

# **Independent Committee in relation to the fire at Wang Fuk Court in Tai Po**

## **Evidential Hearing**

**The Honourable Mr Justice David Lok  
The Honourable Mr Chan Kin-por, GBS, JP  
Dr Rex Auyeung Pak-kuen, GBS, JP**

**On:  
Day 16  
Tuesday, 21 April 2026**

**Mr Victor Dawes SC, Mr Jason Yu, Mr SW Lee and Mr Jonathan Fung  
appeared on behalf of the Independent Committee**

**Mr Jenkin Suen SC, Mr Michael Lok, Mr Calvin Cheuk and Mr Charlie  
Liu appeared on behalf of the Government**

**Mr Andrew Lau appeared on behalf of residents of Wang Fuk Court**

**Representatives of Department of Justice**

**Representatives of Competition Commission**

**Mr Mike Lui SC and Mr Ross Yuen appeared on behalf of the Urban  
Renewal Authority**

**Solicitor for Hop On Management Company Limited**

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<p>1 Tuesday, 21 April 2026</p> <p>2 (10.00 am)</p> <p>3 THE HON MR JUSTICE DAVID LOK: Mr Lee.</p> <p>4 MR SW LEE: Good morning, chairman. Three witnesses today.</p> <p>5 All three of them are from the Labour Department. First</p> <p>6 we will call Ms Lam Sau Ching.</p> <p>7 Ms Lam, please read out the statement before you.</p> <p>8 (10.01 am)</p> <p>9 MS LAM SAU CHING (affirmed)</p> <p>10 Examination by MR SW LEE</p> <p>11 MR SW LEE: Thank you. Please have a seat.</p> <p>12 Ms Lam, we know that you joined the Labour</p> <p>13 Department more than 27 years ago.</p> <p>14 MS LAM SAU CHING: Correct.</p> <p>15 MR SW LEE: For this Wang Fuk Court fire, in around 2024,</p> <p>16 your job back then was the divisional occupational</p> <p>17 safety officer.</p> <p>18 MS LAM SAU CHING: Indeed.</p> <p>19 MR SW LEE: Around December 2025 up to now, you are in the</p> <p>20 legal services division.</p> <p>21 MS LAM SAU CHING: Yes.</p> <p>22 MR SW LEE: So from 2024 up to the fire at Wang Fuk Court,</p> <p>23 you dealt with complaints from Wang Fuk Court?</p> <p>24 MS LAM SAU CHING: Yes.</p> <p>25 MR SW LEE: Now I want to discuss with you the complaints</p>	<p>1 MR SW LEE: In the case of Wang Fuk Court, the LD conducted</p> <p>2 a total of 16 inspections and maybe there was an extra</p> <p>3 inspection, it was a surprise visit, enhanced surprise</p> <p>4 visit.</p> <p>5 MS LAM SAU CHING: Yes.</p> <p>6 MR VICTOR DAWES: Was it 16 or 17 in total?</p> <p>7 MS LAM SAU CHING: Altogether 17 visits.</p> <p>8 MR SW LEE: So from what I have learned, these inspections</p> <p>9 went by different names. Some were called initial</p> <p>10 inspections.</p> <p>11 MS LAM SAU CHING: Initial inspections.</p> <p>12 MR SW LEE: That was the first inspection you conducted</p> <p>13 after you were notified of the work and then there were</p> <p>14 normal inspections?</p> <p>15 MS LAM SAU CHING: Yes.</p> <p>16 MR SW LEE: So normal in the sense of general inspections?</p> <p>17 MS LAM SAU CHING: Yes.</p> <p>18 MR SW LEE: So when do you do normal inspections?</p> <p>19 MS LAM SAU CHING: Under our mechanism, it depends on the</p> <p>20 size of the site and the nature of the site. For major</p> <p>21 renovation or renovation work, our mechanism says that</p> <p>22 we have to inspect the site every month or every</p> <p>23 two months. So that's for normal inspections.</p> <p>24 MR SW LEE: So what's the purpose of your normal</p> <p>25 inspections?</p>
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<p>1 made by different parties and the participation of the</p> <p>2 Labour Department and the handling in this process. For</p> <p>3 the purposes of this Committee, you provided two written</p> <p>4 statements; correct?</p> <p>5 MS LAM SAU CHING: Correct.</p> <p>6 MR SW LEE: And I believe you provided the information based</p> <p>7 on information that you knew to be true; right?</p> <p>8 MS LAM SAU CHING: Correct.</p> <p>9 MR SW LEE: First, generally speaking, the Labour Department</p> <p>10 visits sites.</p> <p>11 MS LAM SAU CHING: Correct.</p> <p>12 MR SW LEE: For Wang Fuk Court, it was occupied but there</p> <p>13 was maintenance work going on and it fell within the</p> <p>14 meaning of construction work within the meaning of such</p> <p>15 legislation. So that involved oversight from the Labour</p> <p>16 Department; is that right?</p> <p>17 MS LAM SAU CHING: Correct.</p> <p>18 MR SW LEE: Here's the mechanism. When the contractor</p> <p>19 started the work, they had to let the LD know within</p> <p>20 seven days?</p> <p>21 MS LAM SAU CHING: Correct.</p> <p>22 MR SW LEE: So the work started and then the Labour</p> <p>23 Department inspected the site in response to different</p> <p>24 scenarios?</p> <p>25 MS LAM SAU CHING: Correct.</p>	<p>1 MS LAM SAU CHING: For us, the LD inspect the site to</p> <p>2 enforce the occupational safety and health legislation</p> <p>3 to ensure the safety of employees. And then there are</p> <p>4 special enforcement operations.</p> <p>5 MR SW LEE: Are these a kind of inspection?</p> <p>6 MS LAM SAU CHING: Yes. But these are large-scale and</p> <p>7 targeted operations.</p> <p>8 MR SW LEE: Do you have any examples when such operations</p> <p>9 are triggered?</p> <p>10 MS LAM SAU CHING: In February 2025 we undertook such an</p> <p>11 operation for the maintenance and renovation site when</p> <p>12 working at height was involved or when scaffolding was</p> <p>13 involved, electrical work or lifting operations. For</p> <p>14 such high-risk operations we took such operations.</p> <p>15 MR SW LEE: So such operations weren't just for Wang Fuk</p> <p>16 Court but rather for all ongoing major works across the</p> <p>17 city?</p> <p>18 MS LAM SAU CHING: Correct. So on an irregular basis, the</p> <p>19 LD mount such two to three week large-scale operations.</p> <p>20 It depends on the issue at hand. Sometimes it's about</p> <p>21 renovation, maintenance, sometimes it's about large</p> <p>22 construction site.</p> <p>23 MR SW LEE: As you explained, there's a kind of complaint</p> <p>24 investigation. So this one is obvious. So when you</p> <p>25 receive a complaint about the site, you mount such</p>

Page 5	<p>1 operations as a follow-up action?</p> <p>2 MS LAM SAU CHING: That's correct.</p> <p>3 MR SW LEE: You also issue improvement notices, it's a kind</p> <p>4 of letter, and then you follow up by inspecting the site</p> <p>5 to see if there's compliance or if there's improvement.</p> <p>6 MS LAM SAU CHING: Correct.</p> <p>7 MR SW LEE: So in the case of Wang Fuk Court you have the</p> <p>8 first or initial inspection and then you have more than</p> <p>9 a dozen inspections afterwards. Were those subsequent</p> <p>10 inspections in response to complaint?</p> <p>11 MS LAM SAU CHING: Not entirely in response to complaint.</p> <p>12 On an irregular basis we received complaint. Under our</p> <p>13 mechanism, we inspected the site every one or two</p> <p>14 months. When we got more complaints, we arranged more</p> <p>15 frequent inspections. Normally, it's once every one or</p> <p>16 two months. For Wang Fuk Court, we inspected the site</p> <p>17 almost every month.</p> <p>18 MR SW LEE: Now, a point not just for Wang Fuk Court. In</p> <p>19 your witness statement you also said for all inspections</p> <p>20 these were surprise inspections. So the language is</p> <p>21 "conducted on a surprise basis".</p> <p>22 MS LAM SAU CHING: Correct.</p> <p>23 MR SW LEE: Can I take that to mean that you did not let the</p> <p>24 site know beforehand that the LD would send someone to</p> <p>25 the site?</p>	Page 7
Page 6	<p>1 MS LAM SAU CHING: We would not let people know in advance.</p> <p>2 The inspections were about enforcement. We were clear</p> <p>3 that we would not and we should not let the contractors</p> <p>4 know in advance about the inspection.</p> <p>5 MR SW LEE: It depends on the circumstances. So you did not</p> <p>6 let the contractors know in advance. When you visit</p> <p>7 a new construction site, you cannot just walk in. You</p> <p>8 arrive at the site, you have to let the foreman know or</p> <p>9 someone from the contractor know before you can enter</p> <p>10 the site; correct?</p> <p>11 MS LAM SAU CHING: Yes. For new large-scale construction</p> <p>12 sites, at the gate we would have to let the people know</p> <p>13 before we can get in, but Wang Fuk Court was different.</p> <p>14 It was different from the site on top of, say, MTR</p> <p>15 station. For Wang Fuk Court we would not let the</p> <p>16 contractor know beforehand and we don't put on a safety</p> <p>17 helmet and that would not draw attention. So we first</p> <p>18 took a walk and had a look for irregularities, and when</p> <p>19 there was a complaint we checked the site of the</p> <p>20 complaint and other relevant site to see if the matters</p> <p>21 under the complaint happened. We had a look, and if</p> <p>22 needed, we invited the contractor to join us on the</p> <p>23 walk.</p> <p>24 MR SW LEE: So from what I know, the Labour Department is</p> <p>25 not a uniformed service, so when you sent people there,</p>	Page 8
	<p>1 those people are in plain clothes?</p> <p>2 MS LAM SAU CHING: Correct.</p> <p>3 MR SW LEE: Some departments had their own hi-viz vests with</p> <p>4 the name of the department on it. The LD didn't even</p> <p>5 have such uniforms so you wouldn't put them on?</p> <p>6 MS LAM SAU CHING: We wouldn't put that on.</p> <p>7 MR SW LEE: So normal plain clothes.</p> <p>8 After the inspections you had to document what</p> <p>9 happened. So my question is how this process takes</p> <p>10 place. Let's look at bundle D1. Let's look at</p> <p>11 page 947.</p> <p>12 This has to do with an inspection for Wang Fuk</p> <p>13 Court. On top we see M-1. So it's a shorthand, minutes</p> <p>14 number 1.</p> <p>15 MS LAM SAU CHING: Correct.</p> <p>16 MR SW LEE: On top we can see "DSO(MRM)2", I believe this</p> <p>17 was your post title?</p> <p>18 MS LAM SAU CHING: Correct.</p> <p>19 MR SW LEE: So someone reported the inspection to you; is</p> <p>20 that correct?</p> <p>21 MS LAM SAU CHING: That's right.</p> <p>22 MR SW LEE: So that's 22 July. Based on the first sentence,</p> <p>23 it's inspection related to a complaint.</p> <p>24 MS LAM SAU CHING: Correct.</p> <p>25 MR SW LEE: Let's look at paragraph 3. Some observations</p>	
	<p>1 are recorded here during the inspection. Officers</p> <p>2 spotted apparently nine workers working on the</p> <p>3 scaffolding at block G.</p> <p>4 MS LAM SAU CHING: Correct.</p> <p>5 MR SW LEE: And then it says:</p> <p>6 "Inspection was conducted in company of Mr Hau Wa</p> <p>7 Kin, Director ..."</p> <p>8 Followed by other persons, including the foreman.</p> <p>9 My question is this: so you had observations and</p> <p>10 then did you talk to the person in charge of the site?</p> <p>11 MS LAM SAU CHING: That's correct.</p> <p>12 MR SW LEE: When needed, you wanted to find out more,</p> <p>13 you would give them advice on occupational safety and</p> <p>14 health?</p> <p>15 MS LAM SAU CHING: Yes. So when we walked around the site</p> <p>16 we told these people areas that required improvement</p> <p>17 right away.</p> <p>18 MR SW LEE: Let's look at -- we were on page 947.</p> <p>19 Paragraph 4, we see five complaints. Complaint 1,</p> <p>20 anonymous complaint. This has to do with lifting</p> <p>21 safety. So that's in the first box.</p> <p>22 MS LAM SAU CHING: Yes.</p> <p>23 MR SW LEE: Let's jump to page 948, "Findings" on top. So</p> <p>24 we're still on complaint case 1. So officers recorded</p> <p>25 what they observed and then they came up with the</p>	

