

The background is a solid purple color with several overlapping, semi-transparent purple geometric shapes, primarily parallelograms and trapezoids, creating a layered effect. White lines are scattered across the page, some forming a path that leads towards the central text, while others are isolated. A prominent white trapezoidal shape is located at the bottom of the page.

**PART III**

**OMBUDSMAN ACTIONS**



## PART III

# OMBUDSMAN ACTIONS

### I. Introduction

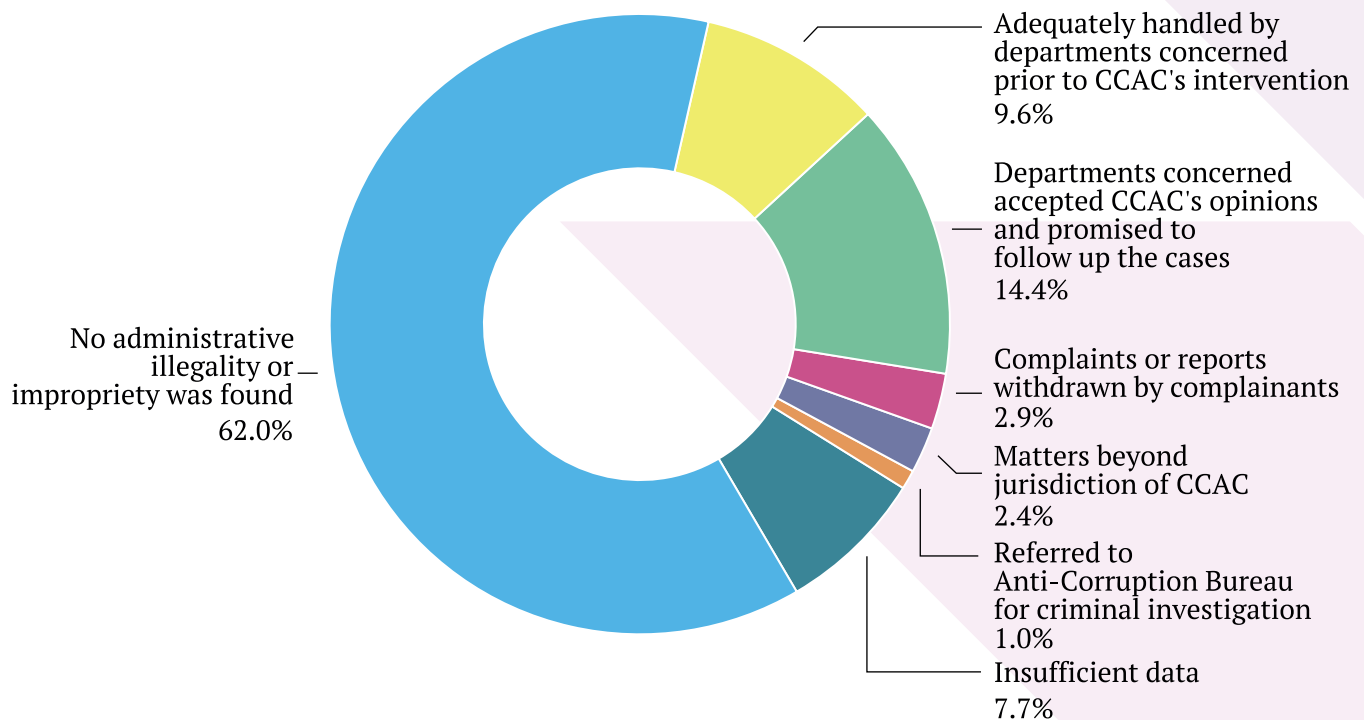
In the wake of development of electronic governance, the CCAC has been gradually perfecting the online complaint system by consolidating the basic functions such as points to note, content of the complaint/report, submission of documents or missing documents and enquiry into follow-up progress, among others, into the system in order to provide residents with a more convenient complaint channel.

Among the 171 cases placed on file by the Ombudsman Bureau of the CCAC in 2022, 169 were under inquiries, while the remaining two were under comprehensive investigations or were converted into comprehensive investigation files later. Half of the cases were complaints or reports received through the online complaint system. As to the real-name complainants or informants who have provided their contact information online, the CCAC may notify them of the follow-up progress or communicate with them for evidence collection through the online complaint system whenever necessary in the course of the investigation or in the completion phase of investigation, thus achieving the effect as in-person notification.

As to anonymous complaints or reports, the CCAC seeks the possibility of further communication and evidence collection through the online complaint system. When the complainants or informants use the respective enquiry codes provided by the system to check follow-up progresses, they may receive or reply the messages from the CCAC. The CCAC always encourages residents to provide all relevant documents so that the investigation will be well targeted, whereby the CCAC may verify whether administrative illegalities or improprieties exist and thus address the problems with the right remedies by rendering more precise opinions or recommendations to the relevant departments or entities.

In order to enhance working efficiency and effectiveness, in 2022, the CCAC consolidated 14 investigation files with nine files undergoing follow-up according to the subject matters and handled them together. In addition, along with the cases carried forward from 2021, the CCAC concluded and archived a total of 208 cases in the area of ombudsmanship, including 129 archived due to no evidence of administrative illegality or irregularity, 16 archived due to insufficient data, five archived due to their not falling within the jurisdiction of the CCAC, two referred to the Anti-Corruption Bureau for criminal investigation, six archived due to withdrawal of complaints or reports by the complainants, 30 archived after the respective departments accepted the opinions or promised to follow them up and 20 adequately handled by the departments concerned prior to the CCAC's intervention. In addition, ten of the aforesaid cases, albeit archived, were included in the list of "retrospective review".

## Cases concluded by the Ombudsman Bureau in 2022



As to part of the cases concluded in 2022, due to the repetitiveness and similarity of the matters being complained about and reported, the issues they might involve included the situations commonly occurring within a certain period of time, different complaints against certain departments or entities, or the performance of certain duties of public servants, etc., which have reflected some administrative issues worth noticing:

For example, in June 2022, due to the situations of the spread of novel coronavirus, the Macao SAR Government adopted a series of measures, including closure of public departments or provision of limited non-urgent services, assigning personnel of various public departments to carry out different duties at nucleic acid test stations or medical service facilities, setting up subsistence and support teams which were responsible for or supported daily needs of residents living in red and yellow code zones, such as distribution of food packs and meals, cleaning and disinfection of the buildings, handling of domestic waste, etc. Therefore, part of the public service personnel should work on shift instead of sticking to regular work regime in order to cope with the necessary works that dramatically increased. During that period, the CCAC received many complaints and enquiries about matters related to compensation and allowance. In order to standardise the handling of the issues, the CCAC handled the situations occurring in this period together and exchanged opinions with the Public Administration and Civil Service Bureau through meetings. The CCAC suggested the authority carrying out its statutory functions to consider and study the feasibility to lay down legal documents with general binding effect in case of critical times so as to deal with special cases with specific measures, or, at least, issuing standardised and consistent guidelines so that the public departments

and entities and their personnel have a clear understanding of the matters and a set of concrete rules to follow and thus correctly and effectively implement the stipulations under the relevant regimes laid down in the laws governing public service personnel.

Meanwhile, regarding the ombudsman actions in 2022, the CCAC still found that many residents could not correctly know or understand the reason or basis for the actions carried out or measures adopted by administrative entities. In particular, the eight cases placed under inquiries by the CCAC in 2022 regarding various epidemic prevention measures adopted by health departments mostly involved dissatisfaction with the arrangements and the thoroughness and clarity of information provided regarding the isolation measures. In the investigations of such complaints, the CCAC discovered that the problem was not the lack of response from the public departments but rather residents' dissatisfaction with the contents of the responses or the efficiency of handling the relevant matters. Admittedly, as far as the quality and quantity of the services and works are concerned, the epidemic posed enormous challenges and pressure to the Macao SAR Government. The facts discovered in the investigations reflected that the relevant departments or entities had been actively adjusting the direction of the policies in a positive manner and had done their best to improve the measures in various areas although there was still room for improvement.

The CCAC believes that despite the situations where unlawful or apparently unreasonable administrative acts or procedures exist, for which it is necessary to resort to the ombudsman mechanism, the cases show that with rationality in opinion expression and calmness in communication, if residents directly and actively report the issues to the departments concerned, they will surely take optimisation and improvement measures. Therefore, shaping a good mentality and ensuring right understanding of matters is still the CCAC's permanent mission.

As another example, in the cases concluded in 2022, the CCAC found that public servants' awareness of observance of specific duties of public service personnel, such as exclusivity, seemed rather weak, although those who involved in all cases substantiated by investigation have already been subject to disciplinary sanctions. Regarding the concept of "engagement in private business", the CCAC has been explaining it through various channels such as the CCAC's webpage, publications, seminars, training courses and case consultation. Unless otherwise permitted by law, personnel of the Public Administration are prohibited to carry out or engage in private activities incompatible with their duties. In the cases where the superior's or department's permission or approval is not compulsory, for example, if it is foreseeable that the public servant possibly needs to participate in management and operation of a company, namely when the manager or person in charge is on holiday or absent and the public servant will engage in the relevant activities as the alternative or substitute, in order to avoid suspicion of favouritism or engagement in private business without the superior's permission, the public servant should declare the case beforehand and pay attention to the issues related to recusal when carrying out the relevant public duties.

