to other selection criteria (e.g. building condition) under the Building Score System, with a view to achieving MBIS’s objective of tackling the problem of building neglect;**
- (d) incorporate all selection criteria of target buildings under MBIS in BD guidelines;**
- (e) take measures to ensure that all buildings covered by MBIS are scored as needed in accordance with the Building Score System for reviewing purpose;**
- (f) inform the Selection Panel about the number of all buildings BD subsequently deleted after selection by the Panel (including those deleted without replacement) and the reasons for their deletion;**
- (g) take measures to enhance data accuracy in BCIS, thereby providing accurate information for selection of buildings for issuance of statutory notices under MBIS;**
- (h) include in BD guidelines the practice of excluding buildings which have been recently repaired or with voluntary repair works in progress and are in fair condition from selection under MBIS;**
- (i) maintain proper records on BD assessment in respect of buildings excluded from MBIS selection due to repair works recently completed or in progress;**
- (j) strengthen actions on monitoring consultants’ work for issuing statutory notices under MBIS; and**
- (k) improve the accuracy in reporting MBIS information.**

Response from the Government

2.35 The Director of Buildings agrees with the audit recommendations. He has said that:

- (a) to achieve MBIS's objective of tackling the problem of building neglect and in light of operational experience gained and feedback from the stakeholders and the community, BD will continue to regularly review the implementation of MBIS, covering selection criteria under the Building Score System, number of target buildings, streamlining MBIS procedures, enhancement of BCIS to ensure accuracy of relevant records, updating of internal guidelines and enhancement of monitoring of consultants' work;
- (b) since 2019, BD has reported to the Selection Panel the number of all buildings subsequently deleted after selection and the reasons for their deletion, including those deleted without replacement; and
- (c) with effect from September 2020, BD has maintained proper records on assessment in respect of buildings excluded from MBIS selection due to repair works recently completed or in progress.

Promotion of voluntary building inspection

2.36 According to BD, building owners may initiate inspection and repair for their buildings in accordance with the standards and procedures of MBIS voluntarily before the receipt of statutory notices from BD. According to BD guidelines:

- (a) a building being assessed for accreditation under VBAS or a building accredited with satisfactory building safety rating under VBAS with inspection/repair carried out within 10 years will not be selected for MBIS (see para. 2.4(b)); and
- (b) where inspection/repair of a building has been completed in accordance with those prescribed under the Buildings Ordinance on a voluntary basis without joining VBAS and BD is satisfied that the same requirements as those under MBIS are complied with, the concerned building may not be selected for MBIS within 10 years (see para. 2.4(c)).

Need to strengthen actions in promoting voluntary building inspection

2.37 According to BD, from the commencement of MBIS in June 2012 and up to April 2020, for buildings covered by MBIS:

- (a) 41 buildings were being assessed or were accredited under VBAS; and
- (b) 139 buildings were with notifications made to BD for conducting prescribed inspection on a voluntary basis.

2.38 During June to September 2020, BD informed Audit that:

- (a) various public education and publicity activities to promote MBIS (e.g. launching specific Announcements in the Public Interest on television and radio, publishing Building Safety Quarterly, organising of Building Safety Week annually and building safety webinars) had been organised with a view to raising public awareness of the importance of regular building maintenance, thereby prompting more people to carry out timely and necessary building repairs on their own initiative; and
- (b) BD had been actively involved in regular district briefing sessions or talks organised by various parties (e.g. professional organisations, property management companies and other government departments) with a view to further promoting MBIS in the community.

2.39 In Audit's view, in view of the low number of buildings covered by MBIS having participated in voluntary building inspection, BD needs to further promote voluntary building inspection.

Audit recommendation

2.40 Audit has *recommended* that the Director of Buildings should **strengthen actions in promoting voluntary building inspection and encouraging owners to carry out timely and necessary building repair on their own initiative.**

Response from the Government

2.41 The Director of Buildings agrees with the audit recommendation. He has said that BD:

- (a) has launched a new wave of publicity campaign on voluntary regular building inspection and repair by owners in September 2020, including broadcasting an Announcement in the Public Interest on television/radio and through social media and advertisement on public transport; and
- (b) will continue the publicity activities to promote voluntary regular building inspection and repair by owners and encourage owners to carry out timely and necessary building repair on their own initiative.

PART 3: FOLLOW-UP ACTIONS ON COMPLIANCE WITH STATUTORY NOTICES

3.1 This PART examines BD's follow-up actions on compliance with statutory notices under MBIS, focusing on:

- (a) warning letters for non-compliant statutory notices and registration of statutory notices at Land Registry (LR) (paras. 3.4 to 3.16); and
- (b) prosecution actions and default works (paras. 3.17 to 3.33).

3.2 *Administration of statutory notices.* According to BD, upon receipt of a statutory notice under MBIS, the owners/OC of a building should, from the date of the statutory notice:

- (a) appoint an RI within 3 months to carry out the prescribed inspection;
- (b) complete the prescribed inspection within 6 months; and
- (c) complete the prescribed repair found necessary within 12 months.

For buildings without an OC, an extra three months will be provided to the owners to organise and arrange the required inspection and repair works. The specified timeframe for each stage is stated in the statutory notice. BD may also grant extension of time upon requests (substantiated with justifications) from the owners.

3.3 BD will issue compliance letters to the building owners (and copied to RIs) certifying compliance with the statutory notices under MBIS if the prescribed building inspection and the prescribed repair found necessary have been completed and the required certificates and reports are received from RIs. For submissions from RIs selected for audit checks by BD, it will only issue compliance letters if no irregularities are identified in the audit checks or if the irregularities identified in the audit checks are rectified (see para. 1.8).

Warning letters for non-compliant statutory notices and registration of statutory notices at Land Registry

3.4 For non-compliant statutory notices under MBIS, BD has set time targets in its guidelines for issuing warning letters at different stages of building inspection and repair. According to BD guidelines, warning letters should be issued to the building owners for non-compliance of statutory notices within one month after the dates specified in the statutory notices for each stage, including:

- (a) failing to appoint an RI to commence the prescribed inspection;
- (b) failing to submit certificate of building inspection or inspection report; and
- (c) failing to submit certificate of building repair or completion report.

The warning letters should also be copied to the appointed RI for (b) and (c) above. In case the non-compliance continues without reasonable excuse after issuance of the warning letters, BD should instigate prosecution actions against the owners. Under special circumstances, BD may also arrange for the required inspection and repair works to be carried out by its consultants and contractors.

3.5 Up to April 2020, BD had issued a total of 82,177 statutory notices under MBIS (see Table 3).

Table 3**Number of statutory notices issued under MBIS
(January 2013 to April 2020)**

Year	Number of statutory notices
2013 (Note)	14,785
2014	18,027
2015	11,674
2016	5,527
2017	12,491
2018	11,009
2019	8,605
2020 (up to April)	59
Total	82,177

Source: BD records

Note: Full implementation of MBIS commenced in June 2012 with the first batch of statutory notices issued in January 2013.