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<p>1 findings.</p> <p>2 MS LAM SAU CHING: They reported what they saw to me.</p> <p>3 MR SW LEE: Now, under "Findings" we see "Justification",</p> <p>4 and then it reads "Could not be justified". So I take</p> <p>5 that to mean that you make the observations and then you</p> <p>6 make a decision. And here the officers say whether the</p> <p>7 complaint is substantiated.</p> <p>8 MS LAM SAU CHING: That's correct.</p> <p>9 MR SW LEE: So if the officers make a preliminary decision,</p> <p>10 can I take it to mean that, Ms Lam, you were the</p> <p>11 superior of these officers, so you had the power to say</p> <p>12 that based on the information you had you could overturn</p> <p>13 the judgment or view of your officers?</p> <p>14 MS LAM SAU CHING: Correct.</p> <p>15 MR SW LEE: So you can review a case and then if you formed</p> <p>16 a different view, you decided a case was substantiated,</p> <p>17 you could give further instructions for follow-up</p> <p>18 actions?</p> <p>19 MS LAM SAU CHING: So the correct way to put it is that I do</p> <p>20 not overturn their views. When officers say the</p> <p>21 complaint could not be justified, they meant that during</p> <p>22 the inspection they could not see evidence for the</p> <p>23 complaint. So for me, I look at the report. If I see</p> <p>24 the need for further follow-up actions, I ask my</p> <p>25 officers to follow up.</p>	<p>1 So this is about workers smoking during work in</p> <p>2 disregard of fire safety legislation. Again we have</p> <p>3 "Findings". Here it reads that no workers were found</p> <p>4 smoking during the visit on the site. At the complaint</p> <p>5 location, no cigarette stubs were seen, no flammable</p> <p>6 substances found, no flammable substances or materials</p> <p>7 used. And there were enough fire extinguishers. So</p> <p>8 your officer's conclusion for this complaint about</p> <p>9 smoking was that the complaint was likewise not</p> <p>10 justified.</p> <p>11 MS LAM SAU CHING: Correct.</p> <p>12 MR SW LEE: The advice was no further action.</p> <p>13 MS LAM SAU CHING: Correct.</p> <p>14 MR SW LEE: In a moment I will come back to a point; we will</p> <p>15 circle back to this phrase "Not justified" in a moment.</p> <p>16 Let's look at a similar record elsewhere. It's on</p> <p>17 page 1129 in the same bundle. You can see this is M-6,</p> <p>18 apparently the sixth record. On top, again this was a</p> <p>19 record meant for you, Ms Lam.</p> <p>20 MS LAM SAU CHING: Correct.</p> <p>21 MR SW LEE: This one, in 2024, you were on site with your</p> <p>22 officers on 21 October 2024.</p> <p>23 MS LAM SAU CHING: Correct.</p> <p>24 MR SW LEE: So you were there. Based on the description in</p> <p>25 paragraph 2, there were 60 workers on site. They were</p>
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<p>1 MR SW LEE: My question for you at this point is that this</p> <p>2 phrase, "Could not be justified", within the Labour</p> <p>3 Department or within the OSH division, is this phrase</p> <p>4 common language or is it used systematically?</p> <p>5 MS LAM SAU CHING: It is commonly used.</p> <p>6 MR SW LEE: Let's look at the other complaint cases. 2, 3,</p> <p>7 I see "Could not be justified" or "Not justified".</p> <p>8 MS LAM SAU CHING: Correct.</p> <p>9 MR SW LEE: Let's look at page 948, the first complaint, and</p> <p>10 then down below, "Follow-up action", "NFA". I believe</p> <p>11 that means "no further action"?</p> <p>12 MS LAM SAU CHING: Correct.</p> <p>13 MR SW LEE: So it's shorthand for "no follow-up action"?</p> <p>14 MS LAM SAU CHING: This complaint could not be justified and</p> <p>15 we noted NFA, no further action. In subsequent</p> <p>16 inspections we continued to follow up on the matters</p> <p>17 because these were OSH matters such as working at height</p> <p>18 or lifting operations. So it's not like we stopped</p> <p>19 checking after noting the complaint wasn't justified on</p> <p>20 just one occasion.</p> <p>21 MR SW LEE: We understood then there were a total of</p> <p>22 17 inspections.</p> <p>23 MS LAM SAU CHING: Yes.</p> <p>24 MR SW LEE: Now let's look at page 950, complaint case</p> <p>25 number 5. In this form you can see "Complaint details".</p>	<p>1 engaged in chiselling on the scaffolding. So they were</p> <p>2 removing the tiles. Here you said that initially it was</p> <p>3 the Labour Department that conducted the inspection. It</p> <p>4 wasn't until later that Mr Tam, a foreman, and Mr Wong,</p> <p>5 accompanied you in other inspections.</p> <p>6 MS LAM SAU CHING: Yes, Mr Wong is a safety officer.</p> <p>7 MR SW LEE: Right. The safety officer is not part of the</p> <p>8 Labour Department and this is a resident safety officer</p> <p>9 required by the law. Does a safety officer need to</p> <p>10 register with the Labour Department?</p> <p>11 MS LAM SAU CHING: No. They need to sit for an examination</p> <p>12 to get the qualification and they also must have the</p> <p>13 relevant experience and they need an appointment letter</p> <p>14 from the employer to be the safety officer.</p> <p>15 MR SW LEE: This examination is supervised by the Labour</p> <p>16 Department?</p> <p>17 MS LAM SAU CHING: Yes.</p> <p>18 MR SW LEE: In the course of our hearing we hear that some</p> <p>19 workers never attended any safety classes. From the</p> <p>20 Labour Department's point of view, is this acceptable?</p> <p>21 MS LAM SAU CHING: This is not acceptable because the</p> <p>22 contractors hire the safety officers, and the safety</p> <p>23 officers do have the duty about safety on site. They</p> <p>24 must have undergone the training and they should go</p> <p>25 through the training and bring the safety knowledge to</p>

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<p>1 the workers.</p> <p>2 MR SW LEE: So the workers, before starting work, will need</p> <p>3 to undergo the training sessions?</p> <p>4 MS LAM SAU CHING: Yes, they must have the induction</p> <p>5 training.</p> <p>6 MR SW LEE: We can see in this inspection, Madam Lam, you</p> <p>7 were there. Let's turn to page 1131. Scroll down to</p> <p>8 the bottom. There are issues about smoking on the part</p> <p>9 of the workers. There are some records there.</p> <p>10 Basically here it says:</p> <p>11 "No workers were found smoking on the site ..."</p> <p>12 Unlike the last one, in some common areas a few</p> <p>13 cigarette butts or cigarette stubs were found but it was</p> <p>14 unclear whether they were left by workers or others.</p> <p>15 So can we put simply that on page 1132, on the</p> <p>16 question of smoking, along with other complaints, they</p> <p>17 were not justified?</p> <p>18 MS LAM SAU CHING: Yes.</p> <p>19 MR SW LEE: Let me find out a little bit here. I understand</p> <p>20 you carry out the investigation and collect evidence.</p> <p>21 You must have the relevant evidence and that's</p> <p>22 important. It seems that for these two examples, on the</p> <p>23 question of smoking complaints, you turned up on the</p> <p>24 site, you or your colleagues did not personally see</p> <p>25 anybody smoking. So strictly speaking, can I say that</p>	<p>1 MS LAM SAU CHING: Yes, correct.</p> <p>2 MR SW LEE: So I believe that the information is on the</p> <p>3 basis of the relevant facts.</p> <p>4 MS LAM SAU CHING: Yes.</p> <p>5 MR SW LEE: Let's go back to the issue of complaint</p> <p>6 handling. Let me refer to paragraph 8 of your first</p> <p>7 statement. Here, on 22 July 2024 there was an</p> <p>8 inspection. It was an initial inspection as well as</p> <p>9 a complaint investigation.</p> <p>10 MS LAM SAU CHING: Yes.</p> <p>11 MR SW LEE: Page 357. The last sentence reads that upon</p> <p>12 receipt of the complaint, LD, meaning Labour Department,</p> <p>13 also referred the smoking issue to the Fire Services</p> <p>14 Department, but FSD replied that smoking is not in the</p> <p>15 jurisdiction of the FSD.</p> <p>16 So let's turn to page 926. We can see a complaint</p> <p>17 template. 20 July, the complaint was lodged and then</p> <p>18 you conducted the inspection and saw no workers smoking.</p> <p>19 And here, towards the middle, it was replied by phone.</p> <p>20 Page 928, there are two pictures we have seen</p> <p>21 before. Here, let's blow it up. The worker is actually</p> <p>22 smoking on the scaffolding.</p> <p>23 Page 929, there are some emails. Let's start from</p> <p>24 page 930 towards the bottom. The first email is</p> <p>25 22 July, 12.23, issued by LD to FSD.</p>
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<p>1 it doesn't mean that nobody ever smoked there?</p> <p>2 MS LAM SAU CHING: I agree.</p> <p>3 MR SW LEE: It's just that when you turned up there, you</p> <p>4 could not gather the evidence successfully. Can I put</p> <p>5 it this way?</p> <p>6 MS LAM SAU CHING: Yes, you can put it this way. We could</p> <p>7 not get the evidence. We did not see the workers</p> <p>8 smoking on the site but I must point out that under the</p> <p>9 legislation, smoking is not against the law. The fact</p> <p>10 that the workers smoke doesn't breach the OSH Ordinance.</p> <p>11 MR SW LEE: Yes, we know that the Labour Department has</p> <p>12 given us further information. The administration is</p> <p>13 intending to amend the legislation to ban smoking</p> <p>14 altogether. I'm going to come back to this subject</p> <p>15 later on, but for the time being let's skip over to</p> <p>16 another thing.</p> <p>17 You've also provided another paper which I'd like to</p> <p>18 find out more. That's page 896. There seems to be a</p> <p>19 table there. At the top, the inspection and enforcement</p> <p>20 summary of the enforcement action against irregularities</p> <p>21 on Wang Fuk Court. So this is compiled by the Labour</p> <p>22 Department to facilitate the proceedings; is that right?</p> <p>23 MS LAM SAU CHING: Yes.</p> <p>24 MR SW LEE: The information, I am sure, is based on the</p> <p>25 sources that we referred to, like the inspection record?</p>	<p>1 MS LAM SAU CHING: Yes.</p> <p>2 MR SW LEE: "I forward herewith a zip file containing</p> <p>3 a complaint regarding public safety received via online</p> <p>4 occupational safety and health ... complaint</p> <p>5 platform ... for your necessary action, please."</p> <p>6 So this is a referral by the Labour Department to</p> <p>7 the Fire Services Department for action.</p> <p>8 MS LAM SAU CHING: Yes. In the complaint, the complainant</p> <p>9 mentions a breach of the Fire Services Ordinance, and on</p> <p>10 the basis of this, we referred the complaint to the FSD.</p> <p>11 MR SW LEE: It wasn't you, Ms Lam, who issued the email?</p> <p>12 MS LAM SAU CHING: No.</p> <p>13 MR SW LEE: For this kind of referral, this Mr Pang, is it</p> <p>14 your subordinate?</p> <p>15 MS LAM SAU CHING: No. He belongs to another division.</p> <p>16 MR SW LEE: So to your understanding, whatever the division,</p> <p>17 when a complaint is referred to another department,</p> <p>18 under your mechanism does it have to be referred upwards</p> <p>19 for approval? Because, after all, this is taking this</p> <p>20 outside your department to another department. Do you</p> <p>21 need any approval?</p> <p>22 MS LAM SAU CHING: No.</p> <p>23 MR SW LEE: This Mr Pang is from the Labour Department?</p> <p>24 MS LAM SAU CHING: Yes.</p> <p>25 MR SW LEE: When the complaint is about the worker and he is</p>

Page 17	<p>1 smoking on the scaffolding, looking at the two photos,                  2 when the complainant is a member of the public and                  3 he/she doesn't know anything about the right                  4 legislation, but looking back, do you think that this                  5 may also involve the Labour Department?                  6 MS LAM SAU CHING: Let me say this. This involves our                  7 purview and the issue was referred doesn't mean to say                  8 that we do not follow up on the issue.                  9 MR SW LEE: Yes, we'll read on. Page 930 at the top, a                  10 couple of hours later the FSD gave you a reply to say                  11 that:                  12 "... the subject matter is not under the                  13 jurisdiction of FSD. You may wish to refer the case to                  14 the relevant department.                  15 Thank you."                  16 So that's what the FSD said in reply.                  17 At page 929, shortly after you received the FSD                  18 reply, on 22 July, 6.05 pm, this was referred to you,                  19 Ms Lam. Further down:                  20 "... this is a self-explanatory email and this is                  21 your information and necessary action."                  22 This is an email issued by you to a colleague, Kwan.                  23 You asked him:                  24 "Please assist, thanks."                  25 So you asked him to follow up.</p>	Page 19	<p>1 statement, you mentioned a stepped-up inspection.                  2 MS LAM SAU CHING: Right.                  3 MR SW LEE: Page 32, here at the beginning the complaint                  4 involves the BD and the ICU.                  5 MS LAM SAU CHING: Right.                  6 MR SW LEE: Let me take you to the relevant documents to                  7 facilitate our understanding of the complaints.                  8 Page 1120. I'm sure you're really well familiar with                  9 this. This is the communication record.                  10 MS LAM SAU CHING: Yes, this is referred to us by 1823.                  11 MR SW LEE: Let's start with III, "Contact history". There                  12 is a number 1 here on the left.                  13 MS LAM SAU CHING: Yes.                  14 MR SW LEE: The date, time, 2 October 2024, 10:53:15 there                  15 is a call inbound.                  16 MS LAM SAU CHING: Yes.                  17 MR SW LEE: We can see the nature of the complaint.                  18 Paragraph 2, under "Detail", one of the complaints is                  19 that the window is sealed up with foam board. Foam                  20 board is flammable material. The complainants asked the                  21 department whether there are any alternative materials                  22 or any other non-flammable materials instead of the foam                  23 board.                  24 The complainant mentioned the dust and also the                  25 inability to open the window. The major complaint is</p>
Page 18	<p>1 MS LAM SAU CHING: Yes.                  2 MR SW LEE: At this point, you agreed that the complaint has                  3 to do with the Labour Department.                  4 MS LAM SAU CHING: Yes.                  5 MR SW LEE: So, Ms Lam, that's why you asked your colleague                  6 to follow up on this?                  7 MS LAM SAU CHING: Yes.                  8 MR SW LEE: But my understanding is that since nobody was                  9 spotted smoking, no further action was taken?                  10 MS LAM SAU CHING: Yes.                  11 MR SW LEE: Let me turn now to another case you referred.                  12 THE HON MR JUSTICE DAVID LOK: If you see someone smoking,                  13 what action would you take?                  14 MS LAM SAU CHING: If we spot someone smoking, we will stop                  15 this behaviour there and then. Smoking in itself is not                  16 a breach of the law. We will ascertain whether there is                  17 any fire risk.                  18 THE HON MR JUSTICE DAVID LOK: Whether there are any                  19 flammable materials nearby?                  20 MS LAM SAU CHING: There's section 53 of the Construction                  21 Sites Regulation.                  22 THE HON MR JUSTICE DAVID LOK: Right. You look at section                  23 53.                  24 MS LAM SAU CHING: Right.                  25 MR SW LEE: Page 363, paragraph 30 onwards, your first</p>	Page 20	<p>1 about the use of the foam board.                  2 MS LAM SAU CHING: Yes.                  3 MR SW LEE: Let's read on. Number 2, 3 October, 9.29:                  4 "[Detail]                  5 Reassignment Option: Please reassign to the                  6 following officer: BS/MBI2-L4 of this department:                  7 Mandatory Building Inspection Division."                  8 I believe someone received the complaint and wanted                  9 to refer the complaint to the MBID.                  10 MS LAM SAU CHING: Yes.                  11 MR SW LEE: Is this the division for mandatory inspection of                  12 buildings?                  13 MS LAM SAU CHING: Yes, I think so.                  14 MR SW LEE: Page 1121, this is part of number 2:                  15 "Reassignment Reason: this case is under BS/MBI2L4                  16 purview."                  17 It seems this is stating the reason. This is within                  18 the purview of that department.                  19 Third, there is a record that's under part VII.                  20 I will come to that a little bit later.                  21 MS LAM SAU CHING: Yes.                  22 MR SW LEE: Let's skip over to number 4. 16 October 2024,                  23 11 am, there is an outbound call. Here some colleagues                  24 responded to the complainant. I understand that this is                  25 not a call you made.</p>