Finally, it is worth mentioning that the CCAC concluded many cases about delay in vetting and approval of renewals or applications of the right of abode by the Macao Trade and Investment Promotion Institute. Following the investigations, it came to light that following the implementation of Law no. 16/2021, *Legal Regime of Immigration Control, Stay and Residence Permit of the Macao Special Administrative Region*, the number of cases involving the relevant problems that the competent authority needed to review has reached one thousand and it is gradually completing the relevant vetting and approval processes and the respective reports. Therefore, in general, no situation involving administrative omission was seen.

In 2022, under the premise of striking a balance between the principle of confidentiality and the right to information, regarding the cases or issues that concerned the general public, no matter the cases were placed under inquiries or comprehensive investigations, the CCAC tried the best to disclose the findings of the relevant investigations by publishing complete reports of the cases, featuring them in the annual report or press releases in order to enhance the transparency of ombudsman actions.

In 2022, all the departments or entities involved in the cases in the list of “retrospective review” gave concrete responses to the CCAC’s opinions and improved the situations concerned, demonstrating again that the relevant mechanism has been running in an orderly and effective way since its establishment in 2020 and reflecting that a majority of the public departments or entities are willing to cooperate with the CCAC and show the attitude that they are seeking to properly solve the problems and improve the administrative work.

## II. Comprehensive investigation summaries

(I)

### “Comprehensive investigation report on serious wall tile falling at common areas of Edifício do Lago and Edifício Ip Heng”

The CCAC received complaints and views from households of the two economic housing projects, Edifício do Lago in Taipa and Edifício Ip Heng in Coloane, as well as other associations, who reflected that since the two buildings were established between 2012 and 2013 and were granted a use license, the phenomena of large slabs of tiles falling off walls at many common areas of the two buildings existed. They doubted if the supervision of the Housing Bureau (IH) on the construction of the building was ineffective such that the problems of design defects, use of improper materials existed, among others.



Large slabs of tiles have fallen off walls in the two economic housing projects including Edifício do Lago in Taipa and Edifício Ip Heng in Coloane

Therefore, the CCAC reopened the inquiry file concerning Edifício Ip Heng and it was incorporated into the case relating to Edifício do Lago that was under investigation. A comprehensive investigation file was therefore opened so that an in-depth investigation could be carried out. More documents that had not been fully submitted by relevant departments were collected and the statements of a large number of personnel were heard.

Upon a comprehensive analysis of the evidence provided by witnesses and the proof obtained, it could not ascertain that there was corrupt behaviour in the works tender, vetting and approval or inspection procedures of Edifício do Lago and Edifício Ip Heng.

Regarding administrative procedures, the CCAC ascertained that the sizes of the wall tiles used at the lift lobbies and public corridors of Edifício do Lago did not conform to the requirements of the Public Administration. During the inspection and acceptance phase, at the random checks conducted on the walls at the public corridors of Edifício do Lago, the hollow tile situation was detected at over 95% of the total number of checks. Nevertheless, a provisional acceptance note was signed. During the building maintenance, tiles fell off at public corridors many times at Edifício do Lago. The IH therefore requested, through the former Infrastructure Development Office (GDI), the contractor to carry out repairs. However, neither did it conduct in-depth checks on and make records of the wall tiles of all floors of all the blocks nor did it provide improvement solutions to prevent similar situations from happening again. Instead, a repair was only carried out “to replace a fallen tile when there was one”. At least before the release of the comprehensive investigation report by the CCAC in May 2022, there had been tiles falling at different floors of Edifício do Lago from time to time.

Regarding Edifício Ip Heng, it was ascertained that during the phases of construction as well as inspection and acceptance, there were not any responsible entities having requested for a pull-off test of tiles at the public corridors of the building. Upon signing the provisional acceptance note, tiles successively fell off the walls at the common areas of Edifício Ip Heng during the warranty period, the former GDI and the IH only urged the contractors to follow up the repair works instead of finding out the causes in a timely manner and seriously pursuing whether the problems arose from the design or construction phase or from both phases. After the warranty period for the building construction had expired, the tile falling incidents at the common areas of Edifício Ip Heng still occurred. The IH requested all condominium unit owners of Edifício Ip Heng to bear the responsibility of repair works and handle the tile falling issue by resolution at the general meetings of all condominium unit owners. The issue of wall tile falling at the common areas was discussed on the agendas of the general meetings of all condominium unit owners from eight blocks of Edifício Ip Heng, where the IH opted to vote to abstain and there was not any proposal of repair plans having successfully passed in the general meetings.

The tile falling problem involving large areas of the two major economic housing projects concerned was undoubtedly relevant to various factors, such as designs of wall finishes of common areas of the buildings by the design units, material selection and sizes of tiles, quality of tile laying workmanship of the construction workers of the contractors, abrupt changes of ambient temperature, stringency of oversight as well as inspection and acceptance, adequacy of the subsequent repairs and follow-up work, etc. However, there existed unsatisfactory negligence or imprudence in the phases of design, construction, oversight, supervision and coordination. As such, all units and departments cannot distance themselves from this matter.



The former GDI did not actively cooperate with the IH when the latter inquired about or requested for information in relation to the two economic housing projects concerned in the case. When the IH requested for the inspection records concerning the units of Edifício do Lago carried out by the oversight company of the construction works of the building, the former GDI even refused to provide such information by taking the reasons that the responsibilities of construction and maintenance did not relate to the IH. Thus, when the tile falling incidents subsequently occurred, such act directly hindered the IH to carry out the functions of supervision and coordination according to the law due to limited participation and grasp of information during the construction process of the building construction. The relevant act of the former GDI indeed involved administrative irregularity.

Upon obtaining the news from the management companies of the two buildings that a large number of tiles falling off the walls at the common areas, the IH, which just all along performed the role of a messenger and solely transferred the problems to the former GDI or accompanied it for follow-up work, failed to actively carry out the functions of supervision and coordination bestowed by the *New Economic Housing Law*. Moreover, when the former GDI failed to investigate the causes of tile falling and the accountable parties accurately and in a timely manner, the IH did not request it to strictly implement the regulations provided for in the *Legal Regime of Public Works Contracts*. Such act also allegedly involved omission, an irregularity of an administrative act.

The problems concerning prevention of tile falling in the two economic housing buildings and the maintenance of the tiles have accentuated the serious lack of coordination and cooperation between the former GDI and the IH. The two departments lacked coordination with each other and it seems that they did not try to have more communication and coordination with each other regarding inter-departmental works, resulting in residents' negative impression of government departments that they pass the buck and it is impossible to pursue liability. The indifferent attitude of the relevant departments towards the large number of hollow tile walls discovered at the public corridors during random checks has reflected the poor supervision of the administrative bodies, the oversight unit and the inspection unit on the construction works.

During the warranty periods and the successive tile falling situations at a later stage, the relevant oversight companies seemed to rarely participate and provide constructive responses. In particular, they did not provide a detailed analysis report on the causes of or solutions to tile falling. The CCAC considered that in the beginning, there was no professional opinion on the tile falling incidents given by third parties other than the works award contracts, including the oversight companies and the quality control unit, thus

having significant negative impact on the search for the fundamental cause of the unusual tile falling and the accountable parties. Therefore, it is one of the main reasons why the tile falling problem remains unsolved. Regarding the vetting and approval process, the selection of the materials and sizes of the tiles on the walls of the common areas of the economic housing buildings involved did not strictly accord with the requirements originally imposed by the IH. Although the oversight units also knew that there were a lot of hollow tiles found during the inspection and acceptance phase, the relevant oversight companies and quality control unit did nothing and the opinions they raised were not concrete. An oversight company should not only point out the contractor's problems in the completion stage of the construction. It is also the company's responsibility to discover and solve the problems in a timely manner when the construction is still in progress. In other words, the contractor, indeed, is not the only one accountable for the flaws of the works found during the provisional acceptance process. The oversight company and the quality control unit that supervise the quality of the works also bear unshirkable responsibilities.

Judging from the future design and selection of wall tiles at the public corridors of the economic housing buildings at zone A of the New Urban Zones, it was obvious that the authorities had learnt the lesson and made efforts to optimise the design and construction quality of economic housing buildings. The design and material selection of the wall finishes of common areas as well as the laying method were planned by the current-term IH and the former GDI based on their mutual agreement, consensus and adjustment. As regards issues concerning construction of economic housing buildings, it can be seen that the IH is gradually strengthening and implementing its role as economic housing coordinator and the cooperation among the relevant departments has apparently improved.