Warning letters not timely issued

3.6 According to BCIS records, as at 30 April 2020, of the 82,177 statutory notices issued under MBIS:

- (a) 12,585 (15%) statutory notices had been withdrawn or superseded (Note 33);

Note 33: *According to BD, statutory notices might be withdrawn (e.g. projections of the premises had been removed) or superseded by new notices (e.g. ownership of the premises had been changed).*

Follow-up actions on compliance with statutory notices

- (b) 9,314 (11%) statutory notices were not yet due (i.e. with completion due dates (Note 34) after 30 April 2020) and not yet complied with; and
- (c) for the remaining 60,278 (74%) statutory notices, 35,639 (59% of 60,278) notices had been complied with and 24,639 (41% of 60,278) notices had not been complied with (see Table 4).

Table 4

**Compliance with statutory notices under MBIS
(30 April 2020)**

Elements	Number of statutory notices		
	Complied with (Note) (a)	Not complied with (Note) (b)	Total (c) = (a) + (b)
At common parts	955 (19%)	4,191 (81%)	5,146 (100%)
Owned by individual owners	34,684 (63%)	20,448 (37%)	55,132 (100%)
Overall	35,639 (59%)	24,639 (41%)	60,278 (100%)

Source: BD records

Note: For statutory notices complied with, they included notices with completion due dates after 30 April 2020 (i.e. not yet due at the cut-off date of this Table) that had been complied with. For statutory notices not complied with, they refer to those non-compliant notices with completion due dates on or before 30 April 2020.

3.7 Audit's ageing analysis of the 24,639 non-compliant statutory notices (see para. 3.6(c)) revealed that, as at 30 April 2020, 13,063 (53%) statutory notices had remained outstanding for more than 3 years and up to 6.5 years after completion due dates (see Table 5).

Note 34: Completion due date refers to the date specified in a statutory notice for completion of prescribed repair or the date with extension of time granted by BD, whichever is the later.

Follow-up actions on compliance with statutory notices

Table 5

Ageing analysis of non-compliant statutory notices under MBIS (30 April 2020)

Time elapsed (Note)	Number of non-compliant statutory notices		
	At common parts	Owned by individual owners	Overall
	(a)	(b)	(c) = (a) + (b)
1 year or less	954 (23 %)	4,607 (23 %)	5,561 (23 %)
More than 1 year to 3 years	1,236 (29 %)	4,779 (23 %)	6,015 (24 %)
More than 3 years to 5 years	1,288 (31 %)	6,689 (33 %)	7,977 (32 %)
More than 5 years to 6.5 years	713 (17 %)	4,373 (21 %)	5,086 (21 %)
	2,001 (48 %)	11,062 (54 %)	13,063 (53 %)
Total	4,191 (100 %)	20,448 (100 %)	24,639 (100 %)

Source: Audit analysis of BD records

Note: Time elapsed was counted from completion due date of the statutory notice to 30 April 2020.

3.8 For non-compliant statutory notices, BD will issue warning letters to the owners concerned. According to BCIS records, as at 30 April 2020, of these 24,639 non-compliant statutory notices, warning letters had been issued to owners for 17,698 (72%) statutory notices (Note 35) and no warning letters had been issued to

Note 35: *According to BD guidelines, warning letters should be issued to the building owners for non-compliance of statutory notices within one month after the dates specified in the statutory notices for each stage (see para. 3.4). Audit could not ascertain whether warning letters had been issued in a timely manner for these 17,698 non-compliant statutory notices as BCIS only recorded the issue date of the latest warning letters and overwrote those of previous letter(s) if any (see also Audit's findings on BCIS records in para. 3.14(a)).*

Follow-up actions on compliance with statutory notices

owners for the remaining 6,941 (28%) statutory notices. For almost all (6,862 (99%)) of these 6,941 notices, more than one month had elapsed after completion due dates (see Table 6), thus not meeting the time target of issuing warning letter within one month set out in BD guidelines (see para. 3.4). In fact, some of them were very long-outstanding cases (e.g. time elapsed for 621 notices was more than 5 years and up to 6.5 years).

Table 6

**Non-compliant statutory notices under MBIS
without warning letters issued to owners
(30 April 2020)**

Time elapsed (Note)	Number of non-compliant statutory notices without warning letters issued
1 month or less	79 (1%)
More than 1 month to 1 year	2,249 (32%)
More than 1 year to 3 years	1,934 (28%)
More than 3 years to 5 years	2,058 (30%)
More than 5 years to 6.5 years	621 (9%)
Total	6,941 (100%)

Source: Audit analysis of BD records

Note: Time elapsed was counted from completion due date of the statutory notice to 30 April 2020.

3.9 In September and October 2020, BD informed Audit that:

- (a) for issuing warning letters for non-compliant statutory notices, BD's priority was focused on those cases without appointment of RIs; and
- (b) even though the progress of issuance of warning letters was greatly affected due to the outbreak of COVID-19 and implementation of special work arrangements, BD had issued warning letters for 2,517 non-compliant statutory notices between 1 May and 4 September 2020. In addition, BD

found that warning letters had been issued for 112 notices on or before 30 April 2020 without updating BCIS records. Accordingly, as at 4 September 2020, the number of non-compliant notices without warning letters issued was reduced from 6,941 notices to 4,312 (i.e. 6,941 – 2,517 – 112) notices.

3.10 Audit noted that some statutory notices had been outstanding for a long time (see para. 3.7), and warning letters had not been issued to the owners for some non-compliant statutory notices (see para. 3.8). In Audit's view, BD needs to closely monitor the compliance with statutory notices under MBIS and take appropriate follow-up actions (e.g. issuing warning letters) on non-compliant cases (see also paras. 3.21 to 3.31 for Audit's findings on prosecution actions and default works on non-compliant statutory notices).

Need to make timely registration of statutory notices at LR

3.11 According to BD guidelines (revised in April 2018), under MBIS, for statutory notices served on the common parts of a building, a certified true copy should be sent to LR for registration within one month upon posting of the notices on site in order to facilitate the enforcement action on non-compliance of notices. For notices served on individual owners, it is not necessary to cause the notices to be registered at LR unless non-compliance is noted and default works are to be carried out.