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<p>1 In the middle the complainant indicated that he 2 contacted the Housing Department but the Housing 3 Department indicated that the safety of scaffolding and 4 the use of flammable foam board, the issue has to be 5 referred to the Buildings Department and the issue was 6 referred to the BD for follow-up. 7 The response in the same paragraph: 8 "We understand your concern on building safety, but 9 as each case is different, we must consider the 10 individual situation in order to take further action, 11 hence please provide more specific information such as 12 the number of the mandatory inspection building scheme 13 or the exact location of the building. 14 If the building belongs to the Home Ownership Scheme 15 or public estate and they need to conduct repairs and 16 maintenance under the MBID, please contact the ICU under 17 Housing." 18 It seems that they have provided you with a link for 19 further information. 20 MS LAM SAU CHING: Yes. 21 MR SW LEE: My understanding is that they need more 22 information and if it is under the Home Ownership 23 Scheme, then they would ask you to contact the ICU. So 24 this seems to be the information given to the 25 complainant.</p>	<p>1 MS LAM SAU CHING: Yes. 2 MR SW LEE: Here we can see it says: 3 "Refer to the further information [dated 16 October] 4 provided by the informant ... 5 The complainant has provided additional information. 6 The estate is conducting maintenance works under MBID. 7 Complainant said that the foam boards used are 8 non-fire-retardant and there's actually no support for 9 the scaffolding. The complainant is worried about the 10 scaffolding safety and requests follow-up by the 11 department." 12 Down here we see English here: 13 "... as the subject estate building is under the 14 jurisdiction of the Independent Checking Unit under the 15 Office of the Permanent Secretary for Housing, please 16 reassign the case to ICU or follow-up action and reply. 17 Many thanks!" 18 You see remarks here, there is some information on 19 ordinances and regulations and a link to the ICU. It 20 says to tell 1823 to refer the case to ICU; am 21 I correct? 22 MS LAM SAU CHING: Yes. 23 MR SW LEE: Going down, you see number 10, 18 October 2024, 24 6.24 in the afternoon. 25 And then going down to page 1126, you see that this</p>
Page 22	Page 24
<p>1 MS LAM SAU CHING: Correct. 2 MR SW LEE: Let's take a look at 5, 6 and also 7, and then 3 down to 8. We're now on 18 October 2024, 9.40 am. It 4 seems that the person in charge may have already been 5 changed to someone else. So this is mainly an update; 6 right? 7 MS LAM SAU CHING: Correct. 8 MR SW LEE: And then 9, 18 October 2024, 9.41 in the 9 morning. 10 If you look at page 1122, the original officer, the 11 action officer has already been changed from Chi Lun Tse 12 to Amanda Lau. 13 MS LAM SAU CHING: Yes. 14 MR SW LEE: Can you tell which division the officer belongs 15 to? 16 MS LAM SAU CHING: We can't see that here but I believe it 17 is ICU. 18 MR SW LEE: Down to 10 and 11, basically we need to look -- 19 at 12 we see there is some follow-up with a complainant. 20 Let's jump down to page 1125. We see some repeated 21 information. At the top of 1125 we see a person called 22 Jackey Fung responding to the 1823 enquiry, because you 23 see at the top it says "Dear 1823 Manager", and then at 24 the bottom it says "Jackey Fung", MBIS under the 25 Buildings Department.</p>	<p>1 is written by Amanda KM Lau, MS/ICU14. So this should 2 be Ms Lau from ICU, as referred by you earlier. 3 MS LAM SAU CHING: Yes. 4 MR SW LEE: So this talks about the case. In English it 5 says: 6 "Given that the case regarding to a bamboo 7 scaffolding safety issue, please also refer the case to 8 the Labour Department ... as parallel action is 9 recommended and appropriate." 10 At the top there's a note saying "informed LD team"; 11 that LD has already been informed. 12 So, according to this, on 18 October this complaint, 13 including the issue of foam boards, has been referred to 14 the LD for follow up. 15 MS LAM SAU CHING: My understanding is that the bamboo 16 scaffolding safety issue has been referred to the Labour 17 Department. 18 MR SW LEE: Why would you have such an understanding? 19 MS LAM SAU CHING: Because here it says the "bamboo 20 scaffolding safety issue". This refers to the moulding 21 of the bamboo, maybe that there's not a support at each 22 level. 23 MR SW LEE: As this record shows you the original complaint, 24 you know what the original complaint was, but your 25 understanding is that, as Ms Lau only mentioned the</p>

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<p>1 bamboo scaffolding safety issue here, your understanding</p> <p>2 is that foam boards is not something you would need to</p> <p>3 handle?</p> <p>4 MS LAM SAU CHING: Yes, we would not handle foam boards.</p> <p>5 MR SW LEE: All right. Starting from page 1134, complaint</p> <p>6 number 5. Page 1135, it seems that your colleague</p> <p>7 Mr Tam understands that they received complaints about</p> <p>8 using non-fire-retardant foam boards. He understands</p> <p>9 the content of the complaint and he has also noted it</p> <p>10 down.</p> <p>11 MS LAM SAU CHING: Yes.</p> <p>12 MR SW LEE: From "Findings" it seems that your colleague</p> <p>13 focused mainly on the scaffolding issue.</p> <p>14 Moving down to "Justification &amp; F/U", does "F/U"</p> <p>15 stand for follow-up?</p> <p>16 MS LAM SAU CHING: Yes, follow-up.</p> <p>17 MR SW LEE: According to the conclusion made on 23 October,</p> <p>18 "could not be justified" and "no further action" is to</p> <p>19 be taken. So it seems that you have given some</p> <p>20 recommendations, and according to your understanding,</p> <p>21 foam boards does not go under your ambit?</p> <p>22 MS LAM SAU CHING: Yes.</p> <p>23 MR SW LEE: So from the point of view of the LD, you have</p> <p>24 completely handled the situation?</p> <p>25 MS LAM SAU CHING: Well, yes. When we conducted our spot</p>	<p>1 memo, you raised these concerns.</p> <p>2 MS LAM SAU CHING: Yes.</p> <p>3 MR SW LEE: In paragraph 2:</p> <p>4 "In view of the above public safety issues, the case</p> <p>5 is referred to you for any actions you may deem</p> <p>6 necessary."</p> <p>7 So it means that as it involves public safety, the</p> <p>8 case is referred to you to see what action may be</p> <p>9 necessary; right?</p> <p>10 MS LAM SAU CHING: Yes.</p> <p>11 MR SW LEE: And there is your signature together with</p> <p>12 a phone number. The complaint was lodged in October via</p> <p>13 1823.</p> <p>14 MS LAM SAU CHING: Yes.</p> <p>15 MR SW LEE: And it was referred to different departments.</p> <p>16 MS LAM SAU CHING: Yes.</p> <p>17 MR SW LEE: And then ICU referred it back to you.</p> <p>18 MS LAM SAU CHING: Yes, we have to deal with the bamboo</p> <p>19 scaffolding.</p> <p>20 MR SW LEE: And after conducting inspections, these</p> <p>21 complaints included foam boards. We have heard your</p> <p>22 explanation that it is not under the jurisdiction of the</p> <p>23 Labour Department, and so in November the case is</p> <p>24 referred back to the ICU.</p> <p>25 Originally, ICU referred the matter to you, and on</p>
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<p>1 check, we found some damaged bamboos and they were</p> <p>2 missing a form. And when they said there was no support</p> <p>3 for the bamboo scaffolding, we asked the contractors for</p> <p>4 the bamboo design. It was designed by a professional.</p> <p>5 MR SW LEE: So this is actually the actions taken, that it</p> <p>6 is the understanding by Mr Tam.</p> <p>7 MS LAM SAU CHING: Yes.</p> <p>8 MR SW LEE: Well, I just want to save some time and jump</p> <p>9 down to page 1162. From page 1162 we see a memo we are</p> <p>10 now to 11 November 2024 and you sent a memo to the head</p> <p>11 of ICU.</p> <p>12 MS LAM SAU CHING: Yes.</p> <p>13 MR SW LEE: Simply put, you said you've already dealt with</p> <p>14 the complaint and you talked about the concerns (a),</p> <p>15 (b), (c).</p> <p>16 MS LAM SAU CHING: Yes.</p> <p>17 MR SW LEE: (a) on some cracks being found on the bamboo</p> <p>18 members?</p> <p>19 MS LAM SAU CHING: Yes.</p> <p>20 MR SW LEE: (b) on the dust generated.</p> <p>21 MS LAM SAU CHING: Yes.</p> <p>22 MR SW LEE: And (c) there is a mention of protective screens</p> <p>23 of the scaffolds on whether they comply with</p> <p>24 fire-retardant properties.</p> <p>25 You said this was not your reply. According to this</p>	<p>1 11 November you just referred the case back to ICU.</p> <p>2 MS LAM SAU CHING: Yes. The safety issue of the bamboo</p> <p>3 scaffolding has been handed over to the LD.</p> <p>4 MR SW LEE: We have already heard that. I'm not trying to</p> <p>5 cut in to what you're saying, but from the perspective</p> <p>6 of the complainant, the complainant explained about</p> <p>7 smoking, which has not been resolved as of 11 November.</p> <p>8 MS LAM SAU CHING: Mmm.</p> <p>9 MR SW LEE: The foam boards issue, it seems there wasn't</p> <p>10 a response or advice given to the complainant on what to</p> <p>11 do.</p> <p>12 MS LAM SAU CHING: Right.</p> <p>13 MR SW LEE: Because the LD believes that it is not under its</p> <p>14 ambit. There are other complaints which also have not</p> <p>15 been resolved.</p> <p>16 Looking back, do you believe this case could have</p> <p>17 been handled better, or do you think the LD has already</p> <p>18 done all it could have done?</p> <p>19 MS LAM SAU CHING: We handled five complaints that day, and</p> <p>20 some other complaints involve smoking. Our colleagues</p> <p>21 dealt with those complaints. This report could have</p> <p>22 been written more in detail on the smoking issue.</p> <p>23 MR SW LEE: But nothing about the foam boards?</p> <p>24 MS LAM SAU CHING: Foam boards is not the main focus of our</p> <p>25 inspection because construction does not go under the</p>

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<p>1 LD.</p> <p>2 MR SW LEE: Well, you are the author of the memo. If you</p> <p>3 had reminded the ICU that foam boards are not related to</p> <p>4 the LD, would an enhancement in communication actually</p> <p>5 have helped you resolve the case better?</p> <p>6 MS LAM SAU CHING: Yes.</p> <p>7 MR SW LEE: On the smoking issue, the government is looking</p> <p>8 into amending regulation to ban smoking on all</p> <p>9 construction sites. It seems that residents have</p> <p>10 explained, there were photos, and we have seen clips on</p> <p>11 smoking; there is evidence showing that. And even the</p> <p>12 management office of the estate knows about the smoking,</p> <p>13 but it seems that, as the LD says that they did not see</p> <p>14 it with their own eyes, they were unable to take action;</p> <p>15 am I correct?</p> <p>16 MS LAM SAU CHING: Under the OSH Ordinance, smoking does not</p> <p>17 violate regulations. If smokers do not smoke near</p> <p>18 flammable materials, then we could not really stop them.</p> <p>19 MR SW LEE: I understand. The government is proposing</p> <p>20 amending the ordinance and to ban smoking.</p> <p>21 MS LAM SAU CHING: Yes.</p> <p>22 MR SW LEE: Let's say some people still smoke on</p> <p>23 construction sites or they still bring in cigarettes, we</p> <p>24 still go back to the same question because if the LD</p> <p>25 does not find anyone smoking or does not see anyone</p>	<p>1 cannot really make enforcement. We also considered fire</p> <p>2 risk. Under the current legislation, we can issue a</p> <p>3 smoking ban when there is a fire risk. On the basis of</p> <p>4 the current legislation, we have to see where they're</p> <p>5 smoking, whether they're smoking in safe areas or not.</p> <p>6 MR SW LEE: Now, the smoking ban is a separate issue that I</p> <p>7 will discuss with another witness, so I will leave that</p> <p>8 matter about the smoking ban for now.</p> <p>9 MS LAM SAU CHING: Yes.</p> <p>10 MR SW LEE: On the smoking complaint you mentioned the</p> <p>11 difficulties. In this case, we often got footage and</p> <p>12 photos, so no one actually saw those things in person.</p> <p>13 We may have to get in touch with the people who took the</p> <p>14 pictures and filmed the videos. We have to find out</p> <p>15 when the pictures and the footage were taken and that</p> <p>16 would help with evidence.</p> <p>17 MS LAM SAU CHING: So that information can serve as</p> <p>18 corroborative evidence.</p> <p>19 MR SW LEE: Before coming to the netting -- now, for this</p> <p>20 page, page 968, there was an inspection on 8 August</p> <p>21 2024. I believe this form was not filled by you?</p> <p>22 MS LAM SAU CHING: This was filled by my colleague.</p> <p>23 MR SW LEE: There's a circle, "Smoking". Do you know what</p> <p>24 that means?</p> <p>25 MS LAM SAU CHING: So this was a second inspection by my</p>
Page 30	Page 32
<p>1 smoking with their own eyes, you still wouldn't take</p> <p>2 action.</p> <p>3 MS LAM SAU CHING: Are you talking about after the</p> <p>4 amendment?</p> <p>5 MR SW LEE: It doesn't matter, because you said under</p> <p>6 certain circumstances you could enforce. But it seems</p> <p>7 that from many of the findings, we see the note "Not</p> <p>8 justified".</p> <p>9 MS LAM SAU CHING: Yes.</p> <p>10 MR SW LEE: It happens, but it's just that you didn't see it</p> <p>11 with your own eyes when you went down for on-site</p> <p>12 inspection, so "Not justified" is not actually fair;</p> <p>13 right?</p> <p>14 MS LAM SAU CHING: Right.</p> <p>15 THE HON MR JUSTICE DAVID LOK: Well, I think this is</p> <p>16 actually a problem of enforcement.</p> <p>17 MS LAM SAU CHING: Right.</p> <p>18 THE HON MR JUSTICE DAVID LOK: Well, you were at the</p> <p>19 frontlines, you know that enforcement is difficult. The</p> <p>20 government is looking into amending the law or maybe use</p> <p>21 drones in the future to help with enforcement. I'm sure</p> <p>22 you understand the difficulties of enforcement. Do you</p> <p>23 want to share this with us, on some of your thoughts?</p> <p>24 MS LAM SAU CHING: We can only enforce the law in accordance</p> <p>25 with regulations. Even when we see workers smoking, we</p>	<p>1 colleague. They received a complaint about smoking.</p> <p>2 And then the officer found out with the contractor what</p> <p>3 the contractor did about the smoking. Under our laws</p> <p>4 there was no way for us to pursue prosecution even when</p> <p>5 we saw a worker smoking. But because of our urging, we</p> <p>6 asked the contractor what measures they could take. So</p> <p>7 first it reads "1 worker fined".</p> <p>8 MR SW LEE: There were measures open to the contractor so</p> <p>9 they could fine the worker?</p> <p>10 MS LAM SAU CHING: Yes. So when the worker was caught</p> <p>11 smoking the first time there was a fine and then, the</p> <p>12 second instance, the worker would be turned away from</p> <p>13 the site.</p> <p>14 MR SW LEE: I want to show you two more documents. On</p> <p>15 page 971, this is the Chinese version of a document. So</p> <p>16 the Labour Department did something. Here, this is</p> <p>17 a letter issued. The date is 9 August 2024.</p> <p>18 MS LAM SAU CHING: Yes.</p> <p>19 MR SW LEE: So the date following that inspection. This was</p> <p>20 a letter issued to Prestige, to the main contractor.</p> <p>21 Paragraph 1. On 8 August there was an inspection. And</p> <p>22 then paragraph 2:</p> <p>23 "Officers of the department saw during this</p> <p>24 inspection that you or your company failed to observe</p> <p>25 the Construction Sites (Safety) Regulations and</p>