After completing the comprehensive investigation and producing the report, the CCAC notified the Chief Executive on the result of investigation according to law. The CCAC suggests the authorities, from the legislative or technical perspective, that they can consider carrying out a study on the need to quantify the works and standards through regulations and thinking about the possibility of setting an upper limit or ratio concerning the number of flaws found during the provisional acceptance process of the construction works, which will not only reflect the construction quality of the contractor, but also monitor the work quality of the oversight company and the quality control unit which serve as the supervision units. Moreover, the CCAC also suggests that the fact that households of economic housing are with limited financial means should be taken into consideration. Despite that the warranty periods for the two economic housing buildings already expired, it does not prevent the authorities from, if permitted by law and under the principle of good faith as well as the people-based governance philosophy, adopting appropriate and effective governance measures so as to improve the sense of well-being of residents. It may consider giving financial and non-financial support, proactively responding to the needs of the residents and seeking an ultimate solution with

the households, so as to solve the tile falling problem once and for all and avoid the danger of tile falling in the future, namely by carrying out comprehensive and appropriate repairs, promoting and encouraging discussion and resolution on solutions at general meetings of all condominium unit owners of different blocks, among other matters.

After the investigation report was publicly released, the relevant departments publicly expressed that they accepted the opinions of the CCAC. The GDI requested the relevant contractors to provide the repair work proposal concerning the tile falling at the common areas of the two buildings according to the newly revised *Guidelines for the Design and Construction of Public Housing*. The IH negotiated with various management bodies in order to reach a consensus to carry out the repair works as soon as possible. Regarding inter-departmental collaboration, the two bureaus expressed that they would improve the communication mechanism and strictly comply with the principle of attaching importance to both quality and quantity. They would also step up efforts to regularise the responsibilities of the oversight and quality control units concerning the supervision of works with a view to promoting the construction of public housing.

By the end of 2022, some of the condominium unit owners from different blocks still did not reach a consensus while some of them even struggled at the design. It is worth mentioning that regarding the safety problems arising from the structures of economic housing buildings or the architecture itself, the SAR Government definitely has an undeniable responsibility – nothing more, nothing less. It is widely known that economic housing buildings are different from private buildings as they serve to assist Macao residents who have certain income level and properties to solve their housing problems. Public money should not be spent irrationally that falls outside the scope of statutory need and consideration. The CCAC always believes that proposals for solving problems should be practical while personal safety should be the ultimate and only goal sought to be achieved by all involved parties. It is hoped that before the tile falling situation appears again or worsens, the efforts made by all parties will not be in vain.

**(II)****“Comprehensive investigation of unlawful occupation of state owned land”**

The CCAC received several complaints concerning failure of the former Land, Public Works and Transport Bureau (the former DSSOPT) to deal with the issues concerning unlawful occupation of state owned land. In order to investigate and analyse the relevant issues in a centralised way, the CCAC consolidated the complaints placed on file separately into a comprehensive investigation file.

Following the investigation, the CCAC found that there were many cases of unlawful occupation of land that had been under investigation or evidence collection by the former DSSOPT for many years. The procedures remained stagnant following the first on-site preliminary investigation conducted by the relevant department. It seems that no actual action has been taken to step up the recovery of the relevant land parcels.

Although the former DSSOPT put the cases of unlawful occupation of state owned land on the priority list, the bureau might speed up only the handling of the cases that involved public interests such as the need to construct public facilities, roads or public housing on the land plots concerned, or were related to serious environmental hygiene problems or hazard to public safety. However, in general, such situations were only exceptional. Indeed, the cases were commonly ignored.

In fact, every case of unlawful occupation of law has its specificity or is difficult to handle probably for the reasons such as remote location of the land plot, no concrete planning made by the SAR Government, that someone is living or running business there, dispute over boundary and ownership, or on-going judicial proceedings following the initiation of eviction procedures. In addition, the former DSSOPT's duties included handling of not only cases of unlawful occupation of land but also illegal constructions, vetting and approval of building proposals, supervision of construction sites, etc. Indeed, the complexity of the cases and shortage of manpower were the main reasons for the stagnation of the relevant procedures.

Nevertheless, since there were many cases that had been put on hold for a long time and Macao lacks land resources, occupation of state owned land by people without legitimacy to do so should not be allowed. Upon completion of necessary investigative measures, the CCAC comprehensively sorted the progresses of the public works department's handling of the



**The CCAC included the cases of the authority's handling of unlawful occupation of state owned land in the list of "retrospective review"**

relevant administrative procedures and raised standardised opinions to the competent authorities by letter. Also, the case has been included in the list of "retrospective review" in order to promptly review the progress of the follow-up on the relevant cases.

The former DSSOPT showed a positive attitude in its preliminary response and revealed that it was taking a series of measures for improvement, including gradually and systematically organising the electronic records of cases of unlawful occupation of land in order to facilitate its staff's review of the progress of every case and make it convenient for them to arrange the work or grasp the opportunity of handling the cases. The Government has also publicly promised to carry out regular inspection and supervision and to clear and recover the unlawfully occupied state owned land plots systematically.

### III. Inquiry case summaries

#### (I)

#### **Inquiry report on the intelligent terminal system for taxis**

Upon the entry into force of Law no. 3/2019 (*Legal Regime for Transport of Passengers in Light Vehicles for Renting*, hereinafter referred to as “New Taxi Law”) on 3<sup>rd</sup> June 2019, starting from 3<sup>rd</sup> December 2020, taxis can only operate after installing the intelligent terminal systems (hereinafter referred to as the “terminal systems”).

Since September 2020, when the terminal systems were successively installed and went into operation, some people in the industry voiced their grievance and doubts via the media or organisations, which continuously sparked discussions and responses in the society. At that time, the CCAC also successively received complaints about the charges for the terminal system and the related management issues. Therefore, the Commissioner Against Corruption, according to the law, ordered that an inquiry be carried out.

In the course of investigation, the CCAC successively asked the Transport Bureau (DSAT) for the tender file information, industry consultation papers and explanatory documents relating to the contract for the “Supply and maintenance service of the taxi management system” and also heard the statements of different parties, including the complainants, the DSAT staff and the taxi industry representatives. By looking into and analysing the legality and rationality of the tender procedure as well as the doubts of all complainants, the CCAC decided if there were illegal acts or issues involving administrative impropriety based on the facts and law.

The terminal system has two important components. One of them is the vehicle device which serves for the taxis to operate and another one is the taxi monitoring system which serves for the authorised department to supervise the operation of taxi services. The tender scheme makes it clear that no matter who the awarded bidder for the former would be, the taxi licence and permit holders are required to pay the bidder a fixed amount of service fees and deposits. The monthly service fees of the taxi monitoring systems are borne by the SAR Government.

Moreover, the CCAC found that the DSAT combined the two contracts, the public utility concessionaire contract for the service of vehicle device and the acquisition of public service contract for taxi monitoring system, into one. The DSAT then launched one combined open tender relating to the contract for the “Supply and maintenance service of the taxi management system”. After review, the authority outsourced the service to the single winning bidder, New Leader Tecnologia Informatica (Macau) Lda., and signed a single administrative contract with it.

Concerning the doubts about the awarding procedures, after investigation, the CCAC did not find any apparent administrative illegality or issues involving impropriety in the entire administrative procedure file by the DSAT.

Regarding the stipulation of monthly service fees of the vehicle device, in the “Explanation about the service fee and deposit for the intelligent terminal system for taxis”, which was made public, the DSAT has already mentioned that the main purpose of charging the monthly service fee, which is priced at MOP300 in the tender scheme, is to safeguard the interests of taxi permit holders and avoid the awarded entity setting the amount of the fee too high if it could determine the amount on its own. In addition, the amount will remain unchanged within the contractual term in order to avoid the awarded entity increasing the service fee with the excuse of inflation in the future, which will cause increase of the cost of taxi operation. In fact, all these terms have already been indicated in the tender specification. In other words, no matter which tenderer has won the contract, the amount of the service fee to be charged is the same. Therefore, there is no possibility of overcharging by the awarded company. In fact, there were some holders of taxi licenses or permits who failed to pay the relevant deposit or service fee by the deadline having made a request for precautionary measures to the Civil Court of the Court of First Instance. They blamed the concessionaire for illegally charging them deposit and service fee and suspending the service on the basis that they did not make the payment. They claimed that the latter caused infringement on them. They requested the court to order the concessionaire to continue providing the relevant service even though they did not make the payment. However, the Court of First Instance has decided the judgment of all cases against them.

Therefore, as to the doubts about the legality and rationality of the suspension of the service due to failure to pay the deposit and service fee for the vehicle device, the quality of the service of the terminal system for taxis and its supervision and the fact that the taxi driver licenses were changed twice within a short period, the CCAC believes that there is no situation of illegality or administrative impropriety following the investigation and legal analysis.

In the course of investigation, the CCAC has also raised its opinions to the DSAT concerning the practice of grouping two administrative contracts with different objects into a single tender and considered that such practice could indeed confuse the rights and obligations arising from the concessionaire contract and the award contract, in particular, the service fees charged by the concessionaire for providing the holders of taxi licenses or permits with vehicle devices and relevant services due to the granting of concession and the amount to be charged for the award of the service contract concerning the taxi monitoring system by the SAR Government. However, from the legal perspective, such practice is not expressly prohibited by law. From the technical and supervisory perspectives, judging from the close correlation between the vehicle device and the taxi monitoring system, it can be considered that the act of the DSAT concerning the opening of a unified tender for acquiring the whole set of terminal system and the award of service contract to the same private entity is rational. There is not any apparent illegality.