3.12 According to BCIS records, regarding the registration at LR of statutory notices under MBIS issued on the common parts of the buildings from April 2018 to March 2020, as of April 2020, 1,406 notices had been registered at LR and 187 notices had not been registered at LR. Audit noted that some statutory notices had not been timely referred to LR for registration, as follows:

- (a) for the 1,406 statutory notices registered at LR, as BCIS only recorded the referral dates for 467 (33% of 1,406) notices, Audit could only examine these 467 notices. Audit found that 304 (65% of 467) notices had only been referred to LR for registration more than 1 month and up to 11 months after issuance of the notices (i.e. not meeting the time target of referring to LR within one month set out in BD guidelines (see para. 3.11)); and

Follow-up actions on compliance with statutory notices

- (b) for the 187 statutory notices not registered at LR, BD informed Audit during August to October 2020 that:
 - (i) 57 (31%) statutory notices had been referred to LR for registration (comprising 11 notices referred to LR by April 2020 and 46 notices referred to LR in June and July 2020);
 - (ii) 51 (27%) statutory notices had been registered at LR but the related BCIS records had not been updated as of April 2020 (the related BCIS records were updated in September 2020);
 - (iii) 14 (7%) statutory notices had data entry problems in BCIS (e.g. the notices were served on projections but incorrectly recorded in BCIS as notices served on common parts of the buildings) and were not required to be registered at LR (the related BCIS records were rectified in October 2020); and
 - (iv) the remaining 65 (35%) statutory notices were not required to be registered at LR due to various reasons (e.g. notices to be withdrawn or superseded).

3.13 In Audit's view, BD needs to strengthen actions to ensure that statutory notices served on the common parts of a building under MBIS are timely referred to LR for registration in accordance with its guidelines.

Scope for enhancing BCIS records

3.14 BD maintains information of statutory notices under MBIS in BCIS. Audit noted that there was scope for enhancing BCIS records, as follows:

- (a) ***Need to consider enhancing BCIS to record information of all warning letters issued and to timely update BCIS records for warning letters issued.***
In its guidelines, BD has set time target of issuing warning letters for non-compliant statutory notices within one month for each stage as specified in the notices (see para. 3.4). Regarding BCIS records for warning letters issued, BD informed Audit in June and October 2020 that:

Follow-up actions on compliance with statutory notices

- (i) only the issue date of the latest warning letter would be kept in BCIS (i.e. the issue date(s) of the previous warning letter(s), if any, recorded in BCIS would be overwritten); and
- (ii) BCIS records for the issuance of warning letters for 112 non-compliant statutory notices had not been timely updated (see para. 3.9(b)).

In Audit's view, BD needs to consider enhancing BCIS to record information of all warning letters issued for non-compliant statutory notices under MBIS and take measures to ensure that BCIS records for warning letters issued are timely updated; and

- (b) ***Need to improve record keeping for registration of statutory notices at LR.*** Audit noted that for 939 (67%) of 1,406 statutory notices registered at LR (see para. 3.12(a)), their referral dates to LR were not updated in BCIS as of April 2020. In addition, BCIS records were not timely updated and some statutory notices had data entry problems in BCIS (see para. 3.12(b)(ii) and (iii)). In Audit's view, BD needs to strengthen actions to ensure that information about registration of statutory notices under MBIS at LR is accurately and timely updated in BCIS.

Audit recommendations

3.15 Audit has recommended that the Director of Buildings should:

- (a) **closely monitor the compliance with statutory notices under MBIS and take appropriate follow-up actions (e.g. issuing warning letters) on non-compliant cases;**
- (b) **strengthen actions to ensure that statutory notices served on the common parts of a building under MBIS are timely referred to LR for registration in accordance with BD guidelines;**
- (c) **consider enhancing BCIS to record information of all warning letters issued for non-compliant statutory notices under MBIS and take measures to ensure that BCIS records for warning letters issued are timely updated; and**

Follow-up actions on compliance with statutory notices

- (d) strengthen actions to ensure that information about registration of statutory notices under MBIS at LR is accurately and timely updated in BCIS.

Response from the Government

3.16 The Director of Buildings agrees with the audit recommendations. He has said that:

- (a) BD's Progress Monitoring Committee will continue to monitor the compliance with the statutory notices under MBIS, and the progress of the follow-up actions has been regularly monitored in BD's Sectional Progress Monitoring Meetings; and
- (b) BCIS will be enhanced to ensure timely referral of the statutory notices served on the common parts of a building to LR for registration, timely issue of warning letters as well as timely and accurate updates of registration records of statutory notices at LR.

Prosecution actions and default works

3.17 **Prosecution actions.** According to BD, to create an effective deterrent and to enhance respect for the law and the responsibility of the building owners in carrying out regular maintenance for their own properties, prosecution actions should normally be instigated in case of non-compliance with statutory notices under MBIS without reasonable excuse. These cases may be referred to BD Legal Services Section (under the Corporate Services Division) or Fast Track Prosecution Teams (since January 2019 — Note 36) (collectively referred to as prosecution teams), which will arrange for issuance of summonses on the related building owners for warranted cases. According to BD guidelines, prior to instigating prosecution actions for non-compliant statutory notices under MBIS, the owners should be warned by a warning letter. Prosecution should be instigated taking into account the following:

Note 36: *In January 2019, BD set up Fast Track Prosecution Teams in MBI Sections (with staff deployed from BD Legal Services Section) to expedite prosecution on non-compliant statutory notices under MBIS. Before January 2019, non-compliant statutory notices were referred to BD Legal Services Section for prosecution.*

Follow-up actions on compliance with statutory notices

- (a) immediate referral for prosecution should be made for long-outstanding cases or blatant cases;
- (b) prosecution actions should be instigated according to the chronological order of the non-compliant statutory notices;
- (c) for non-compliant statutory notices served on elements owned by individual owners of a building, higher priority for prosecution should be accorded; and
- (d) for non-compliant statutory notices served on common parts of a building, prosecution actions against OC or co-owners should only be considered if there is evidence showing that they have not taken any positive action to organise the prescribed inspection and the prescribed repair.

3.18 Under the Buildings Ordinance, a person who, without reasonable excuse, fails to comply with a statutory notice under MBIS may be prosecuted and is liable on conviction to a fine of \$50,000 and imprisonment for one year, and a fine of \$5,000 for each day during which it is proved to the satisfaction of the Court that the offence has continued. Up to April 2020, 2,049 non-compliant statutory notices had been referred to prosecution teams for instigating prosecution, of which BD had instigated prosecution against the offenders of 1,162 non-compliant statutory notices under MBIS (Note 37). The defendants of 430 statutory notices had been convicted, and the fines for each of the convicted defendant ranged from \$800 to \$31,700 with no imprisonment imposed.

3.19 **Default works.** If a statutory notice under MBIS is not complied with, BD may also arrange for the required inspection and repair works to be carried out by its consultants and contractors, and then recover the cost of inspection and repair works as well as supervision charge from the owners, together with a surcharge of not exceeding 20% of the cost. According to BD guidelines, BD will firstly take

Note 37: *As of April 2020, of the 2,049 non-compliant statutory notices referred to prosecution teams, prosecution against the offenders of 1,162 (57%) non-compliant statutory notices had been instigated, cases for 649 (32%) non-compliant statutory notices had been returned from prosecution teams to case officers for further follow-up actions, and cases for the remaining 238 (11%) non-compliant statutory notices were still under study.*

Follow-up actions on compliance with statutory notices

prosecution actions against the offenders of non-compliant statutory notices prior to considering the arrangement of default works, but under certain special circumstances (e.g. reasonable excuse provided, building owners passed away or company dissolved), default works should be carried out independently before or in parallel with prosecution as appropriate.