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<p>1 Factories and Industrial Undertakings Ordinance and                  2 other subsidiary regulations. These requirements are                  3 set out in part 1 and part 2 of the site inspection                  4 report. The report is attached for your reference."                  5 So, simply put, this paragraph says, "We saw                  6 irregularities, we also documented such instances in the                  7 site investigation or inspection report and we are                  8 telling you what breaches were found, what we saw."                  9 MS LAM SAU CHING: Yes.                  10 MR SW LEE: Now let's look at page 972, on top,                  11 "Construction Site Inspection Report". Item 1, the                  12 Chinese reads:                  13 "If flammable liquid or any mixture containing such                  14 liquid is used on the site leading to fire hazards,                  15 steps must be taken to ban smoking and there should not                  16 be usage of naked light."                  17 So that's what we got on 53.                  18 MS LAM SAU CHING: Correct.                  19 MR SW LEE: So this either says, "There were irregularities,                  20 we set out the details in the report", but your officers                  21 did not see smoking on the part of workers.                  22 MS LAM SAU CHING: Yes.                  23 MR SW LEE: Then why include this part in the report?                  24 MS LAM SAU CHING: On the point of workers who smoked, we                  25 did not have dedicated legislation for that. But we</p>	<p>1 the certificate of fire retardancy. Page 357,                  2 paragraph 9 refers to this very subject. Towards the                  3 end of that paragraph 9 you're asking for the                  4 information:                  5 "For further details on the test report and delivery                  6 notes ..."                  7 So after certificate of retardancy, you're asking                  8 for delivery notes for the Labour Department?                  9 MS LAM SAU CHING: Yes.                  10 MR SW LEE: Madam Lam, you must know that there is such                  11 a requirement imposed on the contractor.                  12 MS LAM SAU CHING: Yes.                  13 MR SW LEE: Let's refer to the relevant document.                  14 July 2024, the requests, D1/1599. You can confirm that                  15 this is what Prestige gave to you in terms of the test                  16 report?                  17 MS LAM SAU CHING: Yes.                  18 MR SW LEE: Page 1600, that's the relevant certificate. On                  19 the right-hand side, column 3, the grading,                  20 satisfactory.                  21 MS LAM SAU CHING: Yes.                  22 MR SW LEE: In the past, the number is 2024.01.05-011.                  23 Further down the page, the specimen date is 2024.01.05;                  24 delivery for testing, also 2024.01.05; manufacture date,                  25 2024.01.05.</p>
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<p>1 issued the written reminder to the contractor to look                  2 out for workers smoking. With this report we reminded                  3 the contractor. So on the left, the first two columns,                  4 there was no tick or check because there was no breach                  5 of legislation but we wanted to remind the contractor                  6 what to look out for. We also set out the relevant                  7 provisions in the law for them to be aware of.                  8 THE HON MR JUSTICE DAVID LOK: So I believe you didn't see                  9 smoking during the inspections.                  10 MS LAM SAU CHING: But smoking existed on the site.                  11 MR SW LEE: Chairman, I would then come to the scaffolding                  12 netting. Maybe this is an appropriate time to take                  13 a break.                  14 THE HON MR JUSTICE DAVID LOK: We will take a 15-minute                  15 break.                  16 (11.05 am)                  17 (A short adjournment)                  18 (11.21 am)                  19 THE HON MR JUSTICE DAVID LOK: Please carry on.                  20 MR SW LEE: Madam Lam, before the break we talked about                  21 smoking, foam board, and all these unresolved issues.                  22 Next I'm going to talk about the scaffolding and the                  23 scaffold nettings.                  24 In your statement on 22 July 2024, the LD conducted                  25 an inspection and you asked the contractor Prestige for</p>	<p>1 MS LAM SAU CHING: Yes.                  2 MR SW LEE: Now look at the stamp. It was 8 January 2024,                  3 it was issued by the relevant party.                  4 MS LAM SAU CHING: Yes.                  5 MR SW LEE: If you look at delivery note, page 1604, there                  6 is the express record addressed to Mr Chan Yu Fai. In                  7 July 2024 your colleague must have reported to you that                  8 this document has been received and it seems to be in                  9 order?                  10 MS LAM SAU CHING: Right.                  11 MR SW LEE: Now let's return to your statement, page 379,                  12 paragraph 83. On 20 November 2025, about 22 months                  13 later, the Labour Department, because of a typhoon,                  14 because some nets were replaced and the Labour                  15 Department asked for certificate for the fire                  16 retardancy; right?                  17 MS LAM SAU CHING: Yes.                  18 MR SW LEE: Prestige, we understand, made available some                  19 certificates about fire retardancy; right?                  20 MS LAM SAU CHING: Yes.                  21 MR SW LEE: The second time, page 1685, that's also bundle                  22 D1. Page 1686, this certificate, 22 months later, you                  23 received a certificate also 20 or so months ago. That's                  24 exactly the same document.                  25 MS LAM SAU CHING: Yes.</p>

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<p>1 MR SW LEE: Madam Lam, in your statement you offered the</p> <p>2 explanation. To be fair to you let's turn to page 379,</p> <p>3 paragraph 83. Your explanation was:</p> <p>4 "When the test report was received, we focused on</p> <p>5 the test result but did not notice at the material time</p> <p>6 that the report received was the same as the one LD</p> <p>7 received on 24 July 2024."</p> <p>8 So a year or so ago you received the document,</p> <p>9 exactly the same document you received, but you didn't</p> <p>10 notice because you were focusing on the test result for</p> <p>11 the compliance.</p> <p>12 MS LAM SAU CHING: Yes.</p> <p>13 MR SW LEE: If you don't mind me saying this, did you</p> <p>14 receive the certificate? Did you look at this?</p> <p>15 MS LAM SAU CHING: Yes, I did.</p> <p>16 MR SW LEE: 2024.01.05, if you look at page 1686, this date</p> <p>17 appeared on a number of occasions. In your record I'm</p> <p>18 sure you must have filed the previous document.</p> <p>19 MS LAM SAU CHING: Yes.</p> <p>20 MR SW LEE: Did you or your colleague ever make any</p> <p>21 comparison between the two?</p> <p>22 MS LAM SAU CHING: No.</p> <p>23 MR SW LEE: Looking back, do you think that this is an area</p> <p>24 that should have been improved? We have the evidence</p> <p>25 now, that these new nets seem likely to be</p>	<p>1 to stop objects from falling.</p> <p>2 MR SW LEE: If you were not concerned about the fire</p> <p>3 retardancy, you wouldn't have asked for the test</p> <p>4 certificate?</p> <p>5 MS LAM SAU CHING: Right.</p> <p>6 MR SW LEE: Because this would affect the safety of the</p> <p>7 scaffolding?</p> <p>8 MS LAM SAU CHING: Correct.</p> <p>9 MR SW LEE: If it's not fire-retardant, if it catches fire,</p> <p>10 then from the workers' point of view, it may not be</p> <p>11 safe?</p> <p>12 MS LAM SAU CHING: Correct.</p> <p>13 MR SW LEE: My question is, if you don't have the</p> <p>14 professional expertise, did you try to talk to the ICU,</p> <p>15 the Buildings Department or the laboratory or government</p> <p>16 laboratory to find out what fire retardancy means? Did</p> <p>17 you do anything like that?</p> <p>18 MS LAM SAU CHING: No, we didn't do that. We just -- on</p> <p>19 11 November we referred the issue to the ICU.</p> <p>20 MR SW LEE: That was in 2025?</p> <p>21 MS LAM SAU CHING: 2025 -- 2024.</p> <p>22 MR SW LEE: 2024.</p> <p>23 In November 2025 you also asked for the fire</p> <p>24 retardancy certificate.</p> <p>25 MS LAM SAU CHING: Right.</p>
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<p>1 non-fire-retardant.</p> <p>2 MS LAM SAU CHING: Right.</p> <p>3 MR SW LEE: Looking back with hindsight, if you were</p> <p>4 a little bit more careful, if you did not rush through</p> <p>5 the job, you might have picked up the same -- the</p> <p>6 document that was given to you so many months ago, that</p> <p>7 the warning might have been sounded; it is something you</p> <p>8 should have done better?</p> <p>9 MS LAM SAU CHING: Agreed.</p> <p>10 MR SW LEE: But another major issue I'd like to hear your</p> <p>11 views: your boss, Mr Lee, or another witness Mr Yuen,</p> <p>12 who is coming up, they said that you don't have the</p> <p>13 professional expertise and you received the document,</p> <p>14 you're maybe just reading it; is that right?</p> <p>15 MS LAM SAU CHING: Yes.</p> <p>16 MR SW LEE: The document says it is in compliance, what</p> <p>17 standard did they use for testing, whether this is up to</p> <p>18 requirements, you don't have the professional expertise</p> <p>19 to ascertain; right?</p> <p>20 MS LAM SAU CHING: We don't have the relevant professional</p> <p>21 expertise. We do not do any sampling, we do not take</p> <p>22 this for testing.</p> <p>23 MR SW LEE: But did it happen -- now, obviously you are</p> <p>24 concerned by the fire retardancy of the nettings; right?</p> <p>25 MS LAM SAU CHING: We are concerned. The nettings are there</p>	<p>1 MR SW LEE: So can I put it like this: the Labour Department</p> <p>2 remains concerned about this issue?</p> <p>3 MS LAM SAU CHING: Yes.</p> <p>4 MR SW LEE: Otherwise it would not have asked for the</p> <p>5 certificate for the second time?</p> <p>6 MS LAM SAU CHING: Right.</p> <p>7 MR SW LEE: So you got the certificate and you didn't know</p> <p>8 whether the certificate stood or not, you're just doing</p> <p>9 it. It doesn't mean anything at all, can I put it this</p> <p>10 way?</p> <p>11 MS LAM SAU CHING: Under the safety code, it must have the</p> <p>12 fire retardancy, so we are concerned about that. And</p> <p>13 when necessary, we will be asking for the certificate.</p> <p>14 MR SW LEE: You're talking about the code of practice</p> <p>15 regarding the scaffolding safety?</p> <p>16 MS LAM SAU CHING: Correct.</p> <p>17 MR SW LEE: Let's turn to that particular document.</p> <p>18 I understand that 19 October 2025 there is the</p> <p>19 5th edition, that's the latest edition.</p> <p>20 MS LAM SAU CHING: Right.</p> <p>21 MR SW LEE: Before that you were relying on the 4th edition.</p> <p>22 MS LAM SAU CHING: Right.</p> <p>23 MR SW LEE: The CoP you have made available to us. If we</p> <p>24 turn to page 633, that is the English version in</p> <p>25 bundle D1. Page 634 we have the code of practice?</p>

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<p>1 MS LAM SAU CHING: Yes.</p> <p>2 MR SW LEE: That's the code you referred to?</p> <p>3 MS LAM SAU CHING: Yes.</p> <p>4 MR SW LEE: Let's turn to page 636, 1.4, since</p> <p>5 1 September 2017, the code came into force?</p> <p>6 MS LAM SAU CHING: Right.</p> <p>7 MR SW LEE: Let's skip over to 4.4.4. I'm reading the</p> <p>8 Chinese for accuracy. 4.4.4, "Provision of catch-fan</p> <p>9 and protective screen". Bracket (d), here it says:</p> <p>10 "On the face of the scaffold, suitable protective</p> <p>11 screen of fire-retardant material should be provided to</p> <p>12 confine falling objects."</p> <p>13 And then it goes on to say:</p> <p>14 "If tarpaulin is being used as protective screen,</p> <p>15 its fire-retardant characteristic should meet the</p> <p>16 requirements of BS [standard] ... or other equivalent</p> <p>17 national/international standards or provisions."</p> <p>18 Let's pause here. We are looking at this paragraph.</p> <p>19 For the protective screen, it must be fire-retardant.</p> <p>20 MS LAM SAU CHING: Yes.</p> <p>21 MR SW LEE: But a protective screen can take many different</p> <p>22 forms. If you're using tarpaulin as a protective</p> <p>23 screen, this paragraph expressly provides that the</p> <p>24 fire-retardant characteristics should meet the</p> <p>25 requirements of certain international standards; right?</p>	<p>1 the nylon nets that should also meet the national or</p> <p>2 international standards?</p> <p>3 MS LAM SAU CHING: Right.</p> <p>4 MR SW LEE: For the 5th edition, it came into effect on</p> <p>5 19 October 2024, but in fact, in July 2024, before the</p> <p>6 5th edition, the Labour Department in relation to nylon</p> <p>7 nets, not tarpaulin, did require the certificate of fire</p> <p>8 retardancy?</p> <p>9 MS LAM SAU CHING: Right.</p> <p>10 MR SW LEE: So in this regard, the Labour Department was</p> <p>11 actually ahead of the curve. You required this before</p> <p>12 the new edition came into force?</p> <p>13 MS LAM SAU CHING: Right. The 4th edition mentions fire</p> <p>14 retardancy.</p> <p>15 MR SW LEE: So we're not saying that the scaffold nets don't</p> <p>16 really need to be fire-retardant.</p> <p>17 MS LAM SAU CHING: No, no such arrangement.</p> <p>18 MR SW LEE: The Buildings Department APP-70 code.</p> <p>19 MS LAM SAU CHING: Yes.</p> <p>20 MR SW LEE: That's bundle J1-1/688. There is a document by</p> <p>21 the BD, the practice note, "Use of Plastic Sheet to</p> <p>22 cover scaffolding outside buildings", also about the</p> <p>23 scaffold nettings. Date May 1995, first issued.</p> <p>24 Paragraph 1:</p> <p>25 "It is obligatory to provide screens, fans, catch</p>
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<p>1 MS LAM SAU CHING: Correct.</p> <p>2 MR SW LEE: So if you adopt the 4th edition you can say that</p> <p>3 if you use nylon netting, it doesn't specifically say</p> <p>4 about the safety standard; right?</p> <p>5 MS LAM SAU CHING: Yes.</p> <p>6 MR SW LEE: Now, the 5th edition, let's very quickly go over</p> <p>7 to that. Page 684, we have the new version here. If we</p> <p>8 look at the effective date, page 690. 1.4, this edition</p> <p>9 came into force on 19 October 2024.</p> <p>10 MS LAM SAU CHING: Yes.</p> <p>11 MR SW LEE: So it was 2024.</p> <p>12 Paragraph 4.4.4(d), again the new edition says,</p> <p>13 I read it in Chinese here:</p> <p>14 "On the face of the scaffold, suitable protective</p> <p>15 screen (such as nylon nets, plastic sheeting, canvas,</p> <p>16 etc) should be provided to confine falling objects.</p> <p>17 Protective net, screen, tarpaulin/plastic sheeting</p> <p>18 installed on the face ... should have appropriate</p> <p>19 fire-retardant properties in compliance with</p> <p>20 a recognised standard."</p> <p>21 And there are some examples thereafter. The</p> <p>22 national standard is also included.</p> <p>23 MS LAM SAU CHING: Right.</p> <p>24 MR SW LEE: So comparing editions 4 and 5, edition 5 is</p> <p>25 sufficiently clear: it's not just tarpaulin, it includes</p>	<p>1 platforms or similar protective measures to prevent</p> <p>2 objects from falling outside the building boundary and</p> <p>3 to alleviate dust pollution under the law ..."</p> <p>4 And further down there are three main provisions.</p> <p>5 MS LAM SAU CHING: Yes.</p> <p>6 MR SW LEE: (a), the Labour Department has to deal with, the</p> <p>7 construction site safety.</p> <p>8 MS LAM SAU CHING: Yes.</p> <p>9 MR SW LEE: So other than the code of the Labour Department,</p> <p>10 all along the Buildings Department has also provided for</p> <p>11 the scaffold nettings that are a certain requirement?</p> <p>12 MS LAM SAU CHING: Yes.</p> <p>13 MR SW LEE: If you turn to paragraph 4 of the same document,</p> <p>14 (a), protective screen must be flame-retardant in terms</p> <p>15 of materials used. So not only the Labour Department</p> <p>16 but also the BD has the same requirement?</p> <p>17 MS LAM SAU CHING: Yes.</p> <p>18 MR SW LEE: The LD, in enforcement, would of course comply</p> <p>19 with both; right? You would of course look into the</p> <p>20 code of practice and also APP-70; right?</p> <p>21 MS LAM SAU CHING: My understanding is that when we updated</p> <p>22 to the 5th edition, it is in accordance with the BD's</p> <p>23 view to add that in.</p> <p>24 MR SW LEE: So I'm sure that you would agree that at any</p> <p>25 time protective screening or any netting on the</p>