In fact, following the entry into force of the “New Taxi Law” and the implementation of the supervisory mechanism for the terminal system for taxis in 2019, the DSAT inspectors recorded zero cases of illegal taxi operation in the following year, while the Public Security Police Force recorded less than 150 cases. There were 1,900 cases of overcharging throughout 2019. However, up to December 2020, only eight were recorded throughout the year. Up to the end of 2021, the Public Security Police Force recorded less than 100 cases of illegal taxi operation throughout the year. The CCAC considered that the data has reflected that the “New Taxi Law” and the relevant supervisory mechanism for the terminal system for taxis have indeed played an important and positive role in combatting the “taxi chaos” that had remained rampant in the past.



**(II)****Inquiry report on the cultural heritage protection work for  
Lok Kok Restaurant**

The CCAC received a report reflecting that the incident of the disappearance of the façade of Lok Kok Restaurant, which is located at Rua de Cinco de Outubro No. 159, has all along been not seriously looked at and properly handled by the competent departments. It was doubted if there was illegal demolition or other administrative illegalities or improprieties. The Cultural Affairs Bureau (IC) was also suggested disclosing publicly the survey for the cultural heritage inventory for monitoring by residents. The CCAC initiated an inquiry file, collected and holistically collated different types of case files opened by the cultural and public works departments as well as documents and information concerning the plot of land involved over the last three decades. It also analysed the efforts by the competent departments concerning the implementation of cultural heritage protection laws and regulations at different phases with a view to verifying if there were situations of inadequate supervisory efforts or administrative omission by relevant departments.



**The CCAC carried out an inquiry into the cultural heritage protection work for Lok Kok Restaurant**

Since 1984, Lok Kok Restaurant has been placed as classified group of buildings because it is located at Avenida de Almeida Ribeiro. During investigation, it was found that the current and previous owners of Lok Kok Restaurant have not fulfilled the obligations vested by the cultural heritage protection laws for different periods being in force since 1991, which directly caused the restaurant to become seriously dilapidated and to be practically abandoned for a long time. In face of the omissions by different owners, the cultural departments, at that time, did not proactively carry out any practical actions to urge the owners to preserve the exterior of the building or carry out any necessary work to ensure the rigidity of the building.

Over the years, the Cultural Institute of Macao and the IC have only performed the duty as a building inspection committee member according to the *General Regulation on Urban Construction* over the past years. They did not implement the cultural heritage protection regimes independently and proactively for the time being in force. Neither did they open any independent case file regarding maintenance and preservation of Lok Kok Restaurant. They were in such passive state and did not put many efforts in law enforcement. In early 2014, despite relevant departments found that the owners had carried out illegal works at the lot where Lok Kok Restaurant was located, they neither exercised the administrative punitive powers against such act nor further looked into the fact about the collapse of the façade of Lok Kok Restaurant when the illegal works were carried out. They also did not verify if such collapse was merely an “unfortunate” incident as stated by the owner or was attributed to other reasons with a view to confirming the technical judgment by the IC that it was “not a natural collapse” and pursue the criminal responsibility that may exist in a timely manner.

Upon the entry into force of Law no. 11/2013 (*Cultural Heritage Protection Law*), information showed that the then IC did not follow the stipulation as stated in Subparagraphs 1) and 3) of Article 12, Article 36, Paragraph 1 of Article 39, Subparagraphs 1), 5) and 6) of Paragraph 1 and Paragraph 2 of Article 98 and failed to impose administrative penalties on the owner of the classified immovable property who did not fulfil the obligation of carrying out cultural heritage protection work and the obligation of notification. Since the act of administrative illegality was performed by the owner in 2014, the IC however, at that time, just concerned about following up the redevelopment work of Lok Kok Restaurant in the year, which demonstrated that the IC was slow to react to and handle the incident, which directly caused the relevant responsibilities arising from administrative illegalities to be extinguished due to the statutes of limitations.

Moreover, the CCAC believed that in the past, relevant public works departments only followed up and handled cases of classified immovable properties or immovable properties to be classified according to the classification of general dangerous buildings provided for in the *General Regulation on Urban Construction*. Even after the entry into force of the new *Cultural Heritage Protection Law* where more important responsibilities within the scope of cultural heritage protection were vested to relevant public works departments, the then public works departments, after technically judging that the disappearance of the façade of Lok Kok Restaurant was not a natural collapse, still just opened a case file of illegal works according to the *General Regulation on Urban Construction* and

handled such case according to the schedule for the case files of illegal works for general buildings. They failed to open any independent file for handling, or exercise the punitive function concerning the demolition of classified immovable properties vested by the new *Cultural Heritage Protection Law* or even the duty of reporting. Therefore, it is worth mentioning that the then public works departments were indeed comparatively passive in implementing the duties vested by the new *Cultural Heritage Protection Law* and in the attitudes of handling the cultural heritage protection work for Lok Kok Restaurant.

As regards the suggestion for publicly disclosing the survey of the cultural heritage inventory, after the CCAC has considered several aspects, namely the new *Cultural Heritage Protection Law* which stipulates that a public consultation mechanism should be included in the classification procedure for cultural heritages; the classified immovable property list that should be published through Administrative Regulation for coming into force; the fact that the IC has the powers to plan and perform the duties of carrying out a study, recording, creating the inventory, suggesting the classified immovable properties and setting up protection zones for properties with relevant cultural interests according to law; the survey for the cultural heritage inventory that merely serves as a preliminary examination, as well as that which, along with the result and publication of the survey, is not work mandatorily stipulated by law. Moreover, after the IC has compared the practices taken by other territories which publicly disclose the survey for the inventory which serves as the nature of preliminary preparatory work, the publication of the inventory has not brought any significant protection effect of the “cultural heritage to be”. Therefore, legally and rationally, the IC in fact has and reserves the discretion to make an appropriate decision whether to publish the relevant survey for the inventory. Thus, the CCAC believes that there is not any illegality or impropriety found in the exercise of the aforesaid powers by the IC.

Undoubtedly, in recent years, the IC has indeed stepped up efforts in carrying out the routine management of classified cultural heritages and improvement of relevant systems as well as carrying out



**The authorities found that the owner had carried out illegal works at the lot where Lok Kok Restaurant was located but they did not impose any penalty on him**



**The CCAC urged the Public Administration to step up efforts to implement the new *Cultural Heritage Law***

work which extends the characteristic features and passes on the culture. It also attaches importance to adequately and rationally utilising their cultural interests to promote the sustainable development of the city.

The act of administrative illegalities involved in the case of Lok Kok Restaurant due to the breach of cultural heritage protection regime and the inadequacies including the failure to look at and follow up the issue in a timely manner which caused the responsibilities arising from relevant administrative illegalities to be extinguished due to the statutes of limitations were facts occurred before 2019. Given that the construction project for the restoration and redevelopment for Lok Kok Restaurant came to an end by the end of 2022, it is not shown that the cultural heritage protection work for such building is again encountering challenges at this stage.

Upon the completion of investigation, the CCAC has already notified the Chief Executive on the result of investigation and reflected the opinions to the IC and the Land and Urban Construction Bureau (DSSCU) so that the competent departments can clearly understand the stance of the CCAC, better identify their roles and duties concerning cultural heritage protection work, step up efforts and attach more importance to implementing the new *Cultural Heritage Law* in order to prevent similar incidents from happening again in the future.

The IC and the DSSCU publicly showed an attitude of acceptance regarding the facts and suggestions published by the CCAC through the form of a summary in the press release.

### (III)

#### Protection for persons with disabilities and equality of rights

There was a complaint mentioning that the Municipal Affairs Bureau (IAM) had charged a deaf-mute scavenger with littering cardboard waste and placing his cart in public area and the action taken by the IAM was unfair to persons with little legal knowledge and communication difficulties and went against the provisions and spirit of the United Nations Convention on the Rights of Persons with Disabilities.

Following the investigation, it was proved that a person with extreme hearing loss holding a “Disability Assessment Registration Card” had been charged thrice by inspectors of the IAM with violation of relevant provisions under the *General Regulations Governing Public Places*. However, in the relevant administrative proceedings, it was unable to find any documents with records mentioning the disability of this person and the proceedings were only handled in accordance with general procedures. In particular, it was unable to verify if the person was literate and whether or not he was aware of his statutory right to object in the procedures of administrative illegality and the period for taking the relevant action. Therefore, the CCAC considered that the relevant procedures were suspected to go against the United Nations Convention on the Rights of Persons with Disabilities.

The CCAC reflected its opinions to the IAM following completion of the investigation, suggesting that the IAM should formulate internal guidelines or other normative documents so that in the procedures of prosecution of administrative illegality against people with disability or special need, its personnel will adopt concrete measures that facilitate disabled people to clearly understand the contents of the accusations and their statutory rights and duties in order to comply with the object of the United Nations Convention on the Rights of Persons with Disabilities and meet the requirements for necessary assistance and supportive measures provided by the Convention to ensure disabled persons enjoy the right to information and may exercise their legal rights.