3.20 According to BD, up to April 2020, default works had been arranged for 384 cases (relating to 551 non-compliant statutory notices) for carrying out the required inspection and repair under MBIS, involving a total estimated cost of about \$43.5 million.

Need to continue to step up referral of non-compliant statutory notices to prosecution teams

3.21 Audit conducted an ageing analysis of the 1,071 non-compliant statutory notices that had been referred to prosecution teams in 2019 for instigating prosecution. The analysis shows that 696 (65%) of these non-compliant statutory notices were referred to prosecution teams more than 2 years and up to 6 years after the completion due dates of the statutory notices (see Table 7).

Table 7

**Referral of non-compliant statutory notices under MBIS
to prosecution teams for cases referred in 2019**

Time elapsed (Note)	Number of non-compliant statutory notices referred for prosecution
2 years or less	375 (35%)
More than 2 years to 4 years	319 (30%)
More than 4 years to 6 years	377 (35%)
Total	1,071 (100%)

Source: Audit analysis of BD records

Note: Time elapsed was counted from completion due date of the statutory notice to referral date for prosecution.

3.22 In September and October 2020, BD informed Audit that:

- (a) given the novelty and complexity of MBIS and a general lack of acquaintance with MBIS in the community at the early stage of implementation, BD had focused its resources on providing technical and financial supports to owners and allowing the building owners and practitioners more time to understand MBIS and get prepared in meeting MBIS requirements as well as comprehending their responsibilities and obligations. From 2012 to 2015, BD focused on promotion and public education on MBIS and encouraged building owners to comply with the statutory notices in a voluntary and cooperative manner, and prosecution actions against non-compliant owners at this stage were unlikely to be effective in compelling the owners to discharge their statutory responsibilities for MBIS. Hence, prosecution actions against non-compliant statutory notices were not accorded with priority; and
- (b) after years of publicity on MBIS and taking into account feedback from stakeholders and the community and operational experience gained, BD had stepped up its prosecution actions against non-compliant statutory notices since 2016. In addition, Fast Track Prosecution Teams were set up in early

Follow-up actions on compliance with statutory notices

2019 to streamline and expedite the prosecution actions for non-compliant notices. However, the number of prosecutions that might be instigated each year was far less than the number of outstanding notices. Instigating prosecution actions could only be one of the means to encourage notice compliance. Under the stepped-up prosecution actions, building owners would be more willing and proactive to comply with the statutory notices.

3.23 In Audit's view, BD needs to continue to step up referral of non-compliant statutory notices under MBIS to prosecution teams for instigating prosecution actions and explore opportunities to streamline its prosecution work.

Scope for improving prosecution actions

3.24 As of April 2020, there were 24,639 non-compliant statutory notices under MBIS, including cases which had been outstanding for a long time (see para. 3.7). However, up to April 2020, only 2,049 non-compliant statutory notices had been referred to prosecution teams for instigating prosecution actions (see para. 3.18). Audit noted that there was scope for improvement in the following areas:

- (a) ***Scope for providing further guidelines for identifying blatant cases.*** According to BD guidelines, immediate referral for prosecution should be made for long-outstanding cases or blatant cases (see para. 3.17(a)). However, BD guidelines had not elaborated on what cases should be regarded as blatant cases for immediate referral for prosecution. In view of the substantial number of non-compliant statutory notices and that some of them had been outstanding for a long time (see para. 3.7), Audit considers that there is scope for providing further guidelines (with examples) for identifying blatant cases to facilitate making immediate referral of such cases for prosecution; and
- (b) ***Need to make referral of warranted continuous non-compliant cases for second prosecution.*** According to BD guidelines, after the Court has convicted a building owner for non-compliance with a statutory notice under MBIS, a warning letter should be issued to the owner for taking immediate action to comply with the statutory notice without further delay. Once continuous non-compliance without reasonable excuse is ascertained, immediate referral to the prosecution teams for second prosecution should be made. Up to April 2020, the defendants of 430 non-compliant statutory

notices had been convicted. Audit noted that 130 (30% of 430) statutory notices had not yet been complied with as of April 2020, including 26 statutory notices with non-compliance continuing for more than 1 year and up to 3.5 years after the defendants had been convicted. However, no referral for second prosecution had been made as of April 2020. In August 2020, BD informed Audit that BD would refer blatant cases for second prosecution on a case-by-case basis. In Audit's view, to create an effective deterrent, BD needs to closely monitor the compliance with statutory notices under MBIS for convicted non-compliant cases and make referral of warranted continuous non-compliant cases for second prosecution.

Scope for improvement in addressing issues leading to cases returned from prosecution teams to case officers

3.25 According to BD, for checking whether any cases are suitable for prosecution, upon receipt of the referral of cases for non-compliant statutory notices under MBIS from the case officers, the prosecution teams will screen and carry out detailed study. If there are outstanding matters (see examples in para. 3.26(a) to (f)), the prosecution teams will return the cases to the case officers for further follow-up actions. When all outstanding matters are cleared, prosecution actions may continue.

3.26 Based on BCIS records, up to April 2020, of the 2,049 non-compliant statutory notices under MBIS referred to prosecution teams for instigating prosecution, the cases for 649 (32%) statutory notices had been returned from prosecution teams to case officers for further follow-up actions. According to BD, these 649 statutory notices involved 967 cases (Note 38). Based on BCIS records, the reasons for returning the cases to case officers were as follows:

- (a) new information was noted (403 (42%) cases). According to BD, typical examples included RIs having been appointed before issuing summonses, and outstanding replies to enquiries and requests from building owners (e.g. request for extension of time) by BD;
- (b) there were outstanding replies from case officers to enquiries from the prosecution teams (9 (1%) cases);

Note 38: *According to BD, for a building or premises with multiple owners, a non-compliant statutory notice may involve more than one prosecution case.*

Follow-up actions on compliance with statutory notices

- (c) there were deficiencies in statutory notices or serving of notices (57 (6%) cases). According to BD, typical examples included discrepancies of some information between Chinese and English versions and the notices not posted at the right places;
- (d) related building elements (e.g. projections) had been removed before issuing summonses (153 (15%) cases);
- (e) there was change of ownership before issuing summonses or defendants had passed away (95 (10%) cases); and
- (f) other reasons (250 (26%) cases). According to BD, typical examples included appeal against BD's decision and building owners having obvious and genuine difficulties in complying with statutory notices.

3.27 Audit noted that 649 (32%) of 2,049 non-compliant statutory notices under MBIS referred for prosecution had been returned from prosecution teams to case officers for further follow-up actions (see para. 3.26). Audit also noted that the reasons for some returned cases were outstanding replies to enquiries from building owners and prosecution teams, and deficiencies in statutory notices or serving of notices (see para. 3.26(a) to (c)). In Audit's view, BD needs to take measures to address the issues leading to cases returned from prosecution teams to case officers (e.g. providing timely replies to enquiries from building owners and prosecution teams) with a view to facilitating prosecution actions.