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<p>1 scaffolding should actually have this requirement of  2 being flame-retardant?  3 MS LAM SAU CHING: Yes.  4 MR SW LEE: When did you know that there would be  5 a 5th edition?  6 MS LAM SAU CHING: On 19 October 2024.  7 MR SW LEE: When did you learn of it?  8 MS LAM SAU CHING: Probably at the beginning of 2024 or  9 around in April.  10 MR SW LEE: I'm sure your supervisor will also tell you that  11 there will be an update and that amendments will be  12 made.  13 MS LAM SAU CHING: Right.  14 MR SW LEE: I'm sure emails will be sent to inform you of  15 that; right?  16 MS LAM SAU CHING: Yes.  17 MR SW LEE: I'd like to take you to a case you handled  18 previously. It's in bundle D1/1463. This is a draft  19 reply. We see the word "Draft" on top of the page.  20 MS LAM SAU CHING: Yes.  21 MR SW LEE: Towards the top we see it is about certain  22 complaints. Under the first black line, you would see  23 that underline, it says:  24 "I want to know whether PC&amp;E, what kind of documents  25 they have submitted and whether they are using compliant</p>	<p>1 MR SW LEE: You have corrected me earlier that there's  2 always been this flame-retardant standard.  3 MS LAM SAU CHING: Yes.  4 MR SW LEE: Looking back at this email, you said that under  5 the current safety regulations on construction sites, it  6 does not actually involve flame-retardant standards of  7 scaffolding nets?  8 MS LAM SAU CHING: Well, it could be more comprehensive.  9 MR SW LEE: But you have already told me that there is such  10 a standard or such a requirement, so you can't tell me  11 that this is correct?  12 MS LAM SAU CHING: Oh, there is no such standard in the 4th  13 edition.  14 MR SW LEE: Well, that is exactly my point. This email was  15 sent on 4 October 2024.  16 MS LAM SAU CHING: Yes.  17 MR SW LEE: 15 days later, on 19 October, the 5th edition  18 will become effective.  19 MS LAM SAU CHING: Yes.  20 MR SW LEE: You already knew of this updated version earlier  21 in the year. You knew that it will become effective in  22 October.  23 MS LAM SAU CHING: Yes.  24 MR SW LEE: It's not something you only know on the day of  25 19 October.</p>
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<p>1 flame-retardant material as protective screening."  2 So, Ms Lam, you drafted a reply.  3 MS LAM SAU CHING: My colleague drafted the reply for me and  4 then I responded.  5 MR SW LEE: Okay. So your colleague drafted it for you and  6 you approved it?  7 MS LAM SAU CHING: Yes.  8 MR SW LEE: Let's go directly to 1462 since you have  9 confirmed this as your response. Towards the top you  10 see that this is actually a reply to the complainant.  11 It is sent on 4 October 2024, 11.41 in the morning.  12 MS LAM SAU CHING: Right.  13 MR SW LEE: Paragraph 3:  14 "In relation to the protective screening on the  15 scaffolding, the function is to prevent objects from  16 falling. It is to protect this from falling on people  17 beneath it and that is in accordance with safety  18 regulations on construction sites and it does not  19 involve flame-retardant standards. Even when there are  20 hot work processes that may produce sparks, we know that  21 this kind of work process would not be done on the  22 scaffolding and the fire risk will be relatively low."  23 So you confirm that this is the reply given to the  24 complainant?  25 MS LAM SAU CHING: Yes.</p>	<p>1 MS LAM SAU CHING: Right.  2 MR SW LEE: In July you've already started asking for  3 flame-retardant compliance certificates; right?  4 Therefore, you can't say that the flame-retardant  5 requirement does not fall under safety regulations.  6 MS LAM SAU CHING: Well, looking back, I could have phrased  7 it better.  8 MR SW LEE: Well, you should say that the contents of this  9 email is incorrect?  10 MS LAM SAU CHING: Right.  11 MR SW LEE: But if the complainant relies on your  12 information, then the complainant will be misled in  13 thinking that there is no such flame-retardant  14 requirement?  15 MS LAM SAU CHING: It wouldn't be as accurate.  16 MR SW LEE: We have to make it clear: it's inaccurate. Do  17 you agree with me on that? Because there is such  18 a requirement.  19 MS LAM SAU CHING: It should be flame-retardant -- the  20 function should be flame-retardant, but there is no such  21 set requirement. I understand that I could have made it  22 more clear.  23 MR SW LEE: Even before the 5th edition became effective,  24 you still treat it as part of a protective screening?  25 MS LAM SAU CHING: Yes.</p>

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<p>1 MR SW LEE: I do not have any other questions. Thank you.</p> <p>2 THE HON MR JUSTICE DAVID LOK: Counsel for residents.</p> <p>3 Examination by MR ANDREW LAU</p> <p>4 MR ANDREW LAU: Ms Lam, I'd like to ask about the inspection</p> <p>5 of smoking.</p> <p>6 MS LAM SAU CHING: Okay.</p> <p>7 MR ANDREW LAU: You have seen in July 2024 there were</p> <p>8 complaints by Wang Shing House and there were some</p> <p>9 photos of workers smoking on the scaffolding?</p> <p>10 MS LAM SAU CHING: Yes.</p> <p>11 MR ANDREW LAU: When the LD inspects a site, would you just</p> <p>12 inspect on the ground or would you go up?</p> <p>13 MS LAM SAU CHING: Well, we usually do that on ground. When</p> <p>14 there is a need, we would go up to the rooftop to check</p> <p>15 the upper floors.</p> <p>16 MR ANDREW LAU: What do you mean by when necessary?</p> <p>17 MS LAM SAU CHING: Generally, we would first patrol on the</p> <p>18 ground level. When we see workers working in the upper</p> <p>19 floors, of course we will be concerned about their work</p> <p>20 safety and we will go up to the rooftop to take a look</p> <p>21 there.</p> <p>22 MR ANDREW LAU: Let's say if you do not see any smoking on</p> <p>23 the ground, you wouldn't go to the upper floors?</p> <p>24 MS LAM SAU CHING: No, we would still go up to the rooftop</p> <p>25 to take a look and we might also need to check the</p>	<p>1 First of all, Counsel Lee asked about the Labour</p> <p>2 Department inspections. You wouldn't notify the</p> <p>3 contractors in advance before, right, and you said it</p> <p>4 would be conducted on a surprise basis?</p> <p>5 MS LAM SAU CHING: Correct.</p> <p>6 MR JENKIN SUEN: When you arrive at the site, like at</p> <p>7 Wang Fuk Court, you would first make observations and,</p> <p>8 when deemed necessary, you would contact the contractors</p> <p>9 to try to get a better understanding from them. You</p> <p>10 have explained this earlier?</p> <p>11 MS LAM SAU CHING: Yes.</p> <p>12 MR JENKIN SUEN: When you need to ask the contractors to</p> <p>13 meet with you, would you tell them the reason behind the</p> <p>14 inspection? Would you tell them that you have received</p> <p>15 complaints on certain issues? Would you let them know</p> <p>16 the details?</p> <p>17 MS LAM SAU CHING: No. According to our code of practice,</p> <p>18 we cannot disclose why we came for the inspections.</p> <p>19 MR JENKIN SUEN: Other than the internal code of practice,</p> <p>20 is there also a regulation on that?</p> <p>21 MS LAM SAU CHING: Well, yes. Under the OSH Ordinance</p> <p>22 section 29(2), if we notify in advance of spot checks,</p> <p>23 then it would be in violation of our practice and we</p> <p>24 cannot disclose the identity of the inspectors.</p> <p>25 MR JENKIN SUEN: So let's say you receive certain</p>
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<p>1 safety belts.</p> <p>2 MR ANDREW LAU: How long do you usually stay when you go for</p> <p>3 those smoking inspections?</p> <p>4 MS LAM SAU CHING: It depends. We do not only go and</p> <p>5 inspect smoking. Once we are on site, we would go</p> <p>6 through all safety issues, such as working at height or</p> <p>7 conveyance or lifting works. If there is a need, we</p> <p>8 would sometimes stay the entire afternoon.</p> <p>9 MR ANDREW LAU: Well, we see just now photos of workers at</p> <p>10 Wang Shing House smoking. Would you just target that</p> <p>11 particular building when you conduct your inspections?</p> <p>12 MS LAM SAU CHING: No, we would not only target one</p> <p>13 building. Because workers are mobile, so we would</p> <p>14 usually go around and check the other buildings.</p> <p>15 MR ANDREW LAU: So did you check the entire Wang Fuk Court?</p> <p>16 MS LAM SAU CHING: Yes. We did not only focus on Wang Shing</p> <p>17 House. We also walked around and checked the safety in</p> <p>18 other areas.</p> <p>19 MR ANDREW LAU: Thank you.</p> <p>20 THE HON MR JUSTICE DAVID LOK: Any questions by involved</p> <p>21 parties other than the Government counsel?</p> <p>22 No. All right.</p> <p>23 Examination by MR JENKIN SUEN</p> <p>24 MR JENKIN SUEN: Good morning. Ms Lam, I have a few</p> <p>25 questions to ask you.</p>	<p>1 complaints, when you go to Wang Fuk Court to conduct</p> <p>2 inspections, you would not disclose the reasons behind</p> <p>3 your inspections, you would just look at all works in</p> <p>4 relation to occupational health and safety?</p> <p>5 MS LAM SAU CHING: Yes.</p> <p>6 MR JENKIN SUEN: Would you focus more on complaint issues?</p> <p>7 MS LAM SAU CHING: Yes.</p> <p>8 MR JENKIN SUEN: For Wang Fuk Court you would conduct an</p> <p>9 inspection around once every two months. Does that mean</p> <p>10 there would be regular inspections?</p> <p>11 MS LAM SAU CHING: According to our mechanism, even without</p> <p>12 receiving complaints, we would consider the size of the</p> <p>13 construction site to set up regular inspections. Some</p> <p>14 may be once every one or two months, and for some, it</p> <p>15 may be once every two weeks.</p> <p>16 MR JENKIN SUEN: For Wang Fuk Court, you're conducting more</p> <p>17 frequent inspections, sometimes on a monthly basis?</p> <p>18 MS LAM SAU CHING: Yes.</p> <p>19 MR JENKIN SUEN: You have explained that there were</p> <p>20 16 inspections and one extra inspection. Can you tell</p> <p>21 us more about the reason for the one extra inspection?</p> <p>22 MS LAM SAU CHING: Due to the number of complaints received,</p> <p>23 we added in one inspection. That is not to deal with</p> <p>24 complaints. It's because during July to September, we</p> <p>25 continuously received residents' complaints. So that</p>

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<p>1 time we took the initiative to take a look at Wang Fuk                  2 Court. We saw at that time that workers were erecting                  3 bamboo scaffolding and we checked whether they had clear                  4 safety measures, and after observing, we saw that they                  5 were taking protective measures from falling from                  6 height. We did not see smokers smoking, however, that                  7 time.                  8 MR JENKIN SUEN: For that particular inspection, how do you                  9 check whether workers were smoking?                  10 MS LAM SAU CHING: We would use cameras to zoom in to the                  11 workers on the ground level to see whether they're                  12 adopting safety measures and we could also tell whether                  13 they are smoking.                  14 MR JENKIN SUEN: Would you be targeting a certain building                  15 or the entire estate?                  16 MS LAM SAU CHING: The entire estate.                  17 MR JENKIN SUEN: Counsel Lee asked you about a particular                  18 complaint and that complaint was referred to ICU.                  19 Before you referred it to ICU -- may I refer you to                  20 page 1500. This is in relation to the complaint                  21 received via 1823:                  22 "After receiving the referral on safety issues on                  23 bamboo scaffolding from the ICU, we have already                  24 conducted a spot check and reminded responsible persons                  25 to issue written warnings and reminded them to work in</p>	<p>1 something that Counsel Lee has already gone through with                  2 you on inspection. So on one occasion you sent the                  3 inspection report to the contractor.                  4 MS LAM SAU CHING: Yes.                  5 MR JENKIN SUEN: So this had to do with the manual C-251:                  6 "Steps shall be taken to ensure that smoking or the                  7 use of naked lights is prohibited ... where flammable                  8 liquid or any mixture containing any such liquid [is                  9 involved] ..."                  10 So if you simply see a worker smoking, that is not                  11 enough basis for you to enforce the law; you also have                  12 to look out for the use of flammable liquid?                  13 MS LAM SAU CHING: Correct.                  14 MR JENKIN SUEN: Counsel SW Lee also asked you a question.                  15 So the government is considering legislative amendment                  16 to ban smoking on site, and if you don't see workers                  17 smoking on site, there's nothing you can do. Even under                  18 the amended law, you won't be able to do anything.                  19 The chairman put a question to you and you didn't                  20 get a chance to explain. For the contractor, under the                  21 future amended law, is there something we can do about                  22 the contractor, not just about the workers? Are you                  23 privy to such details?                  24 MS LAM SAU CHING: After the Construction Sites (Safety)                  25 Regulation is amended, with a smoking ban in effect on</p>
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<p>1 accordance with OSH regulations and ordinance to ensure                  2 workers' safety and health."                  3 Does bamboo scaffolding go only under the LD or does                  4 it go under ICU or do both departments need to follow                  5 up?                  6 MS LAM SAU CHING: I think it relates to both departments.                  7 LD mainly focuses on workers' safety. Public safety                  8 would be referred to other departments.                  9 MR JENKIN SUEN: Even when the LD follows up, it will follow                  10 up only on workers' safety; do you think that ICU should                  11 also simultaneously follow up on that?                  12 MS LAM SAU CHING: Yes.                  13 MR JENKIN SUEN: Please now go to D1/1162. Counsel Lee said                  14 that the ICU referred to the LD as well. Do you think                  15 the Labour Department also has a responsibility to                  16 handle issues in relation to bamboo scaffolding?                  17 MS LAM SAU CHING: Yes.                  18 MR JENKIN SUEN: Here some concerns were raised that cracks                  19 were found on the bamboo members and you said that it                  20 relates to public safety. What is the reason for                  21 writing this to the ICU?                  22 MS LAM SAU CHING: I want the ICU to look into the cracks                  23 because it might affect structural safety and that might                  24 also relate to public safety issues.                  25 MR JENKIN SUEN: Let's look at bundle D1/972. This is also</p>	<p>1 the construction site, the contractor will be under                  2 a duty to prevent smoking. Even when officers do not                  3 see any workers smoking, we can rely on photos from                  4 residents or other people, and that will be enough                  5 evidence for us to pursue prosecution.                  6 So after the law is amended, photos will allow us to                  7 prosecute the contractor for breach of OSH or                  8 occupational safety and health legislation.                  9 MR JENKIN SUEN: So after the law is amended, if you do the                  10 no catch workers smoking, if you just see cigarette                  11 stubs all over the place or you see poor management on                  12 the part of the contractor, is there something you can                  13 do about the contractor after the law is amended?                  14 MS LAM SAU CHING: If there are signs showing that the                  15 contractor does not go far enough in banning smoking,                  16 then there is something we can do.                  17 MR JENKIN SUEN: Now let's look at this construction site                  18 inspection report. I want to confirm something with                  19 you. On the left you see parts I and II?                  20 MS LAM SAU CHING: Yes.                  21 MR JENKIN SUEN: Your witness statement explains this point.                  22 I want to refer you to WS1, page 358. At the bottom,                  23 the footnote, footnotes 2 and 3. The footnotes are in                  24 English. If there is a contravention of a regulation,                  25 there will be a tick in a column in the left. In the</p>