The IAM agreed on the CCAC’s opinion in its reply and promised that in the future it would require inspectors to clearly state in the notification of accusation that whether the offender has special need regarding communication when necessary, whereby they may adopt appropriate follow-up measures, including provision of sign language interpretation for the people who need assistance or communicating with them through writing, in order to ensure that they may exercise the statutory right of defence. In addition, the IAM also accepted the CCAC’s suggestion and therefore it would establish an inter-departmental cooperation mechanism with the Social Affairs Bureau in order to seek the viability of eliminating scavenging by people with disabilities.



## (IV)

**Refusal to receive document constitutes administrative illegality**

A complainant told the CCAC that his application for a certificate of traffic accident had been unjustifiably rejected by the Traffic Department of the Public Security Police Force (CPSP) and suspected that the matter involved administration impropriety. Therefore, the CCAC was requested for following up the case.

Following the investigation, the allegation was substantiated. Since the Traffic Department had not yet completed the collection and recording of the information on the traffic accident at that time, the reception worker suggested the complainant come again to submit the application the following day. Following the analysis on the information sent by the CPSP in response to the case referral, the CCAC considered that whether or not all the information was ready did not affect the acceptance of the application by the department. The relevant worker's act went against the stipulation regarding acceptance of document provided by the *Administrative Procedure Code* and therefore the CCAC reflected its opinion to the CPSP.

After follow-up and review, the CPSP promised to review the traffic accident handling procedure of the Traffic Department, streamline the process of certificate application and improve relevant personnel training.

## (V)

**Recusal is necessary from the exam in which family members participate**

There was a report alleging that the Macao Conservatory irregularly recruited students for the Programme of Continuing Arts Education of the School of Music for academic year 2021/2022. The levels that the successful applicants were admitted to were lower than that they had signed up for, which made it impossible for the applicants who did not have basic knowledge or only had a little basic knowledge to be admitted to the programme. In addition, a descendant of an orchestra musician was admitted to the programme and therefore the fairness of the recruitment was in doubt.

According to the provision regarding the admission requirements under Paragraph 2 of Article 24 of the *Internal Regulations of the Macao Conservatory*, applicants who pass the admission exam designed for assessing their skills and abilities in the specific artistic areas will be admitted. Therefore, whether or not the applicants are admitted and which level they are admitted to depend on their performance in the admission exam. The assessment and classification of admitted applicants are at the discretion of the Macao Conservatory regarding the admission standards. Since the CCAC could not see any apparent administrative illegalities or improprieties in the case, the CCAC had no power to intervene into it.

Meanwhile, the investigation substantiated that a descendant of one of the teachers of the School of Music also took the admission exam of the relevant music programme. However, the teacher neither declared the situation to the school nor recused himself from the exam. He even participated in the proctoring and evaluation processes. Without doubt, his acts completely went against the recusal system provided for in the law. Although the applicant concerned needed to take another admission assessment, the school did not take any action against the teacher's irregular acts. Following the CCAC intervention, the school finally initiated a disciplinary proceeding against the teacher and punished him. The school received a written reminder from the CCAC due to delay in report of the irregular situation.

The Cultural Affairs Bureau stated that it accepted the CCAC's opinion. It has reviewed the mechanism of notification of irregular situations, reinforced the definition of the recusal rules and the respective alerts and promised to optimise the admission exam system of the Macao Conservatory.

## (VI)

### **Allocation of social housing by drawing lots in accordance with law**

According to a complainant who was an applicant for social housing, he applied for social housing in 2017 and was put on the final waiting list. In March 2021, he received a notification of re-assessment before the allocation of social housing. However, it was not until early 2022 that the complainant was informed by phone that he was allocated a social housing flat in Taipa. Since the result fell short of his expectation of being allocated a flat in Macao Peninsula, the complainant suspected that there was misconduct in the administrative procedures of application assessment and allocation carried out by the Housing Bureau (IH), which resulted in delay in processing of his application and failure to allocate him a flat in Macao Peninsula. Therefore, the CCAC was requested to investigate the matter.

When the old social housing regime provided for in Decree-law no. 69/88/M and Administrative Regulation no. 25/2009 was in effect, the eligible households had the right to choose a flat according to the order in the list. On 20<sup>th</sup> August 2020, Law no. 17/2019, *Legal Regime of Social Housing*, and Administrative Regulation no. 30/2020, *Enforcement Regulations on the Legal Regime of Social Housing*, entered into force and the old social housing regime was revoked. Under the new regime, in principle, the IH shall allocate the social housing flats to eligible households by drawing lots. Therefore, the allocation had nothing to do with the speed of processing of the complainant's application and applicants do not have the right to choose in accordance with law. Following the investigation, the IH met with the complainant and explained to him the relevant statutory procedures and legal regimes.

Since the IH complied with the law in the social housing allocation procedure, the CCAC believed that there was no administrative illegality or impropriety in the situation.

**(VII)****Requests made by public departments shall be legal and reasonable**

According to a complaint, the Health Bureau (SS) rejected the complainant's application for renewal of license for his dental clinic for the reason that the Chinese name of the clinic did not meet the requirements as set out in the *Guideline on Names of Premises Providing Healthcare Services* (hereinafter "the Guideline"). In addition, the SS also rejected his application for medical advertising later without reasons. The complainant suspected that administrative illegality or impropriety existed in the matter.

In accordance with law, premises providing healthcare services under private regime shall operate only when the license is granted. The license is valid for one year and requires renewal approved by the SS every year. Otherwise, the license will expire 60 days after the validity period ends.

It was found in the investigation that the dental care centre involved was granted the license for operation in September 2004 and the license had been being renewed successfully since then. Even during the two years after the implementation of the Guideline on 7<sup>th</sup> July 2016, the license renewal was also approved. At that time, the SS never raised any doubts on or requested for change of the name of the centre.

In 2018, the SS considered that the Guideline was applicable to the applications for license renewal and restoration previously approved in accordance with Decree-law no. 84/90/M and therefore requested the dental care centre involved changing its name in accordance with the Guideline, otherwise its license would not be renewed. In addition, the notification of rejection sent to the applicant did not indicate the reason in accordance with law. Neither the factual nor the legal basis that justified the rejection was pointed out.

Following a comprehensive analysis, the CCAC considered that the administrative decision made by the SS went against the principle of goodwill provided for in the *Administrative Procedure Code*. In particular, the centre already completed the registration of business name with the Business and Movable Property Registry in 2011 and the SS has been approving its license renewal ever since then, whereby the premise has already had a stable and widely known name. Therefore, the name of the premise should be protected in accordance with the law and arbitrary request for changing or abandoning the name should not be made. Otherwise, the principle of legitimate expectation will be violated. In addition, the notification of rejection without justification also went against the relevant stipulations under the *Administrative Procedure Code*.



Therefore, the CCAC expressed its stance and opinion to the SS twice and the latter finally agreed and approved the renewal of the license of the dental care centre involved without changing its name. The bureau also promised that it would optimise the content of the notification.

After that, due to relocation of the said dental care centre, the complainant made an application for medical advertising to the SS, including display of the Chinese, Portuguese and English names of the clinic on billboards and signboards. However, the SS rejected the application and banned the Chinese name on the license from appearing on billboards and signboards despite the fact that it had already approved the license renewal and allowed the clinic to continue to use the Chinese name stated on the license. Following an analysis, the CCAC considered that the SS's action was apparently unreasonable.

Upon completion of the investigation, the CCAC reflected the opinions to the SS by letter. However, the SS has never given any direct response but only stated that the case was under judicial process.

In 2022, the Administrative Court and the Court of Second Instance judged against the SS respectively and the relevant judgments were consistent with the CCAC's stance mentioned above.

### (VIII)

#### **Respect for the opinions on subsidy granting**

According to a complaint, the complainant successfully found a job after completing a course under the "Vocational Training Programme with Subsidy" organised by the Labour Affairs Bureau (DSAL), while the DSAL, on the grounds that the complainant did not submit the "Registration Form of Salary Tax - Form M/2" in a designated period, decided that he was not employed successfully and therefore a full amount of the training subsidy was not granted to him.

According to Administrative Regulation no. 33/2020 (*Subsidised Training Plan*) in force at that time, those who have obtained a job not through referral by the DSAL two months upon completion of the courses and participation of the examinations must notify the DSAL within 15 working days from the date of the beginning of employment and must present a photocopy of the document proving their professional tax registration with the Financial Services Bureau (generally referred to the "Registration Form of Salary Tax - Form M/2"), other documents or information that may prove the employment of the trainees, or other supporting documents or information deemed necessary by the DSAL, in order to prove that they have met the requirements on "successfully obtaining employment" within a statutory period and may receive a full grant of the training subsidy.