Need to take timely action to recover costs of default works

3.28 According to BD, default works for the required inspection and repair under MBIS had been carried out since 2016. Up to April 2020, default works had been arranged for 384 cases (relating to 551 statutory notices) with a total estimated cost of about \$43.5 million.

3.29 According to BD guidelines, demand notes should be issued to the building owners within six months after completion of default works and settlement should be made within 14 days. As of April 2020, the default works for 14 of the 384 cases had been completed (the remaining 370 cases were in progress). Demand notes had been issued for 8 of the 14 cases (the remaining 6 cases were not yet due for issuance

Follow-up actions on compliance with statutory notices

of demand notes as of April 2020). Of the 8 cases issued with demand notes, Audit noted that:

- (a) while the demand notes for 6 cases were issued within the time target of six months, the demand notes for the remaining 2 cases were issued seven and nine months respectively after completion of default works (i.e. not meeting the time target of issuing demand notes within six months set out in BD guidelines); and
- (b) for 5 cases (including the 2 cases with delay in issuing demand notes in (a) above), as of April 2020, demand notes (involving a total amount of about \$2.7 million) had been overdue for about 7 to 19 months.

3.30 In September 2020, BD informed Audit that BCIS was enhanced in June 2020 to facilitate monitoring the cost recovery actions including timely issuance of demand notes.

3.31 In Audit's view, BD needs to take measures (e.g. making use of the enhanced BCIS monitoring function) to ensure that demand notes for default works for the required inspection and repair under MBIS are issued to building owners within the time limit stipulated in BD guidelines and take follow-up actions on outstanding demand notes.

Audit recommendations

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

- (a) **continue to step up referral of non-compliant statutory notices under MBIS to prosecution teams for instigating prosecution actions and explore opportunities to streamline BD's prosecution work;**
- (b) **provide further guidelines (with examples) for identifying blatant cases of non-compliant statutory notices under MBIS to facilitate making immediate referral of such cases for prosecution;**

Follow-up actions on compliance with statutory notices

- (c) **closely monitor the compliance with statutory notices under MBIS for convicted non-compliant cases and make referral of warranted continuous non-compliant cases for second prosecution;**
- (d) **take measures to address the issues leading to cases returned from prosecution teams to case officers (e.g. providing timely replies to enquiries from building owners and prosecution teams) with a view to facilitating prosecution actions; and**
- (e) **take measures (e.g. making use of the enhanced BCIS monitoring function) to ensure that demand notes for default works for the required inspection and repair under MBIS are issued to building owners within the time limit stipulated in BD guidelines and take follow-up actions on outstanding demand notes.**

Response from the Government

3.33 The Director of Buildings agrees with the audit recommendations. He has said that:

- (a) BD will continue to step up enforcement action through prosecution so as to boost up voluntary compliance with statutory notices under MBIS and to explore measures to streamline and facilitate BD's prosecution work, especially for the blatant cases and continuous non-compliant cases; and
- (b) BCIS was enhanced in June 2020 for closely monitoring the action to recover the costs of default works.

PART 4: MONITORING OF REGISTERED INSPECTORS' SUBMISSIONS

4.1 This PART examines BD's work in monitoring RIs' submissions under MBIS, focusing on:

- (a) checking of MBIS submissions (paras. 4.2 to 4.17); and
- (b) record keeping of MBIS submissions and checking results (paras. 4.18 to 4.26).

Checking of Mandatory Building Inspection Scheme submissions

4.2 ***MBIS submissions.*** Under MBIS, the owners served with statutory notices are required to appoint RIs and complete the prescribed inspection and the prescribed repair found necessary within specified timeframe (see para. 3.2). RIs are responsible for carrying out the prescribed inspection and/or supervision of the prescribed repair (Note 39). BD has kept an inspectors' register (Note 40) and established a regulatory mechanism under the Buildings Ordinance for monitoring RIs under MBIS. According to the Building (Inspection and Repair) Regulation, an RI should submit the following documents to BD:

- (a) a notification of appointment of RI within 7 days after the date of appointment;
- (b) a certificate of building inspection together with an inspection report within 7 days after completion of the prescribed building inspection in respect of a building; and

Note 39: *Under the supervision of RIs, RCs are responsible for carrying out the necessary rectification and repair works.*

Note 40: *The Registration Unit of Technical Services Section (under the Corporate Services Division) is responsible for application and registration of RIs.*

Monitoring of registered inspectors' submissions

- (c) a certificate of building repair together with a completion report within 14 days after completion of the prescribed building repair for supervision of repair works.

4.3 ***Procedures for BD's audit checks of MBIS submissions.*** According to BD, to ensure that the inspection and repair works have been carried out in accordance with the Buildings Ordinance, it issues detailed guidelines through the relevant Code of Practice and Practice Notes and conducts checking on MBIS submissions. According to BD guidelines, upon receipt of RIs' MBIS submissions, BD clerical grade staff will conduct fundamental check on the submissions (e.g. verification of the registration status of RI against the record as shown in the inspectors' register). After the fundamental check, the submissions will be selected for audit checks by BD, as follows:

- (a) ***Selection of MBIS submissions for BD's audit checks.*** BD will select 10% of certificates of building inspection for audit checks (see para. 4.13). If the certificates of building inspection selected for audit checks by BD indicate that building repair is required, audit checks should also be carried out upon receipt of the related certificates of building repair;
- (b) ***Document audit.*** For selected submissions, BD will conduct document audit on submissions received to verify compliance with the scopes and requirements under the Buildings Ordinance, the Code of Practice and Practice Notes;
- (c) ***Site audit.*** BD will also conduct site audit on selected submissions to verify the accuracy of the reports submitted with regard to the actual building condition. BD staff will issue letters to the building owners notifying them that their premises have been selected for site audit and then arrange site inspection as follows:
 - (i) if there are responses from the building owners, site inspection to the premises should be arranged within two weeks;
 - (ii) if there is no response from the building owners after two weeks, BD staff should visit the premises within the following two weeks, and in case of no entry, leave a contact slip requesting arrangement of access for inspection; and

- (iii) if there is no response from the building owners two weeks after serving the contact slip or the owners refuse to provide access, the site audit will be dropped; and
- (d) **Record keeping.** The results of the document and site audits will be recorded on a standard manual checklist (with results indicated as satisfactory, unsatisfactory or dropped (for site audit)), which is filed in subject files. BD will also record the results of its audit checks in BCIS.