<p>Page 57</p> <p>1 report we don't see very tick, so that means you did not                  2 see any contravention?                  3 MS LAM SAU CHING: Correct.                  4 MR JENKIN SUEN: Your practice is to follow the regulations                  5 and that means reminding the contractor to be on the                  6 lookout?                  7 MS LAM SAU CHING: Correct.                  8 MR JENKIN SUEN: Thank you. No further questions from me,                  9 chairman.                  10 THE HON MR JUSTICE DAVID LOK: No re-examining? Thank you.                  11 Thank you, Ms Lam. Thank you for attending the                  12 hearing.                  13 (The witness was released)                  14 (12.04 pm)                  15 MR SW LEE: Chairman, the next witness is Mr Li Man Pong.                  16 Mr Li, please rise and read out the statement in                  17 front of you.                  18 (12.05 pm)                  19 MR LI MAN PONG (affirmed)                  20 Examination by MR SW LEE                  21 MR SW LEE: Please be seated. You joined the Labour                  22 Department in 2009?                  23 MR LI MAN PONG: Correct.                  24 MR SW LEE: You are now senior division occupational safety                  25 officer?</p>	<p>Page 59</p> <p>1 enforcement.                  2 MR LI MAN PONG: Okay.                  3 MR SW LEE: You have heard the evidence from Ms Lam?                  4 MR LI MAN PONG: Correct.                  5 MR SW LEE: So let's talk about the mechanism. If you were                  6 the senior officer in charge of the area covering                  7 Wang Fuk Court, if Ms Lam was there, she would have been                  8 required to report to you?                  9 MR LI MAN PONG: Correct.                  10 MR SW LEE: So that's for the organisational setup?                  11 MR LI MAN PONG: Correct.                  12 MR SW LEE: We discussed different kinds of inspections.                  13 MR LI MAN PONG: Yes.                  14 MR SW LEE: I will not go through those again. You have                  15 also heard Ms Lam's explanation about the different                  16 requirements and the different inspections involved.                  17 Is there anything you would like to add or correct                  18 on the inspections mentioned by Ms Lam?                  19 MR LI MAN PONG: I want to supplement something. Ms Lam                  20 brought up several kinds of inspections. There's a kind                  21 of special enforcement operation that was conducted on                  22 21 February 2025.                  23 MR SW LEE: So that's the special enforcement operation?                  24 MR LI MAN PONG: Correct. For this special enforcement                  25 operation, this involved quite a number of labour</p>
<p>Page 58</p> <p>1 MR LI MAN PONG: Correct.                  2 MR SW LEE: You are mainly in charge of New Territories East                  3 and Kwun Tong?                  4 MR LI MAN PONG: Correct.                  5 MR SW LEE: So in November 2025, Wang Fuk Court was in the                  6 area in your purview?                  7 MR LI MAN PONG: I was posted to my current position on                  8 1 December 2025.                  9 MR SW LEE: So before the fire you were not in charge of the                  10 work covering Wang Fuk Court?                  11 MR LI MAN PONG: Right.                  12 MR SW LEE: For the hearing you provided three witness                  13 statements.                  14 MR LI MAN PONG: Yes.                  15 MR SW LEE: I believe the information there is based on your                  16 understanding and information that you know to be true?                  17 MR LI MAN PONG: Correct.                  18 MR SW LEE: So you do not have the firsthand knowledge on                  19 many things about Wang Fuk Court.                  20 MR LI MAN PONG: Before the fire.                  21 MR SW LEE: Your job is supervising other officers working                  22 under you and, as you said, you were not in charge of                  23 that district before the fire?                  24 MR LI MAN PONG: Correct.                  25 MR SW LEE: So some general questions about policy and law</p>	<p>Page 60</p> <p>1 inspectors. So the officers were not on the team under                  2 Ms Lam; we got officers from a different office to visit                  3 the site of Wang Fuk Court.                  4 MR SW LEE: So if I got this right, this special enforcement                  5 operation wasn't just for a particular housing estate;                  6 it was a territory-wide thing for high-risk projects,                  7 a targeted operation?                  8 MR LI MAN PONG: This was initiated by our headquarters.                  9 MR SW LEE: Ms Lam also cited examples such as working at                  10 height so I will not go through that again.                  11 THE HON MR JUSTICE DAVID LOK: You said this involved                  12 a different team of officers. Was it a requirement                  13 within your system or was there a particular reason?                  14 Was it a bit like a review, so having someone else look                  15 at the situation, like a kind of cross-checking                  16 arrangement?                  17 MR LI MAN PONG: Chairman, this is correct. In fact, both                  18 cases apply. This is a review. For the team on site on                  19 21 February 2025, they had the technical background to                  20 look out for the electrical systems. So they were                  21 looking at the hazards for workers from the electrical                  22 systems. Those were licensed officers who could look at                  23 the electrical systems.                  24 I also want to supplement on another issue. For our                  25 inspections, we have frontline officers. We got</p>

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<p>1 occupational safety officers I and II. For Wang Fuk                  2 Court we got quite a number of complaints. In October,                  3 the divisional occupational safety officer led the team,                  4 that's Ms Lam, she led the team to visit the site in                  5 person. As the chairman said, there was cross-checking,                  6 so a supervisor led the team in the inspection.                  7 MR SW LEE: On inspections, do you have anything to add? If                  8 not, we will move on to the next point, something you                  9 can assist us: after an inspection, when you find                  10 suspected contraventions, what the Labour Department can                  11 take by way of law enforcement, so this will be some                  12 general questions.                  13 MR LI MAN PONG: Yes.                  14 MR SW LEE: There were four kinds of enforcement actions.                  15 MR LI MAN PONG: Yes.                  16 MR SW LEE: The most serious kind, the highest level is to                  17 prosecute the contractor involved?                  18 MR LI MAN PONG: Correct.                  19 MR SW LEE: And then you move down a level, and that is                  20 issuing a suspension notice, so I believe "suspension                  21 notice" is the term you used?                  22 MR LI MAN PONG: Correct.                  23 MR SW LEE: This is also for serious matters?                  24 MR LI MAN PONG: Yes.                  25 MR SW LEE: If I'm getting this right, on a site when you</p>	<p>1 serious consequences will follow. That's because                  2 failure to comply with an improvement notice is also                  3 a criminal offence?                  4 MR LI MAN PONG: Correct.                  5 MR SW LEE: The last option is the most lenient option: you                  6 issue warning letters?                  7 MR LI MAN PONG: Correct.                  8 MR SW LEE: And you also send the construction site                  9 inspection report. You set out the items, you draw the                  10 contractor's attention to such matters?                  11 MR LI MAN PONG: Correct.                  12 MR SW LEE: So for the case of Wang Fuk Court, for                  13 contraventions, was there any criminal prosecution for                  14 the contractors or sub-contractors?                  15 MR LI MAN PONG: Yes, there were. For working at height, we                  16 prosecuted Prestige and also the scaffold                  17 sub-contractor. There were three summonses. Three                  18 summonses were issued.                  19 MR SW LEE: So that had to do with the failure to ensure the                  20 use of safety harnesses?                  21 MR LI MAN PONG: And also without taking reasonable                  22 precautions to prevent workers from falling from height.                  23 MR SW LEE: Now, I'm not going to go through the points                  24 about smoking again because for smoking improvement                  25 notices were issues?</p>
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<p>1 have a tower crane that collapses and then casualties                  2 result, often the Labour Department issues such                  3 a suspension notice right away, so all work stops?                  4 MR LI MAN PONG: So we may stop certain procedures or the                  5 use of certain materials, but there's also a chance that                  6 we do ask the entire site to stop the operation.                  7 MR SW LEE: So if you ask the entire site to stop the work,                  8 that's pretty serious in terms of the financial                  9 implications?                  10 MR LI MAN PONG: Correct.                  11 MR SW LEE: The third option is to issue improvement                  12 notices?                  13 MR LI MAN PONG: Correct.                  14 MR SW LEE: So that means you see breaches, but as a gesture                  15 of goodwill you remind the contractor to improve their                  16 work; correct?                  17 MR LI MAN PONG: Yes. But if someone breaches this notice,                  18 there are legal consequences.                  19 MR SW LEE: So in cases of what you call "IN", you give them                  20 a notice.                  21 MR LI MAN PONG: Yes.                  22 MR SW LEE: As Ms Lam said, there are follow-up inspections.                  23 MR LI MAN PONG: Yes.                  24 MR SW LEE: So you issue an improvement notice and then you                  25 visit again; if you see no improvement, then more</p>	<p>1 MR LI MAN PONG: For smoking?                  2 MR SW LEE: Yes.                  3 MR LI MAN PONG: We did not issue improvement notices, we                  4 issued warnings.                  5 MR SW LEE: So that was option 4, reminding the contractors                  6 about workers should not smoke.                  7 MR LI MAN PONG: Yes.                  8 MR SW LEE: So you do not make any personal decision about                  9 the enforcement options; there are guidelines?                  10 MR LI MAN PONG: Correct.                  11 MR SW LEE: So let's look at bundle D1, page 1724. There's                  12 a standing order within the Labour Department.                  13 MR LI MAN PONG: Correct.                  14 MR SW LEE: Dated 13 November 2023. This applies to all                  15 departments related to occupational safety and health.                  16 Let's look at the last bit. For all officers, that                  17 means occupational safety officers, they are expected to                  18 exercise their professional judgment, discretion and                  19 common sense in assessing the gravity of the offence and                  20 they decide the seriousness of the consequences. So                  21 this is the broad principle.                  22 MR LI MAN PONG: Yes.                  23 MR SW LEE: Let's keep reading. There are four groups.                  24 More stringent measures will apply in certain cases.                  25 Let's look at group 1. My understanding is that</p>

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<p>1 this is the most serious scenario.</p> <p>2 MR LI MAN PONG: Yes.</p> <p>3 MR SW LEE: So here it says, hazardous work, when someone</p> <p>4 may lose their life and there may be serious bodily</p> <p>5 damage, when there is a breach of the rules, in such</p> <p>6 cases then a suspension notice should be issued?</p> <p>7 MR LI MAN PONG: Correct.</p> <p>8 MR SW LEE: And when the case is serious and there is</p> <p>9 evidence, then follow-up actions will be required and</p> <p>10 there may be criminal prosecution?</p> <p>11 MR LI MAN PONG: Correct.</p> <p>12 MR SW LEE: I do not propose to go through this part</p> <p>13 paragraph by paragraph. So in more serious cases you</p> <p>14 take more stringent measures. I don't know if you heard</p> <p>15 the evidence from Mr Keung Sai Ming, the Assistant</p> <p>16 Director of Fire Services, when he was giving evidence,</p> <p>17 he answered a question from the chairman. The reply was</p> <p>18 this. So the question from the chairman was, for</p> <p>19 a building maintenance project, the fire hazard level</p> <p>20 was almost the highest. An important factor was that</p> <p>21 someone was living inside the building.</p> <p>22 MR LI MAN PONG: Yes.</p> <p>23 MR SW LEE: And Mr Keung said, looking back, he agreed there</p> <p>24 was such a risk.</p> <p>25 So for you, you're here, you're confronted with the</p>	<p>1 MR LI MAN PONG: Right.</p> <p>2 MR SW LEE: From this incident, we have also learned that</p> <p>3 workers were also injured or killed in the fire.</p> <p>4 Workers went to the rooftop.</p> <p>5 MR LI MAN PONG: Right.</p> <p>6 THE HON MR JUSTICE DAVID LOK: So the LD does have the</p> <p>7 responsibility, so do other departments.</p> <p>8 MR LI MAN PONG: Yes.</p> <p>9 MR SW LEE: Fire prevention, if this responsibility is put</p> <p>10 on you, it's not fair to the Labour Department.</p> <p>11 MR LI MAN PONG: I agree.</p> <p>12 MR SW LEE: I think government departments should</p> <p>13 collectively play a monitoring and supervisory role;</p> <p>14 would you agree?</p> <p>15 MR LI MAN PONG: Yes.</p> <p>16 MR SW LEE: On the part of the Labour Department -- you are</p> <p>17 testifying today about the Labour Department.</p> <p>18 MR LI MAN PONG: Yes.</p> <p>19 MR SW LEE: We all understand that the fire risk is high.</p> <p>20 We heard that the scaffolding falls within the purview</p> <p>21 of the Labour Department. But the external wall, which</p> <p>22 is next to the scaffolding, there is the flammable foam</p> <p>23 board on the window.</p> <p>24 MR LI MAN PONG: Right.</p> <p>25 MR SW LEE: From the point of view of the Labour Department,</p>
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<p>1 same situation. Do you agree that for a building</p> <p>2 maintenance project, at least for the fire hazard, do</p> <p>3 you agree that this is high-risk scenario?</p> <p>4 MR LI MAN PONG: I agree.</p> <p>5 THE HON MR JUSTICE DAVID LOK: I find something odd. So the</p> <p>6 Labour Department focuses on OSH, occupational safety</p> <p>7 and health, so it's about protecting workers. But the</p> <p>8 fire hazard has to do with a different group of</p> <p>9 people: the residents. Getting the Labour Department to</p> <p>10 take charge of such matters at the policy level seems</p> <p>11 weird.</p> <p>12 MR LI MAN PONG: When I gave my reply to Mr Lee, I was</p> <p>13 thinking -- a fire hazard for the public also means fire</p> <p>14 hazard for workers. So I was purely thinking, from the</p> <p>15 perspective of workers, workers would also be at risk</p> <p>16 when it comes to fire hazard.</p> <p>17 THE HON MR JUSTICE DAVID LOK: I note your point.</p> <p>18 MR SW LEE: For the 4th and 5th editions of the guidelines</p> <p>19 on scaffolding, there is requirement on fire retardancy.</p> <p>20 MR LI MAN PONG: Yes.</p> <p>21 MR SW LEE: So for the Labour Department, at the policy</p> <p>22 level, you don't think fire is none of your business?</p> <p>23 MR LI MAN PONG: I agree.</p> <p>24 MR SW LEE: So it's a risk to workers and also a risk to</p> <p>25 residents.</p>	<p>1 can you tell us -- this may not be right on the</p> <p>2 scaffolding, but the foam boards are next to the</p> <p>3 scaffolding. The workers are working next to the foam</p> <p>4 boards and the foam boards are there to prevent damage</p> <p>5 to the windows.</p> <p>6 From the Labour Department's perspective, after the</p> <p>7 fire, do you think that the foam boards should be</p> <p>8 incorporated into your purview in a way that you should</p> <p>9 also be overseeing that, or should it be the ICU or the</p> <p>10 Buildings Department?</p> <p>11 MR LI MAN PONG: I think for the foam boards, they are part</p> <p>12 of the building materials. The Labour Department is</p> <p>13 overseeing the OSH. We are overseeing the procedures,</p> <p>14 whether they are safe or not. For the building</p> <p>15 materials, they fall outside of our inspection. They</p> <p>16 may affect the OSH of the workers, but our focus remains</p> <p>17 on the workers' procedures.</p> <p>18 MR SW LEE: My understanding is that whether the foam boards</p> <p>19 are fire-retardant, all the requirements, they should</p> <p>20 not be monitored and supervised by the Labour</p> <p>21 Department?</p> <p>22 MR LI MAN PONG: Right.</p> <p>23 MR SW LEE: But as I said a moment ago, on the scaffolding,</p> <p>24 the workers are facing the materials that are posing</p> <p>25 danger.</p>