After investigation, it was verified that the complainant did not make employment registration with the DSAL but looked for employment on his own upon completion of a course under the aforesaid programme. He was, however, successfully hired within two months and entered into a labour contract with his employer. As the employment commencement date did not fall within the aforesaid statutory period for submission of supporting documents, the complainant was not able to submit the "Registration Form of Salary Tax - Form M/2" to the DSAL by the designated period. He could only provide a photocopy of the relevant labour contract to the DSAL as a supporting document for application for a full grant of the training subsidy. However, on the grounds that the complainant did not submit a "Registration Form of Salary Tax - Form M/2" within the designated period, the DSAL did not deem it a successful employment, and thus granted only half amount of the subsidy to him.

In the CCAC's opinion, the "Vocational Training Programme with Subsidy" is an economic relief measure taken by the SAR Government and the legislative intent was to relieve the financial stress of those who have become unemployed due to the epidemic through subsidy granting. Therefore, the application of law should not be limited to literal interpretation and deviate from the original legislative intent of the policy. Upon completion of the relevant training course, the complainant not only demonstrated positive employment eagerness but also found a job within the statutory period and submitted a photocopy of the labour contract to the bureau as a supporting document or information proving his employment. The complainant therefore should be deemed to have met the literal definition of "successful employment" and the legal conditions defined in the historical elements and should receive a full grant of the subsidy, without prejudice to the right of the competent authority to adopt other monitoring measures it deemed more effective, including requesting the complainant to submit supplementary supporting documents or information deemed necessary by the authority to ensure that the complainant was still employed after receiving a full grant of the subsidy.

In spite of its respect for the position of the bureau, the CCAC gave its opinion to the DSAL, emphasising the legislative spirit of the administrative regulation of the launch of the "Vocational Training Programme with Subsidy" as well as the stance of the CCAC. In response, the DSAL expressed an attitude of general acceptance of the opinion of the CCAC and agreed that there were conditions to have a more extensive literal interpretation of "successful employment" and that the handling of subsidy granting should be more favourable to the trainees. In the end, it accepted the opinion that the complainant may submit supplementary documents proving his formal employment within a designated period and that the difference between the granted amount and the full amount of the relevant training subsidy should be paid back to the complainant.

## (IX)

**Knowledge and compliance with the law  
are the responsibilities of residents**

In response to the “SMS Notification Service for Traffic Offences” provided by the Public Security Police Force (CPSP), a complaint was made against the practice of the authority of not providing the SMS notification service immediately when issuing penalty tickets for vehicles that have failed to pay parking fees for using the charged parking spaces on public roads and not sending a SMS notification to vehicle owners until their vehicles have been locked. The complainant queried that the bureau violated the principle of fairness and there might be administrative illegality.

After investigation it was verified that the CPSP has been, through its official website and other publicity avenues, clearly publicising the coverage of the “SMS Notification Service for Traffic Offences”, which does not cover the illegal acts of parking vehicles at charged parking spaces on public roads without payment of parking fees. According to Articles 21, 34, 35 and 37 of the *Public Parking Service Regulation* approved by Administrative Regulation no. 35/2003, using charged parking spaces on public roads without payment of parking fees for a period not exceeding one hour shall be punished with a fine equal to half the amount provided for in Article 34. However, if the period exceeds one hour, the act will be considered abusive parking provided for in Article 35. In such case, in addition to the payment of a fine imposed on the owner of the vehicle, the vehicle may be locked and other extra fees must also be paid.

As there are differences in the legal bases, responsibilities, consequences and handling procedures between the administrative illegality of using the charged parking spaces on public roads without payment of parking fees and other illegal parking acts, it is not appropriate to make direct comparisons between them. In addition, as the authority already promoted the coverage of the aforesaid “SMS Notification Service for Traffic Offences” before providing the service to residents, there should not be any confusion. Moreover, such extra service is provided by the competent authority out of good intention and purely serves as a friendly reminder. It does not hinder road users from abiding by the relevant laws and regulations on roads and the rules of using charged parking spaces or being aware of the consequences of violating them and the obligation of observing them, since such obligation does not depend on the reminders from the Public Administration. As regard whether another set of SMS notification content and mechanism should be created, it is surely the competent authority that should make a decision on it. The CCAC has already reflected the relevant opinion to the CPSP.

In this case, the complainant intended to attribute the legal consequences arising from non-payment of parking fees to the lack of perfection of the act of the authority done out of good intention to provide convenience to residents. It apparently lacks legal and reasonable grounds.

Therefore, the CCAC urges that public road users should strengthen their legal knowledge and awareness of law-abidingness. They should perform their civic duty by proactively understanding and abiding by all the laws and regulations relevant to the use of public roads.

(X)

**Engaging in part-time jobs to earn extra incomes  
violates the duty of exclusivity**

According to a report, a staff member of the Public Administration and Civil Service Bureau (SAFP) promoted some fitness products on social media platforms regularly every day and invited colleagues to go to the gym run by her husband for exercise. She was suspected to have violated the duty of zeal and the duty of not engaging in activities incompatible with her duties. After investigation, the CCAC verified that the matter was true and therefore referred the relevant report to her department. In the beginning, the SAFP pointed out in the relevant disciplinary process that the staff member involved already declared to her superior in advance that she concurrently served as a fitness coach in some interest classes in a non-profit organisation but she was not found to have performed the acts of promoting or selling fitness products. The relevant disciplinary file was therefore archived directly. However, as the CCAC found that the facts investigated in the relevant disciplinary process were at odds with the findings of the CCAC, the CCAC once again sent the evidence collected to the SAFP for the purpose of initiating a disciplinary process. In the end, as the staff member engaged in private business outside the approved period and the hours she engaged in private business during the approved period exceeded the upper limit approved, she was considered to have breached the duty of zeal and the duty of not engaging in activities incompatible with her duties provided for in the *Statute of Personnel of the Public Administration of Macao*. As a result, the sanction of written reprimand was imposed on her.

In another report, it was claimed that a staff member of the former Land, Public Works and Transport Bureau allegedly had a part-time job of promoting sporting goods. After investigation the CCAC verified that the matter was true and therefore referred the relevant report to the department of the staff member involved. In the relevant disciplinary process, it was verified that the staff member engaged in the relevant private business and activities on a regular basis and even received gifts or discounts as reward offered by a private entity after carrying out the relevant promotion acts. His acts clearly violated the principle of exclusivity provided for in the *Statute of Personnel of the Public Administration of Macao*, and therefore disciplinary charges were initiated against him and the sanction of written reprimand was imposed.

There was also a report claiming that a staff member of the former Macao Polytechnic Institute (IPM, currently the Macao Polytechnic University) sold goods and looked for cooperation partners through social media platforms for a long period of time. As the investigation findings matched the facts of the report, the CCAC subsequently notified the IPM about the matter. During the relevant disciplinary process, the

IPM verified that the staff member involved had promoted sports drink and fitness classes through social media platforms for many times and he also engaged in activities as a fitness coach without authorisation. Therefore, the IPM decided that he violated the duties provided for in the *Personnel Statute of the Macao Polytechnic Institute* and imposed a fine on him as a disciplinary sanction.

### (XI)

#### **Empathy and tolerance should be shown at exceptional times**

During Macao's first citywide nucleic acid test, a resident made a complaint that he was sent to the Nucleic Acid Test (NAT) Station at Pac On and stayed there for more than eight hours as he did not do a NAT within a designated period. During the period, he requested to leave for home isolation but was refused, and then he got into a physical scuffle with a security guard and was injured. He queried that the acts of the competent authority violated the law and therefore requested the intervention of the CCAC. Investigation showed that the Novel Coronavirus Response and Coordination Centre already gave a grace period for the citywide NAT at that time and publicised, in advance, the consequences of not doing a NAT within a designated period, including the Macao Health Code being changed to yellow and being taken by the police department to undergo the relevant test at a designated venue. People who refuse to take the test will be subject to medical observation at a designated venue for 14 days. If they still refuse to do so, the SAR Government will issue mandatory isolation orders. At that time, 55 persons refused to undergo the NAT after being warned and the complainant was among them. In pursuit of the purposes of prevention, control and treatment of communicable diseases, individuals have the duty to collaborate with the competent authorities according to law as well as to comply with the orders and guidelines issued by them. The competent authorities may take necessary measures, namely medical examinations or health inspections on groups with the risk of communicable diseases or specific sources of infection. The aforesaid decision was in full compliance with the provisions of Article 3 and Subparagraph 2 of Article 7 of Law no. 2/2004 (*Law on the Prevention, Control and Treatment of Communicable Diseases*). Therefore, there was no administrative illegality or irregularity in this case.

There was also a complaint querying whether the Macao Government Tourism Office (MGTO) intentionally delayed the vetting and approval process for the complainant's application for exemption from the expense of staying at a medical observation hotel. After investigation, it was concluded that the MGTO must, according to law and the established procedures, vet and verify the eligibility and specific circumstances of all the individuals who applied for exemption from medical observation expenses on a case-by-case basis and then submit them to the supervisory entity for approval. Taking account of the workload related to the medical observation hotels that needed to be dealt with in the same period, it is understandable that the time for handling each application would be different. Therefore, it cannot be concluded that the MGTO deliberately delayed the vetting and approval of the relevant application, and there was no administrative illegality or irregularity in this case.