4.4 **Follow-up actions on irregularities identified.** According to BD guidelines, BD will take the following actions for irregularities identified during its audit checks of RIs' MBIS submissions (Note 41):

- (a) for irregularities that are of minor nature without causing danger (e.g. existing building defects omitted in the repair but unlikely to cause injury or damage) or missing or unclear information in the submitted documents, BD will issue a reminder letter to the related RI requesting clarification and/or rectification. In case there is no positive response from the RI within one month or the time limit set out in the reminder letter, BD should issue a warning letter to the related RI;
- (b) when the audit checks reveal that an RI has failed to discharge the duties or abide by the requirements imposed under the Buildings Ordinance (e.g. not carrying out the prescribed inspection personally, not providing proper supervision to the prescribed repair and not ensuring that the building is safe), BD will conduct an investigation and collect evidence with a view to initiating prosecution or disciplinary action against the related RI under the Buildings Ordinance (Note 42). In case there is insufficient evidence to

Note 41: *According to BD, it may take appropriate follow-up actions (e.g. issuing reminder letters or warning letters and instigating prosecution or disciplinary actions) against RCs if they have any irregularities.*

Note 42: *Under the Buildings Ordinance, penalties for offences under MBIS include, for example, an RI who fails to carry out prescribed inspection personally or provide proper supervision of the carrying out of the prescribed repair is liable on conviction to a fine of \$250,000, and an RI who fails to ensure that the building is safe or has been rendered safe is liable on conviction to a fine of \$1,000,000 and imprisonment for three years.*

Monitoring of registered inspectors' submissions

initiate prosecution or disciplinary action against the RI and with the advice of prosecution teams, a warning letter should be issued to the related RI; and

- (c) BD will maintain a watch list on RIs with warning letters issued and RIs convicted for close monitoring of the performance of the RIs concerned, and randomly select one specified submission from the RIs on the watch list for further audit checks in addition to the normal sampling (see para. 4.3(a)) in the following quarter.

4.5 BD also receives public reports about poor performance of RIs under MBIS. Upon receiving such reports, BD will conduct investigations and take follow-up actions on irregularities identified which are the same as those stated in paragraph 4.4. According to BD, since commencement of MBIS in June 2012 and up to April 2020, there were five cases with investigations conducted on the irregularities and mal-practice of RIs under MBIS, of which one case was found substantiated for prosecution and the related RI was convicted for failing to provide proper supervision of the carrying out of the prescribed repair with a fine of \$3,000.

Some MBIS submissions not timely submitted

4.6 According to the Building (Inspection and Repair) Regulation, an RI should submit various documents to BD within specified timeframe for the prescribed inspection and the prescribed repair under MBIS (see para. 4.2). However, Audit noted that some submissions were not timely submitted by RIs based on BCIS records (see also paras. 4.20 and 4.21 for Audit's findings on BCIS records), as follows:

- (a) ***Submissions after building inspection.*** According to BCIS records, BD received 7,408 certificates of building inspection from RIs under MBIS in 2019. Audit found that 3,860 (52%) certificates were received by BD more than 7 days and up to 4.5 years (averaging 56 days) after completion of building inspection (see Table 8), not meeting the 7-day statutory requirement (see para. 4.2(b));

Monitoring of registered inspectors' submissions

Table 8

**MBIS submissions after building inspection
(2019)**

Time elapsed (Note)	Number of certificates of building inspection	
7 days or less	3,548	(48 %)
More than 7 days to 1 month	2,468	(33 %)
More than 1 month to 6 months	1,091	(14 %)
More than 6 months to 1 year	219	(3 %)
More than 1 year to 2 years	63	(1 %)
More than 2 years to 4.5 years	19	(1 %)
Total	7,408	(100 %)

Source: Audit analysis of BD records

Note: The time elapsed was counted from completion date of building inspection to date of receipt of RIs' certificate of building inspection by BD.

- (b) **Submissions after building repair.** According to BCIS records, BD received 607 certificates of building repair from RIs under MBIS in 2019. Audit found that 238 (39%) certificates were received by BD more than 14 days and up to 4.5 years (averaging 162 days) after completion of building repair (see Table 9), not meeting the 14-day statutory requirement (see para. 4.2(c)); and

Monitoring of registered inspectors' submissions

Table 9

MBIS submissions after building repair (2019)

Time elapsed (Note)	Number of certificates of building repair	
14 days or less	369	(61%)
More than 14 days to 1 month	68	(11%)
More than 1 month to 6 months	119	(20%)
More than 6 months to 1 year	20	(3%)
More than 1 year to 2 years	19	(3%)
More than 2 years to 4.5 years	12	(2%)
Total	607	(100%)

Source: Audit analysis of BD records

Note: The time elapsed was counted from completion date of building repair to date of receipt of RIs' certificate of building repair by BD.

- (c) **Notification of appointment of RI.** Under MBIS, an RI is required to submit the notification of appointment of RI to BD within 7 days after the day of appointment as set out in the statutory requirement (see para. 4.2(a)). However, BD had not maintained the appointment dates of RIs in BCIS and no analysis could be performed (see also para. 4.24 for Audit's findings on BCIS records).

4.7 In Audit's view, BD needs to take measures to strengthen monitoring of RIs' MBIS submissions (e.g. issuing reminder letters or warning letters for MBIS submissions found not complying with the statutory submission time limit).

***Long time taken to complete BD's audit checks
for some MBIS submissions***

4.8 BD maintains the results of its audit checks in BCIS (see para. 4.3(d)). According to BCIS records, in 2019, BD completed audit checks for 1,174 MBIS submissions and their results were as follows:

- (a) for 76 (6%) submissions, the results of document and/or site audits were unsatisfactory;
- (b) for 717 (61%) submissions, while the results of document audits were satisfactory, the site audits were dropped due to refusal or no response from the building owners (see para. 4.3(c)(iii)); and
- (c) for 381 (33%) submissions, the results of both document and site audits were satisfactory.

4.9 For the 1,174 MBIS submissions with BD's audit checks completed in 2019, Audit found that BD's audit checks of 213 (18%) submissions were completed more than 1 year and up to 5 years (averaging 1.8 years) after receipt of submissions by BD (see Table 10).

Table 10

BD's audit checks for MBIS submissions completed in 2019

Time taken to complete audit check (Note)	Number of submissions with audit checks completed
6 months or less	757 (65%)
More than 6 months to 1 year	204 (17%)
More than 1 year to 2 years	163 (14%)
More than 2 years to 4 years	43 (3%)
More than 4 years to 5 years	7 (1%)
Total	1,174 (100%)

Source: Audit analysis of BD records

Note: The time taken was counted from receipt date of submission to completion date of audit check.

Monitoring of registered inspectors' submissions

4.10 In Audit's view, as timely completion of BD's audit checks will facilitate prompt identification and rectification of irregularities, BD needs to take measures to complete its audit checks for MBIS submissions as soon as practicable. In this connection, Audit noted that BD had not set time target for completing audit checks of MBIS submissions in its guidelines. In Audit's view, BD needs to consider setting time target for completing its audit checks for MBIS submissions.