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<p>1 MR LI MAN PONG: Right.</p> <p>2 MR SW LEE: They put cans and cans of thinner on the</p> <p>3 scaffolding; it's not for the Labour Department to look</p> <p>4 at the flammability or not, but the mere presence of</p> <p>5 this thinner poses fire danger?</p> <p>6 MR LI MAN PONG: Right.</p> <p>7 MR SW LEE: We keep hearing about the smoking ban. There is</p> <p>8 evidence showing workers smoking there.</p> <p>9 MR LI MAN PONG: Yes.</p> <p>10 MR SW LEE: I know in terms of prosecution these photos may</p> <p>11 not be sufficient.</p> <p>12 MR LI MAN PONG: Yes.</p> <p>13 MR SW LEE: But with the benefit of hindsight and looking</p> <p>14 forward, given that the workers are smoking, and this</p> <p>15 may fall outside your purview, but they do pose a fire</p> <p>16 danger? Do you think that if you issued a smoking</p> <p>17 ban -- it is another matter how this is enforced, but if</p> <p>18 you issue a smoking ban, would it have been a feasible</p> <p>19 proposition?</p> <p>20 MR LI MAN PONG: Well, fire risk on the scaffolding and with</p> <p>21 the benefit of hindsight, issuing a smoking ban,</p> <p>22 section 53 of the CSSR has not been amended. They are</p> <p>23 talking about the flammable substances. Our</p> <p>24 understanding is that foam boards are combustible but</p> <p>25 they're not flammable materials.</p>	<p>1 MR LI MAN PONG: Yes.</p> <p>2 MR SW LEE: If there's smoking there, no flammable materials</p> <p>3 in the vicinity, in your view, they may not be breaching</p> <p>4 the smoking ban if this is brought in?</p> <p>5 MR LI MAN PONG: They would be in breach under the new law</p> <p>6 because there is no assessment. Under the existing</p> <p>7 framework we can only do the persuasion, we can ask or</p> <p>8 bring pressure to bear on the contractors to formulate</p> <p>9 the house rule.</p> <p>10 MR SW LEE: Counsel Jenkin Suen asked you about the new</p> <p>11 legislation, since there is another tool to deal with</p> <p>12 the contractors.</p> <p>13 MR LI MAN PONG: Yes.</p> <p>14 MR SW LEE: However strong the tool is, even if the law is</p> <p>15 amended, your view remains that you need to see people</p> <p>16 smoking before you can say that they breached the law?</p> <p>17 MR LI MAN PONG: Not necessarily. If we see the cigarette</p> <p>18 butts, we have a prima facie case to gather the</p> <p>19 evidence.</p> <p>20 MR SW LEE: Ms Lam made the point a moment ago that whether</p> <p>21 you amend the law or not, you go to Wang Fuk Court -- if</p> <p>22 Wang Fuk Court is still there and with the new law, it</p> <p>23 may face the same problem.</p> <p>24 MR LI MAN PONG: With the framework in place, if we can</p> <p>25 see -- if we see the cigarette butts and there are</p>
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<p>1 So looking at this from the pre-fire perspective, we</p> <p>2 probably would not issue the smoking ban.</p> <p>3 MR SW LEE: Is it worth considering, in terms of policy and</p> <p>4 law enforcement, amending the relevant provision to</p> <p>5 broaden the scope?</p> <p>6 MR LI MAN PONG: I learned that under section 53 we don't</p> <p>7 have to do so much assessment. We can have smoking ban</p> <p>8 wholesale. If there is any workers smoking, we can</p> <p>9 initiate prosecution. We don't really have to care</p> <p>10 about whether the substance is flammable or not. This</p> <p>11 direction is a step in the right direction for the</p> <p>12 frontline.</p> <p>13 MR SW LEE: I put the same question to Madam Lam about law</p> <p>14 enforcement and smoking ban and the law enforcement.</p> <p>15 I'd like to let you have the opportunity to say this.</p> <p>16 For the frontline officers, obviously there is some</p> <p>17 difficulty. Your view as of now is you need to have the</p> <p>18 evidence, you only see people smoking before you would</p> <p>19 take action.</p> <p>20 MR LI MAN PONG: Yes. Other than this, we also need to have</p> <p>21 the combination of the flammable materials causing the</p> <p>22 fire risk before we can take action.</p> <p>23 MR SW LEE: On a site, if they walk into the site -- in the</p> <p>24 construction site you have the hose, hosing down the</p> <p>25 truck wheels.</p>	<p>1 flammable materials in the vicinity, law enforcement can</p> <p>2 be initiated.</p> <p>3 MR SW LEE: I think this is something I leave to you to</p> <p>4 consider.</p> <p>5 MR LI MAN PONG: Okay.</p> <p>6 MR SW LEE: We have the DOJ here.</p> <p>7 Let me turn to another subject, about the access</p> <p>8 openings.</p> <p>9 Under the law -- D1, page 186. 59I, under the CSSR,</p> <p>10 Construction Sites (Safety) Regulations, section 54:</p> <p>11 "The contractor responsible for a ... site shall</p> <p>12 maintain in good condition and free from obstruction all</p> <p>13 the means of escape in case of fire and all</p> <p>14 fire-fighting appliances ..."</p> <p>15 Number (2):</p> <p>16 "No person shall wilfully alter, damage, obstruct or</p> <p>17 otherwise impair any such means of escape, or</p> <p>18 fire-fighting appliance."</p> <p>19 Here, on that score, we understand from the hearing</p> <p>20 that on the staircases someone opened up the access</p> <p>21 openings.</p> <p>22 MR LI MAN PONG: Yes.</p> <p>23 MR SW LEE: The purpose was to facilitate the entrance of</p> <p>24 the workers.</p> <p>25 MR LI MAN PONG: Yes.</p>

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<p>1 MR SW LEE: You heard this part of the evidence?</p> <p>2 MR LI MAN PONG: If I may add here, from the OSH point of</p> <p>3 view, the access openings would serve some purpose. In</p> <p>4 case there is fire on the scaffolding or the scaffolding</p> <p>5 is collapsing, the workers will have to flee, they don't</p> <p>6 have to climb to the roof or down to the floor to</p> <p>7 escape.</p> <p>8 MR SW LEE: If I understand correctly, the Labour Department</p> <p>9 feels that with these access openings on the rear</p> <p>10 staircases would not be in breach of the law; that's</p> <p>11 a question I would like to put to you? It's not against</p> <p>12 the law?</p> <p>13 MR LI MAN PONG: No, it's not against the law.</p> <p>14 MR SW LEE: Second, you are advising that this be done</p> <p>15 because the risk would be lower?</p> <p>16 MR LI MAN PONG: We do advise this -- our view is that this</p> <p>17 access opening would serve some purpose.</p> <p>18 MR SW LEE: But logically, the scaffolding, some are high,</p> <p>19 some are lower, under the law they have to wear the</p> <p>20 safety harness, the safety belt, and there is anchorage</p> <p>21 point for them to anchor their harness to achieve -- for</p> <p>22 arresting.</p> <p>23 MR LI MAN PONG: Yes.</p> <p>24 MR SW LEE: If all these measures are adopted, however high</p> <p>25 they are, 30th floor or whatever, it would be safe for</p>	<p>1 MR SW LEE: Let's take Wang Fuk Court, 30 floors, so they</p> <p>2 should have an access opening on each and every floor?</p> <p>3 MR LI MAN PONG: Well, on the scaffolding there would be</p> <p>4 bamboos which are closer together for them to move up</p> <p>5 and down.</p> <p>6 MR SW LEE: It seems that the FSD witness said that they</p> <p>7 experienced difficulties in rescue operation because of</p> <p>8 the access openings. Fire and smoke penetrated through</p> <p>9 the access openings and that posed rescue difficulties.</p> <p>10 MR LI MAN PONG: Yes.</p> <p>11 MR SW LEE: So access openings is something that we are</p> <p>12 concerned about in this hearing.</p> <p>13 THE HON MR JUSTICE DAVID LOK: We haven't heard the expert</p> <p>14 evidence, but from our preliminary understanding, the</p> <p>15 smoke and fire infiltrated the building through the</p> <p>16 access openings which posed difficulties for the</p> <p>17 residents to escape. The smoke really penetrated the</p> <p>18 building very quickly, not just the corridors, but also</p> <p>19 into the housing units. So that brought up a really</p> <p>20 severe problem.</p> <p>21 You said the workers' interests and the residents'</p> <p>22 interests seem to be on a collision course. This has</p> <p>23 brought up a really major problem. The workers are not</p> <p>24 supposed to climb on the scaffolding so how are they</p> <p>25 supposed to get out? How are they supposed to move from</p>
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<p>1 the workers, unless there is fire risk. Agree?</p> <p>2 MR LI MAN PONG: I don't agree. Because under the code of</p> <p>3 practice, it provides that we don't allow the workers to</p> <p>4 climb on the scaffolding.</p> <p>5 MR SW LEE: Yes.</p> <p>6 MR LI MAN PONG: In a High Court case it says that climbing</p> <p>7 on the scaffolding would present danger. The 70-80 cm</p> <p>8 and the workers are climbing up, it would be</p> <p>9 labour-intensive and there's a high likelihood of</p> <p>10 falling.</p> <p>11 MR SW LEE: I don't want to distort your meaning.</p> <p>12 MR LI MAN PONG: Yes.</p> <p>13 MR SW LEE: From your perspective, Mr Li, the creation of</p> <p>14 access openings on the rear staircases, let's take</p> <p>15 Wang Fuk Court, for instance. From the Labour</p> <p>16 Department's point of view, this does not present any</p> <p>17 problems.</p> <p>18 MR LI MAN PONG: How many they open and the way in which</p> <p>19 they do it, the Labour Department doesn't impose any</p> <p>20 standard.</p> <p>21 MR SW LEE: You said a moment ago that it served some</p> <p>22 purpose, because the workers should not climb on the</p> <p>23 scaffolding.</p> <p>24 MR LI MAN PONG: The situation is, under the code they're</p> <p>25 not supposed to climb on this scaffolding.</p>	<p>1 one floor to the next? This is a really major problem.</p> <p>2 How are we supposed to resolve this conundrum?</p> <p>3 MR LI MAN PONG: Chairman, from the OSH point of view, the</p> <p>4 access openings do not contravene the OSH Ordinance, but</p> <p>5 as to whether they breach other legislative</p> <p>6 requirements -- post-disaster, they breach other</p> <p>7 regulations.</p> <p>8 THE HON MR JUSTICE DAVID LOK: What I'm concerned about is</p> <p>9 from what you said, the access openings are good. From</p> <p>10 the OSH's point of view, they are not in breach of the</p> <p>11 law. But from the High Court case, I don't know about</p> <p>12 that. From OSH point of view, they have to have the</p> <p>13 safety anchor.</p> <p>14 MR LI MAN PONG: Yes.</p> <p>15 THE HON MR JUSTICE DAVID LOK: They climb the scaffolding</p> <p>16 and they have to buckle and unbuckle the anchor. How</p> <p>17 are we going to resolve this?</p> <p>18 MR LI MAN PONG: They climb on the scaffolding -- they're</p> <p>19 not supposed to climb a long way. In the High Court</p> <p>20 case, it says that the scaffolding, the distance would</p> <p>21 be 70 to 80 cm. In the construction site, if they have</p> <p>22 to move up and down, there would be the slanting ladder</p> <p>23 for the workers to go up and down or they have the</p> <p>24 bamboo closely spaced, so they may climb 20,</p> <p>25 30 centimetres.</p>

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<p>1 THE HON MR JUSTICE DAVID LOK: In any case, they're not 2 supposed to climb 30 floors. 3 MR LI MAN PONG: Right. 4 THE HON MR JUSTICE DAVID LOK: If they climb 30 floors up 5 and down, it's not appropriate. There must be access 6 openings. 7 MR LI MAN PONG: We reiterate that the access openings do 8 not breach the OSH Ordinance, but they serve a purpose 9 for the workers to escape. 10 THE HON MR JUSTICE DAVID LOK: I am from the High Court. 11 Can you cite the High Court case for us? You must have 12 that. Can show us after lunch? 13 MR LI MAN PONG: Okay. 14 MR SW LEE: Another point I'd like to raise, other than the 15 access openings, is the scaffold nettings. 16 MR LI MAN PONG: Yes. 17 MR SW LEE: Madam Lam said that they don't have the 18 professional expertise, even if they have the 19 certificate, whether the nettings are fire-retardant or 20 not. 21 MR LI MAN PONG: Right. 22 MR SW LEE: So in terms of policy, in terms of the way 23 forward, how is the Labour Department going to resolve 24 this issue? Obviously, the CoP for bamboo scaffold 25 safety does have the requirement, it's your duty to make</p>	<p>1 In relation to the fire escape access and on the 2 certificates, in your witness statement in paragraphs 49 3 to 50, I'd like to try to understand the logic. Here 4 you said if it is unoccupied building sites on fire 5 safety, that would be under the purview of the Labour 6 Department. 7 MR LI MAN PONG: Yes. 8 MR SW LEE: But in occupied buildings where there are 9 occupants, then that would be under the BD or the FSD. 10 MR LI MAN PONG: Yes. 11 MR SW LEE: We are agreed that fire escape being problematic 12 would not only affect residents, it would also affect 13 workers. 14 MR LI MAN PONG: Yes. 15 MR SW LEE: Therefore, I would like to try to understand the 16 logic. Why is it that if it is unoccupied then it would 17 be under your purview, yet if it is occupied then it 18 would be under the purview of other departments? Can 19 you try to explain it to us? 20 MR LI MAN PONG: In paragraph 52 I said that, well, we're 21 talking about Wang Fuk Court here. After the fire we 22 know that the fixed windows were broken and so smoke 23 penetrated the building. There's actually no technical 24 requirement on the windows of the fire escape staircase. 25 There's no technical requirement on its design.</p>
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<p>1 sure that the safety net should be fire-retardant? 2 MR LI MAN PONG: Right. 3 MR SW LEE: The frontline officers don't have the 4 professional qualification and they get the certificate 5 and they don't know much about the details, so would you 6 be able to fulfil the duties under the code of practice 7 for bamboo scaffolding safety? 8 MR LI MAN PONG: Well, my understanding is that the 9 department -- at the request of the BD, we do have 10 a team set up together with the BD whereby we would 11 sample check the specimen for lab test. 12 MR SW LEE: On this issue, you involved the Buildings 13 Department. 14 MR LI MAN PONG: Yes. 15 MR SW LEE: We understand for Wang Fuk Court there are some 16 complaints that this is for the OSH, this is for the 17 ICU, and it is none of the business of the BD. So would 18 you consider, other than your two departments, there 19 should be a more cross-departmental way to deal with it 20 because the -- maybe the ICU is not involved? 21 MR LI MAN PONG: Yes. We would also consider 22 cross-departmental cooperation. 23 MR SW LEE: But at the moment you don't have it; right? 24 MR LI MAN PONG: Well, this is not up to me. 25 MR SW LEE: Maybe I can ask Mr Yuen later.</p>	<p>1 I can give you another example. In unoccupied 2 buildings, the back staircases or fire escape stairs 3 would not have fireproof doors or fixed windows. 4 We would actually not prosecute in relation to 5 section 54. 6 MR SW LEE: Well, let's use Wang Fuk Court as an example. 7 As it is an occupied site, regardless of access 8 openings, it still will not go under the purview of LD 9 because, as it is occupied, then it should go under FSD 10 or BD? 11 MR LI MAN PONG: Yes. 12 MR SW LEE: From the LD's point of view, it doesn't go under 13 your purview. 14 MR LI MAN PONG: Are you talking about the access opening 15 only? 16 MR SW LEE: Yes, because we're talking about MOE here, means 17 of escape. 18 MR LI MAN PONG: Correct. 19 MR SW LEE: Your colleague did not inspect the staircases of 20 the eight buildings in Wang Fuk Court, do you know? 21 MR LI MAN PONG: The 21 February inspection, we did issue a 22 notice to remind contractors. I don't remember which 23 House, but I remember it's around the 25th floor. 24 Workers may fall from height from the scaffolding 25 because there was actually a gap between the scaffolding</p>