## IV. Retrospective review

In 2022, the CCAC implemented the work of “retrospective review” and once again reviewed the follow-up actions of the cases or systems by some departments which were included in the relevant list last year. The results of “retrospective review” showed that various departments of the SAR Government generally respected and accepted the investigation conclusions and suggestions rendered by the CCAC in the administrative complaint case files. They, indeed, had also practically taken different measures to improve governance from different levels. The CCAC therefore removed relevant cases from the list of “retrospective review” in 2021:

Some of the cases on the list of “retrospective review” in 2021	Departments or entities	Objectives of “retrospective review”	Results of “retrospective review”
The case related to the complaint about an eatery located at Rua da Praia do Manduco that did not properly cover up the food and had poor hygiene	Municipal Affairs Bureau	<ol style="list-style-type: none"> <li>1. Improve the notification content;</li> <li>2. Review whether relevant recommendations are strong enough and whether the bureau has punished those who deserve punishment in order to demonstrate the legislative intent of the relevant legal regime.</li> </ol>	<p>The department accepted the opinions:</p> <ol style="list-style-type: none"> <li>1. The legal basis and relevant consequences are indicated in the notification;</li> <li>2. The preliminary hearing procedures for the liabilities for administrative illegalities of the eatery has been initiated.</li> </ol>
The case related to the complaint about the “Scheme for Inclusion and Harmony in the Community”	Social Welfare Bureau	<ol style="list-style-type: none"> <li>1. Regularise the “Scheme for Inclusion and Harmony in the Community”, including in compliance with Article 9 of <i>the Regime of Granting Subsidy to Individuals and Households in a State of Financial Need</i>;</li> <li>2. Improve the notification content.</li> </ol>	<p>The department accepted the opinions:</p> <ol style="list-style-type: none"> <li>1. In April 2022, <i>the Statute of Scheme for Inclusion and Harmony in the Community</i>, which was approved by Secretary for Social Affairs and Culture Order no. 24/2022, was published;</li> <li>2. Improve the content of the application result notification, in which, according to law, the reasons and the means of appeal are indicated.</li> </ol>

Some of the cases on the list of "retrospective review" in 2021	Departments or entities	Objectives of "retrospective review"	Results of "retrospective review"
<p>The case related to the complaint lodged by a resident about an enquiry about a newspaper publishing indecent photos</p>	<p>Public Administration and Civil Service Bureau</p>	<p>Improve the review mechanism of the subordinate Public Information Centre, including carrying out a study on the improvement of working guidelines and optimisation of inter-departmental communication mechanism, among others.</p>	<p>The department accepted the opinions:</p> <ol style="list-style-type: none"> <li>1. The Public Information Centre improved the working guidelines, clarified the criteria for implementation and contingency plans;</li> <li>2. Reinforce the standard of work and customer service skills of front-line workers;</li> <li>3. Improve the collection, maintenance and update of government information in order to respond to the residents' enquiries;</li> <li>4. Optimise the work of communication of information among departments, try to use faster methods such as e-mails or telephones to carry out inter-departmental communication, obtain information or negotiate the ways for responding to the complaints lodged by the residents.</li> </ol>

Some of the cases on the list of "retrospective review" in 2021	Departments or entities	Objectives of "retrospective review"	Results of "retrospective review"
<p>The case related to the complaint about vehicle parking at the district of Ilha Verde and the complaint about the parking area for empty fuel tank trucks in Ilha Verde (cases on the list of "retrospective review" were consolidated for handling)</p>	<p>Transport Bureau/ Public Security Police Force</p>	<p>Improve the traffic regulations and law enforcement for vehicles parking at the district.</p>	<p>The department accepted the opinions:</p> <ol style="list-style-type: none"> <li>1. The Transport Bureau has placed corresponding transport signs, marked signs on the pavement and placed traffic equipment at the plot. It has properly arranged the order for pedestrians and vehicles to cross and drive on the roads respectively, and the conditions for law enforcement against illegal parking are met;</li> <li>2. The Public Security Police Force continuously sends its workers to carry out inspection at the district and the plot relevant to the case. It also steps up efforts to charge illegally parked vehicles according to law.</li> </ol>

Regarding the cases on the list of "retrospective review" in 2022, in addition to some cases from which the CCAC did not receive a response and which, therefore required the CCAC to continuously follow up under the "retrospective review" mechanism in the following year, other cases were closely followed up by relevant departments or bodies, which were able to complete the improvement or optimisation work in the same year. Therefore, the CCAC subsequently removed them from the list:



## (I)

**Improvement of measures for the advantage of supervision**

**The Education and Youth Development Bureau took the initiative to communicate with the co-organiser of the summer activities in order to improve the arrangements of locations of the activities (illustration)**

There was a complaint alleging that the co-organisers of the summer activities arranged classes for students under the stairs. It was doubted if the supervision of the Education and Youth Development Bureau (DSEDJ) was ineffective and the CCAC was therefore requested to look into the matter.

After investigation, it was found that the DSEDJ, which had previously received similar kinds of complaints, proactively communicated with the co-organisers and subsequently changed the place for the classes.

However, during investigation, the CCAC found that such situation was already recorded on the photos taken by the inspectors during inspection at the premises as early as at the preparation period of the summer activities. However, it lacked immediate and serious follow-up actions. Therefore, the CCAC urged the department to step up efforts in the prior supervision of the premises where the summer activities were carried out and suggested it carry out a study on the improvement of information platform for the summer activities so as to identify relevant situations in a timely manner and carry out effective supervision. This case was included in the list of "retrospective review" for review in the future.

In the year, the DSEDJ proactively reported its follow-up actions to the CCAC and pointed out that in spite of the cancellation of all of the summer activities for 2022 due to the epidemic, it completed various improvement measures, including creating a new checklist for inspection of premises, strengthening the all-round prior inspection for the premises where the activities were carried out, including the function of collating information at the information management platform for summer activities and enhancing close cooperation with the co-organisers. In addition, the function of uploading photos of the premises where the activities take place at the registration platform for the summer activities was also improved for use by the residents.

As the DSEDJ has proactively implemented various improvement and optimisation measures which are advantageous for the department to exercise its supervisory function on the premises where the summer activities take place, the CCAC removed this case from the list of “retrospective review”.

## (II)

### Responsibility for supervision of unauthorised absence from duty

There was a report alleging that several workers of the Civil Aviation Authority (AACM) were habitually absent from duty during office hours and left office to handle their personal affairs. It was like a place “without supervision”. As it has not been shown that the authority tended to regularise such situation, the CCAC was requested to look into the matter.

As problems related to workers’ attendance fall into the area of management of internal workers by the department, the CCAC referred them to the AACM for follow-up actions. The AACM, which immediately carried out an investigation, found that in addition to some workers who were absent from duty, there were also circumstances of disciplinary offences committed by other workers who punched in and out on behalf of others. Considering that such workers had violated the duties of zeal and assiduity provided for in the *Statute of Personnel of the Civil Aviation Authority of Macao*, the AACM therefore initiated a disciplinary procedure against those workers according to the *Disciplinary Regulation of the Civil Aviation Authority* and decided that 16 workers were subject to written reprimand and 13 were sentenced to a fine.

Moreover, the AACM also proactively reviewed and admitted that there were deficiencies and omissions in the personnel attendance system of the department. Some of its workers did not properly understand the system of flexible working hours or the attendance guidelines. The AACM also lacked unified standards and workflows in handling the issues concerning personnel’s temporary absence from duty for personal reasons. The department promised to review the attendance supervision system. Therefore, the case was included in the list of the “retrospective review” for review in the future.

In 2022, the CCAC, through the “retrospective review” mechanism, verified that the AACM had newly revised the *Regime of Flexible Working Hours for the Personnel of the Civil Aviation Authority* and the *Complementary Regulations of Attendance and Absence for Personnel of the Civil Aviation Authority*, in which the application procedures for the attendance and absence from work were regulated. The AACM also adjusted relevant supervision measures through regulations, including the prerequisites and approaches to handle the situations concerning personnel’s temporary absence from duty for personal reasons. Meanwhile, the AACM also introduced the mechanism for

random checks in a regular way and enhanced the functions of information system for the management of attendance records. Moreover, talks were also held with an aim to step up promotion efforts in order to ensure the workers knew and understood the relevant attendance system.

As the relevant public institution has taken various improvement measures, the CCAC removed this case from the list of “retrospective review”.

### (III)

#### **Recusal system should not be just existed in name only**

There was a report alleging that the holder of a civic association which has received subsidies approved by the Macao Foundation for several consecutive years was a relative of a member of the Board of Trustees of the Macao Foundation. It was doubted if the recusal system was obeyed and if there were circumstances of illegalities. Therefore, the CCAC was requested to look into the matter.