Need to take timely follow-up actions on irregularities identified during BD's audit checks

4.11 Audit examined the subject files for 10 submissions (out of the 76 submissions with BD's audit checks completed in 2019 and with unsatisfactory results (see para. 4.8(a)) and noted that the irregularities for 4 submissions had been rectified as of April 2020. Regarding the remaining 6 submissions with irregularities not yet rectified as of April 2020:

- (a) for 5 submissions, BD had issued reminder letters to the related RIs regarding the irregularities identified during its audit checks. While the RIs had failed to provide a response within the time limit set out in the reminder letters (exceeding the time limit by 6 to 14 months, averaging 9 months), BD had not issued warning letters to the RIs up to April 2020, contrary to the requirements under BD guidelines (see para. 4.4(a)); and
- (b) for the remaining submission, according to the subject file, the results of the audit checks were satisfactory with no irregularities identified. However, the results were incorrectly recorded in BCIS as unsatisfactory (see also para. 4.22 for Audit's findings on BCIS records).

4.12 In Audit's view, BD needs to take timely follow-up actions on irregularities identified during its audit checks for MBIS submissions (including issuing reminder letters or warning letters to the related RIs) in accordance with its guidelines. In this connection, Audit noted that BD had not set time target for issuing reminder letters for irregularities identified during its audit checks for MBIS submissions in its guidelines. In Audit's view, BD needs to consider setting such time target.

Need to keep under review effectiveness of the new measure for increasing the successful rate of site audits

4.13 There are both document audit and site audit for MBIS submissions selected by BD for its audit checks (see para. 4.3(b) and (c)). According to BD guidelines (last revised in August 2019):

- (a) 10% of certificates of building inspection under MBIS will be selected for audit checks in order to achieve a successful rate of 2.5% (i.e. completion of both document and site audits — Note 43) of the total certificates of building inspection submitted; and
- (b) the sampling rate of 10% is subject to review each year for achieving the successful rate of 2.5%.

4.14 According to BD, document audit will be conducted for all submissions selected for audit checks while site audit may be dropped due to refusal or no response from the building owners (see para. 4.3(c)(iii)). Site audit could only be completed when BD staff have entered the premises and carried out inspection successfully.

4.15 Audit noted that BD staff carried out site audits for MBIS submissions during office hours. According to BD, one major reason for not gaining entry into the selected premises was due to the owner/occupant not available during office hours. In order to increase the successful rate of site audits, BD had engaged a consultant to carry out site audits for MBIS submissions (during office and non-office hours) since September 2020. In Audit's view, BD needs to keep under review the effectiveness of this measure in increasing the successful rate of site audits.

Note 43: *According to BD, the successful rate of 2.5% was newly introduced and incorporated in BD guidelines in August 2019 in order to reflect the real situation of site audit (the actual successful rate was 2.5% in 2017 and 2018).*

Audit recommendations

- 4.16 **Audit has *recommended* that the Director of Buildings should:**
- (a) **take measures to strengthen monitoring of RIs' MBIS submissions (e.g. issuing reminder letters or warning letters for MBIS submissions found not complying with the statutory submission time limit);**
 - (b) **take measures to complete BD's audit checks for MBIS submissions as soon as practicable;**
 - (c) **consider setting time target for completing BD's audit checks for MBIS submissions;**
 - (d) **take timely follow-up actions on irregularities identified during BD's audit checks for MBIS submissions (including issuing reminder letters or warning letters to the related RIs) in accordance with BD guidelines;**
 - (e) **consider setting time target for issuing reminder letters for irregularities identified during BD's audit checks for MBIS submissions; and**
 - (f) **keep under review the effectiveness of the measure of engaging a consultant to carry out site audits for MBIS submissions during office and non-office hours in increasing the successful rate of site audits.**

Response from the Government

4.17 The Director of Buildings agrees with the audit recommendations. He has said that:

- (a) the progress of BD's audit checks has been regularly monitored in BD's Sectional Progress Monitoring Meetings;
- (b) the relevant internal instructions will be updated to include the time targets for completing BD's audit checks and issuing reminder letters for irregularities identified from audit checks;

- (c) BCIS will be enhanced to monitor RIs' MBIS submissions and issue of reminder letters and warning letters to RIs concerned; and
- (d) BD engaged a consultant in September 2020 to carry out site audits during office and non-office hours and will review the efficiency of this arrangement in due course.

Record keeping of Mandatory Building Inspection Scheme submissions and checking results

4.18 Under MBIS, RIs are required to submit to BD various documents during different stages of building inspection and repair (see para. 4.2). BD records in BCIS the receipt of notification of appointment of RI, certificates of building inspection and certificates of building repair for the statutory notices. BD also maintains in BCIS the results of its audit checks of RIs' submissions (see para. 4.3(d)). According to BD, the objectives of BCIS include providing:

- (a) an effective means of recording, processing and retrieving details of statutory notices and orders;
- (b) timely and up-to-date information on the status of statutory notices and orders for internal monitoring and handling of enquiries; and
- (c) enquiries and statistical reporting facilities for operational and planning purposes.

4.19 According to BD, to enhance transparency, information about the issuance and compliance status of statutory notices under MBIS has been uploaded onto BD's website and a mobile application (mobile app) for searching by the public. According to BD guidelines, as the relevant information of statutory notices under MBIS is directly converted from BCIS to BD's website and mobile app, it is vital that the data maintained in BCIS is complete, accurate and timely.

Discrepancies in BCIS records

4.20 RIs are required to submit to BD various documents under MBIS. According to BD guidelines, statutory notices under MBIS are considered to be complied with if notification of appointment of RI, certificates of building inspection and certificates of building repair (if necessary) have been received by BD. According to BCIS records, as of April 2020, a total of 35,639 statutory notices issued under MBIS had been complied with (see para. 3.6(c)). However, Audit noted that there were no BCIS records for the receipt of some of the required submissions for some of these statutory notices, as follows:

- (a) for 4,747 (13%) statutory notices, there were no BCIS records for receipt of the notification of appointment of RI for building inspection and repair (Note 44);
- (b) for 1,314 (4%) statutory notices, there were no BCIS records for receipt of certificates of building inspection; and
- (c) for 596 (2%) statutory notices, while there were BCIS records for receipt of certificates of building inspection indicating the need for building repair, there were no BCIS records for receipt of certificates of building repair.

4.21 Given BCIS's objective of providing timely and up-to-date information on the status of statutory notices for internal monitoring and reporting (see para. 4.18) and the direct uploading of compliance status of statutory notices from BCIS to BD's website and mobile app for public searching (see para. 4.19), in Audit's view, BD needs to review the record keeping in BCIS for receipt of MBIS submissions and the compliance with statutory notices with a view to ensuring that the records are accurate, complete and up-to-date (including the discrepancies in BCIS records as identified by Audit in paragraph 4.20).