According to Administrative Regulation no. 12/2001 (*Statute of Macao Foundation*), which has been amended, and the internal provisions for vetting and approval of subsidies which are formulated according to law, the Board of Trustees of the Macao Foundation should meet annually to approve the annual activity plans and budgets of the Foundation. The budgetary appropriations of subsidies for specific plans, which are proposed by the Administrative Committee, will be passed to the Board of Trustees for consideration and approval. After investigation, it was found that the civic association relevant to the case had indeed submitted reports and activity records in relation to the subsidised activities to the Macao Foundation for inspection according to law. There was not any administrative illegality or impropriety found in the procedures of vetting and approval of the reports, vetting and approval of the financial expenditure and compilation of the final conclusion reports by the Macao Foundation according to the established workflow.

However, during the investigation process, the CCAC found that the Macao Foundation indeed did not strictly implement the *Administrative Procedure Code* and the recusal system provided for in the *Internal Regulations of Recusal System Applied to the Collegiate Bodies of the Macao Foundation* which was approved by the Foundation in 2009. The Foundation prepared references for the members of the Administrative Committee concerning situations requiring recusal in order to remind them to carry out the duty of recusal if the holders of the applicants are their relatives. However, the Foundation does not apply the same way for the members of the Board of Trustees.

Therefore, the CCAC subsequently raised its opinions to the Macao Foundation and reminded that

despite that the lack of recusal might lead to defects where relevant acts or decisions were revocable, there would also be doubts about the justice and impartiality of the members of the aforesaid Collegiate Body. The CCAC suggested it take measures to review the implementation of the recusal system by the aforesaid Collegiate Body.

Giving positive responses to the suggestions of the CCAC, the Macao Foundation revealed its willingness to review and would remind all members of the Collegiate Bodies about the recusal system. It would also provide every member with the channels of prior declaration, maintain the accuracy of recusal information and keep the recusal records. Moreover, it would also strictly abide by the recusal system provided for in the *Administrative Procedure Code* and the internal regulation of the Macao Foundation.

In order to follow up the implementation of the aforementioned measure, the CCAC included this case in the list of "retrospective review" for review in a timely manner in the future.

#### (IV)

#### **The mechanism has to be improved**

There was a complaint alleging that the internal management of the Macau Junior Tennis Academy (hereinafter referred to as the "Tennis Academy") was poor. The Macau Tennis Association (hereinafter referred to as the "Tennis Association") to which the Academy was subordinate was unjust for selecting the members of the team of the Academy. It was doubted if the supervision of the Sports Bureau was ineffective and the CCAC was therefore requested to look into the matter.

After investigation, it was found that the Tennis Academy is jointly organised by the Sports Bureau and the Tennis Association. The management work of the Tennis Academy is shared between the two parties by entering into an agreement. The Sports Bureau is mainly responsible for providing equipment for the training venues, assisting in publicity of admission matters and providing financial support while the Tennis Association is mainly responsible for the arrangement of teaching matters, including the management of the Tennis Academy. It also needs to regularly report the teaching matters to the Sports Bureau. Therefore, the operation of the Tennis Academy and the tennis team are subject to the supervision of the Tennis Association and the Academy can receive financial subsidies from the Sports Bureau.

However, the CCAC found that the supervisory system taken by the Tennis Association for the Tennis Academy is not expressly provided for in the aforesaid agreement. Moreover, there is not any recusal mechanism contained in the statute concerning the selection of team members.

The CCAC believed that the Tennis Association, which is responsible for supervising the Tennis Academy, enjoys autonomy in teaching matters and selection of athletes, but it does not imply that it is not subject to the supervision of the Sports Bureau. The Sports Bureau, which is a public department responsible for promoting the development of local sports, should take measures to supervise the sports associations of Macao according to law. In addition, the teaching operation of the Tennis Academy and the tennis team are subject to subsidies granted by the Government, the Sports Bureau particularly has the responsibility to supervise the Tennis Association and improve the relevant systems regarding the operation of the Tennis Academy and the tennis team in order to ensure that the public funds are used in a rational, effective and proper way.



**The CCAC believed that the Sports Bureau has the responsibility to supervise the operation of the Tennis Academy**

Therefore, the CCAC raised its opinions to the Sports Bureau and included this case in the list of “retrospective review” for review in a timely manner concerning the follow-up of the supervisory efforts for the relevant sport association and the Sport Academy by the Sports Bureau.

## V. Departments or entities with positive attitudes

According to the information and statistics concerning the cases from the Ombudsman Bureau in 2022, complainants or informants mostly lodged the same complaints to the CCAC and relevant departments or entities at the same time. Therefore, before or at the time when the CCAC looked into the matters, most of the relevant departments or entities attached importance to and followed up the matters, or they immediately showed their cooperation during the investigation process of the CCAC or the communication with the CCAC. Moreover, they were willing to accept the stances or opinions related to the improvement of governance raised by the CCAC. Therefore, these public departments or entities (in no particular order) deserve recognition:

Departments or entities	Issues involved	Responses to CCAC's opinions	Follow-up actions by the departments or entities
Health Bureau	Improper conversion of Health Code	The department has taken appropriate actions.	The department, along with the complainant, met with the developer where the issue concerning the conversion of Macao Health Code to the Guangdong Health Code was rectified on the spot.
Sports Bureau	Refund for swimming tickets due to inclement weather	The department has accepted the CCAC's opinions and taken appropriate actions.	The department has improved the provision concerning refund for purchase of tickets online.
Macao Government Tourism Office	About the steam and massage facilities converted into karaoke rooms in an unauthorised way	The department has taken appropriate actions.	The department and the Public Security Police Force jointly carried out inspection and initiated procedures for administrative penalty against the facilities. They promised to continuously conduct on-site inspection to similar facilities.

Departments or entities	Issues involved	Responses to CCAC's opinions	Follow-up actions by the departments or entities
Transport Bureau	About the tendering procedure for number plate	The department has taken appropriate actions.	The department has changed the place for tender opening to a reception room where the video surveillance system and the recording system were equipped for the viewing by the residents publicly. The mechanism for publishing the "provisional list for tendering" and the "tendering result" on the webpage was improved with an aim to enhance transparency.
(Former) Land, Public Works and Transport Bureau	Accumulation of a large amount of objects and articles at the roof of a building which seriously affect hygienic conditions	The department has accepted the CCAC's recommendations and taken appropriate actions.	Considering the special situation of the owner of the relevant flat, the department has taken necessary measures to coordinate and complete the clearance of objects and articles accumulated at the public places of the building.
Housing Bureau	Water leakage at the rooftop of an economic housing unit	The department has taken appropriate actions.	The department has coordinated with the contractor to complete the repair work.
Public Security Police Force	Notification procedure concerning the revoking of renewal of residence permit	The department has taken appropriate actions.	The department has improved the way for verifying the notification list concerning the revoking of renewal of residence permit. It also formulated working guidelines and reinforced training of the personnel.



Departments or entities	Issues involved	Responses to CCAC's opinions	Follow-up actions by the departments or entities
Correctional Services Bureau	Arrangement of shift-work and rest time for education personnel at the Youth Correctional Institution	The department has accepted the CCAC's opinions and taken appropriate actions.	The department has rearranged the duty roster for the education personnel in order to comply with the <i>Statute of Personnel of the Public Administration of Macao</i> .
(Former) Macao Polytechnic Institute (currently the Macao Polytechnic University)	About a personnel doing part-time work	The department has taken appropriate actions.	The Macao Polytechnic University has initiated a disciplinary procedure and sentenced the personnel to a fine.
Environmental Protection Bureau / Land and Urban Construction Bureau	Installation of electric vehicle charging facilities in private residential buildings	The departments have taken appropriate actions.	The relevant departments have coordinated to follow up the cases where the installation did not comply with the regulations. Departmental communication was also enhanced. The "Application guidelines for installing electric vehicle charging facilities in carparks of private residential buildings" were revised in a timely manner.
Labour Affairs Bureau	Report of alleged false recruitment, performance of work not being authorised and in a place other than the authorised one	The department has taken appropriate actions.	The department verified, after investigation, the existence of administrative illegality related to the <i>Law on Employment of Non-Resident Workers</i> and sentenced the violators to administrative penalties.



Departments or entities	Issues involved	Responses to CCAC's opinions	Follow-up actions by the departments or entities
Municipal Affairs Bureau	Advertisement signboards in violation of law	The department has taken appropriate actions.	After investigation, the department verified the existence of administrative offences and has initiated relevant penalty procedures. It promised to continuously optimise the vetting, approval and renewal procedures concerning advertisement licenses. It will also take measures to strengthen inspection and supervision.
Public Security Police Force	About unauthorised occupation of a car parking space reserved for internal use by the department; about a personnel smoking in the office	The department has taken appropriate actions.	The department initiated a disciplinary investigation against the involved personnel and imposed fines on them. It also published internal guidelines to enhance supervision.
Macao International Airport Co. Ltd	About the service of wheelchair at airports	The institution has accepted the CCAC's opinions and taken appropriate actions.	The institution has taken necessary measures to issue guidelines to all airlines for lending wheelchairs to people in need free of charge, with the charging of deposits depending on specific circumstances.