Note 44: *Of the 4,747 statutory notices: (a) for 638 notices, there were no BCIS records for receipt of certificates of building inspection (see para. 4.20(b)); and (b) for 68 notices, there were no BCIS records for receipt of the required certificates of building repair (see para. 4.20(c)).*

Need to ensure that BD's audit check results on MBIS submissions are accurately recorded in BCIS and scope for making use of BCIS for compiling management information for such results

4.22 Audit noted that results of BD's audit checks on MBIS submissions (for one out of 10 submissions examined by Audit) were inaccurately recorded in BCIS (see para. 4.11(b)). Audit also noted that BD had not regularly compiled management information (e.g. highlights or summaries) on its audit check results of MBIS submissions, including:

- (a) nature and seriousness of irregularities found; and
- (b) follow-up actions taken for submissions with irregularities found (e.g. reminder letters and/or warning letters issued).

4.23 In Audit's view, BD needs to take measures to ensure that its audit check results on MBIS submissions are accurately recorded in BCIS. BD also needs to make use of BCIS to regularly compile management information (e.g. highlights or summaries) on its audit check results of MBIS submissions to facilitate monitoring of operation and effectiveness of MBIS.

Scope for enhancing BCIS for maintaining appointment date of RI

4.24 Audit noted that, while there was statutory requirement for RIs to submit to BD a notification of appointment of RI within 7 days after the date of appointment, BD had not maintained the appointment dates of RIs in BCIS (see para. 4.6(c)) as there was no data field for recording such information. In Audit's view, BD needs to consider enhancing BCIS to maintain such information to facilitate the monitoring of compliance with the statutory requirement on the time limit for notification of appointment of RIs.

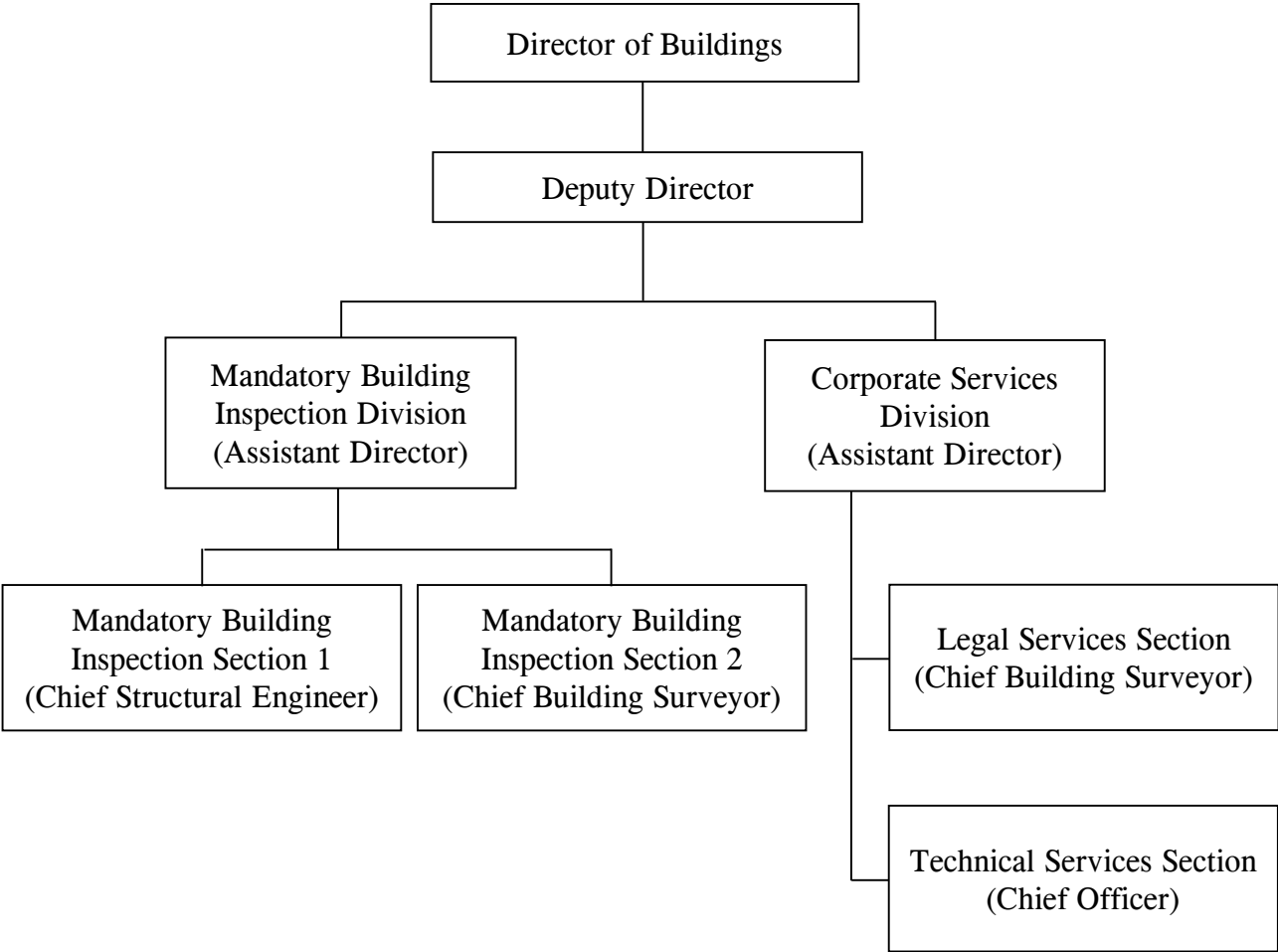
Audit recommendations

- 4.25 **Audit has *recommended* that the Director of Buildings should:**
- (a) **review the record keeping in BCIS for receipt of MBIS submissions and the compliance with statutory notices with a view to ensuring that the records are accurate, complete and up-to-date (including the discrepancies in BCIS records as identified by Audit in paragraph 4.20);**
 - (b) **take measures to ensure that BD's audit check results on MBIS submissions are accurately recorded in BCIS;**
 - (c) **make use of BCIS to regularly compile management information (e.g. highlights or summaries) on BD's audit check results of MBIS submissions to facilitate monitoring of operation and effectiveness of MBIS; and**
 - (d) **consider enhancing BCIS to maintain information on appointment dates of RIs to facilitate the monitoring of compliance with the statutory requirement on the time limit for notification of appointment of RIs.**

Response from the Government

4.26 The Director of Buildings agrees with the audit recommendations. He has said that BCIS will be enhanced to ensure proper record of the essential information of MBIS submissions, including appointment dates of RIs, receipt dates of notifications of appointment of RI, certificates of building inspection/repair and BD's audit check results.

**Buildings Department:
Organisation chart (extract)
(31 March 2020)**



Source: BD records

Acronyms and abbreviations

Audit	Audit Commission
BCIS	Building Condition Information System
BD	Buildings Department
COR	Controlling Officer's Report
DEVB	Development Bureau
LegCo	Legislative Council
LR	Land Registry
MBI	Mandatory Building Inspection
MBIS	Mandatory Building Inspection Scheme
OC	Owners' corporation
RC	Registered contractor
RI	Registered inspector
UBWs	Unauthorised building works
VBAS	Voluntary Building Assessment Scheme