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<p>1 and the opening, and so we issued an improvement notice.                  2 MR SW LEE: You issued a notice to remind them that there                  3 should not be such a huge gap between the scaffolding                  4 and the access to the staircase?                  5 MR LI MAN PONG: Yes.                  6 MR SW LEE: So it's not any comment in relation to the means                  7 of escape?                  8 MR LI MAN PONG: No.                  9 Questions by THE MEMBERS                  10 THE HON MR JUSTICE DAVID LOK: I have follow-up questions.                  11 There's also a scaffolding at my building at the moment,                  12 so I'm a bit scared as well.                  13 First, let's not talk about legislation. It is                  14 general to use access openings; right?                  15 MR LI MAN PONG: Right.                  16 THE HON MR JUSTICE DAVID LOK: Well, let's not talk about                  17 materials at the moment, but having an access opening is                  18 all right in terms of occupational health and safety?                  19 MR LI MAN PONG: Yes.                  20 THE HON MR JUSTICE DAVID LOK: Because workers need to go up                  21 and down and they are not supposed to climb on the                  22 scaffolding to reach other floors?                  23 MR LI MAN PONG: Yes.                  24 THE HON MR CHAN KIN-POR: Thank you for letting us know.                  25 We didn't know why access openings have been used for</p>	<p>1 another witness --                  2 THE HON MR JUSTICE DAVID LOK: Now that this has given rise                  3 to a new problem, how about we break for lunch and come                  4 back at 2.15?                  5 MR VICTOR DAWES: Before lunch, the expert witness might                  6 need to help us on how we can resolve this issue.                  7 THE HON MR JUSTICE DAVID LOK: I can sort of explain to the                  8 public we should actually hear from expert witnesses                  9 first, but expert witnesses need to conduct research,                  10 and so before they are ready we have already begun the                  11 evidential hearing. We are not able to overcome the                  12 problem in that the expert witnesses do need some time                  13 to explore and research. Later on we will be able to                  14 hear from them about how the blaze raged so fast.                  15 Anyways, let's take a break now and resume at 2.15.                  16 (12.51 pm)                  17 (The luncheon adjournment)                  18 (2.15 pm)                  19 MR JENKIN SUEN: Chairman, members. We are grateful for the                  20 time allowed. We noted that Mr Dawes mentioned there                  21 would be expert witness statements. I have no further                  22 questions on the evidence given by Mr Li.                  23 The Committee asked about an authority. We didn't                  24 get a chance to talk to Mr Li about the authority, but                  25 we believe it's HCMA/864 from 1990. This is a case</p>
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<p>1 such a long time, yet it is so dangerous. But you have                  2 now explained to us. Thank you for letting us know.                  3 We need to try to strike a balance and plug the                  4 loopholes. There is a grey area at the moment. So in                  5 the future we need to discuss with the FSD how we can                  6 have the access openings yet ensure fire safety.                  7 The access opening should be fire-retardant, and if                  8 it is locked then it can block out some of the flames                  9 and the smoke. I hope that in future the relevant                  10 departments can work together on this.                  11 MR LI MAN PONG: Thank you for your suggestion. We may not                  12 need to use access opening or maybe use interlocking                  13 staircase; this is something we can think about.                  14 THE HON MR JUSTICE DAVID LOK: Well, yes, it may work if                  15 you're only talking about five floors or five storeys,                  16 but it might not work if you're talking about 10 floors.                  17 That actually gives rise to a technical problem. This                  18 is something we need to find a solution to. We can also                  19 consider erecting a temporary lift outside the building                  20 because, if you're not able to resolve this, it leads to                  21 either a risk to the workers or to the residents.                  22 Questions from other involved parties?                  23 Mr Suen, do you have any questions? Do you need                  24 some time?                  25 MR JENKIN SUEN: I have noticed the time. As we have</p>	<p>1 where a High Court judge Mr Justice Wong -- it was a                  2 decision made on 7 September 1990. From what                  3 I understand, this judgment is rather brief, just a few                  4 pages. For counsel of the Independent Committee, maybe                  5 we can provide the judgment quickly.                  6 THE HON MR JUSTICE DAVID LOK: I have read the judgment.                  7 Requiring a worker to climb many storeys may cause                  8 fatigue and that leads to extra risks. The facts of                  9 that case are not the same as those we have here. That                  10 judge made an observation. Maybe we can get our expert                  11 witnesses to have a look at this in the future on the                  12 point about access openings and other things, on whether                  13 this is a common practice acceptable to everyone. This                  14 is something we will revisit in the future.                  15 We are grateful to the witness for bringing up this                  16 fresh perspective. There's a longstanding difficulty                  17 for us. We have to strike a balance between many                  18 different factors. We thought these factors line up,                  19 but not necessarily. What is good for workers' safety                  20 may not be consistent with safety for others.                  21 As Mr Dawes will say, and as our expert witnesses                  22 will provide their analysis, was the practice adopted                  23 really wrong? It depends on the industry practice back                  24 then, and then we reach a conclusion. We will take                  25 these factors into account when we draft the final</p>

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<p>1 report. Whether this was a common practice, we will                  2 come up with recommendations and improvement to enhance                  3 safety in the future.                  4 MR JENKIN SUEN: I agree. Thank you.                  5 MR SW LEE: I will be brief. I just want to confirm the                  6 authority.                  7 Re-examination by MR SW LEE                  8 MR SW LEE: Mr Li, you mentioned a High Court ruling. The                  9 Department of Justice couldn't talk to you about this                  10 authority during your evidence.                  11 MR LI MAN PONG: Yes.                  12 MR SW LEE: This case involved a defendant called Associated                  13 Costings Ltd. Is that the authority?                  14 MR LI MAN PONG: Yes.                  15 MR SW LEE: From 1990, on 4 September 1990, this ruling was                  16 handed down.                  17 MR LI MAN PONG: Yes.                  18 MR SW LEE: That case was more than 30 years ago, so it was                  19 about scaffolding on one side, but now there's a                  20 requirement about working platforms, et cetera, instead                  21 of having just scaffolding on just one side.                  22 MR LI MAN PONG: Yes.                  23 MR SW LEE: So now the law no longer allows what we had back                  24 then.                  25 MR LI MAN PONG: If we see something like that now, we would</p>	<p>1 nettings and the Labour Department has oversight over                  2 this.                  3 When the complainant received the replies, they                  4 issued an email thanking us for addressing the issue.                  5 MR SW LEE: You talk about December 2024. The department                  6 must realise that, having seen the certificate, you are                  7 not in a position to ascertain the veracity of the                  8 certificate.                  9 MR LI MAN PONG: Right.                  10 MR SW LEE: You don't have the professional expertise or                  11 knowledge for the frontline officer to consider these                  12 issues.                  13 MR LI MAN PONG: Right.                  14 THE HON MR JUSTICE DAVID LOK: Counsel Jenkin Suen, any                  15 re-examination?                  16 MR JENKIN SUEN: No.                  17 THE HON MR JUSTICE DAVID LOK: Thank you very much, Mr Li.                  18 MR LI MAN PONG: Thank you.                  19 (The witness was released)                  20 (2.22 pm)                  21 MR SW LEE: Chairman, the next witness is Mr Yuen Tsz Lok,                  22 Murphy.                  23 Mr Yuen, before you is a declaration. Would you                  24 please be on your feet to read out the declaration.                  25 (2.23 pm)</p>
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<p>1 issue a suspension notice.                  2 MR SW LEE: I have no further questions. Thank you.                  3 THE HON MR JUSTICE DAVID LOK: Thank you very much. You're                  4 done with your testimony. Your evidence is very                  5 important. Thank you very much.                  6 MR LI MAN PONG: Chairman, there is one issue I'd like to                  7 supplement, if I may.                  8 THE HON MR JUSTICE DAVID LOK: Please.                  9 MR LI MAN PONG: In my statement I mentioned -- after Madam                  10 Lam's reply, Counsel Lee referred to the reply on                  11 4 October.                  12 MR SW LEE: You mean whether the scaffold nettings have fire                  13 retardancy?                  14 MR LI MAN PONG: Yes.                  15 MR SW LEE: You want to supplement?                  16 MR LI MAN PONG: Yes, if I may. On 5 October the Labour                  17 Department received a complaint, that on 4 October the                  18 reply was not sufficiently clear, it was misleading.                  19 That was the complaint. The complaint was against                  20 Ms Lam.                  21 My former DSO was responsible for investigating the                  22 complaint against Madam Lam. In fact, we have seen the                  23 reply on 4 October and there is room for improvement.                  24 And on 5 December we replied to the complainant to say                  25 that we received the proof of fire retardancy about the</p>	<p>1 MR YUEN TSZ LOK, MURPHY (affirmed)                  2 Examination by MR SW LEE                  3 MR SW LEE: Please be seated. Mr Yuen, you joined the                  4 Labour Department in 1994; right?                  5 MR YUEN TSZ LOK: Yes.                  6 MR SW LEE: In August 2024 you were promoted to this current                  7 position as chief occupational safety officer                  8 (operation)?                  9 MR YUEN TSZ LOK: Yes.                  10 MR SW LEE: Simply put, your duty is to oversee the                  11 departments or the divisions relating to OSH; right?                  12 MR YUEN TSZ LOK: Yes.                  13 MR SW LEE: Mr Li, who testified, and Madam Lam are under                  14 your supervision?                  15 MR YUEN TSZ LOK: Yes.                  16 MR SW LEE: I believe that given your position you are not                  17 involved in the day-to-day inspection, you would be                  18 involved in formulation of policies and the operations;                  19 right?                  20 MR YUEN TSZ LOK: Yes.                  21 MR SW LEE: In connection with the hearing, you have                  22 submitted a statement?                  23 MR YUEN TSZ LOK: Yes.                  24 MR SW LEE: I think you can confirm the accuracy of the                  25 statement; right?</p>

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<p>1 MR YUEN TSZ LOK: Yes, I can.</p> <p>2 MR SW LEE: There is a document that we heard your</p> <p>3 colleagues talk about inspection -- I won't go into</p> <p>4 detail about that.</p> <p>5 MR YUEN TSZ LOK: Yes.</p> <p>6 MR SW LEE: But there is a document I'd like to refer you</p> <p>7 to. 4 December 2024, an email, bundle D2/1981.</p> <p>8 We understand that this email was not issued by you,</p> <p>9 Mr Yuen, but since you are the highest ranking official</p> <p>10 so far from the Labour Department, I'd like to put this</p> <p>11 to you, whether you have read this email, 4 December</p> <p>12 2024. Let's scroll it down a little bit here. This is</p> <p>13 for the safety officer of the division; right?</p> <p>14 MR YUEN TSZ LOK: Yes.</p> <p>15 MR SW LEE: Basically this email is intended to remind -- I</p> <p>16 think the DSO, that's Ms Lam's previous capacity.</p> <p>17 MR YUEN TSZ LOK: Yes.</p> <p>18 MR SW LEE: "... inspections of workplaces shall be surprise</p> <p>19 in nature. No inspection schedules shall be disclosed</p> <p>20 to any third party, including consultants, in advance.</p> <p>21 I should be most grateful if you would convey the</p> <p>22 above message to all officers under your charge for</p> <p>23 attention."</p> <p>24 That was issued by Mr Chan.</p> <p>25 MR YUEN TSZ LOK: Yes.</p>	<p>1 First we understand there may be legislative</p> <p>2 amendments.</p> <p>3 MR YUEN TSZ LOK: Yes.</p> <p>4 MR SW LEE: The Labour Department has always had the</p> <p>5 authority to impose a smoking ban.</p> <p>6 MR YUEN TSZ LOK: Yes.</p> <p>7 MR SW LEE: We took this up with Mr Li.</p> <p>8 Now, Mr Yuen, in your statement, paragraph 36, you</p> <p>9 referred to two incidents of scaffoldings catching fire.</p> <p>10 2023 at Mariners' Club, and October 2025, the Chinachem</p> <p>11 Tower building in Central.</p> <p>12 MR YUEN TSZ LOK: Right.</p> <p>13 MR SW LEE: Paragraph 36 of your statement.</p> <p>14 My understanding is that you would agree that --</p> <p>15 towards the end you said that smoking in construction</p> <p>16 sites would cause fire.</p> <p>17 MR YUEN TSZ LOK: Yes.</p> <p>18 MR SW LEE: This is why the department is contemplating</p> <p>19 legislative amendment; right?</p> <p>20 MR YUEN TSZ LOK: Yes.</p> <p>21 MR SW LEE: As I said, we'd like to hear from you about</p> <p>22 this. In the new legislation, you will be imposing duty</p> <p>23 on the contractor to regulate the -- or to please the</p> <p>24 workers. But in enforcing the law, one of the key</p> <p>25 considerations is you're penalising the contractors for</p>
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<p>1 MR SW LEE: Have you seen this email?</p> <p>2 MR YUEN TSZ LOK: Yes, I have.</p> <p>3 MR SW LEE: "Surprise in nature". This is not what I</p> <p>4 conjured up. I'm basing on this email. This email</p> <p>5 serves as a reminder, doesn't it?</p> <p>6 MR YUEN TSZ LOK: Yes.</p> <p>7 MR SW LEE: Is it because in some cases the inspection would</p> <p>8 not be surprise in nature, so that's why the senior</p> <p>9 echelon sees first to remind the colleagues?</p> <p>10 MR YUEN TSZ LOK: This is not case. If I may explain.</p> <p>11 Before this email, my colleagues were complained</p> <p>12 against, that during the inspection the contractors were</p> <p>13 informed of the inspection. After investigation, that</p> <p>14 complaint was unsubstantiated because inspections were</p> <p>15 surprise in nature. So we are reminding the colleagues,</p> <p>16 serving as a reminder, not because they have done</p> <p>17 anything improper.</p> <p>18 MR SW LEE: So it's not because someone gave prior notice of</p> <p>19 the inspection?</p> <p>20 MR YUEN TSZ LOK: This is not the case, no.</p> <p>21 MR SW LEE: During the Wang Fuk fire, or prior to that,</p> <p>22 you've been in this position so I'm not going to ask you</p> <p>23 a lot about the inspection and prosecutions, but there</p> <p>24 are a couple of big issues which I'd like to take up</p> <p>25 with you regarding the direction.</p>	<p>1 not having a sound system and you have workers smoking</p> <p>2 on the site and you're imposing penalty on the</p> <p>3 contractors.</p> <p>4 MR YUEN TSZ LOK: Yes.</p> <p>5 MR SW LEE: So in a way you're facing the same issue. Has</p> <p>6 the top echelon of the Labour Department considered the</p> <p>7 law enforcement like gathering more evidence?</p> <p>8 MR YUEN TSZ LOK: If I may, chairman. In upcoming</p> <p>9 legislative amendment, we realise that under 56 of the</p> <p>10 CSSR there are certain limitations regarding the smoking</p> <p>11 ban. Following the Wang Fuk incident there is</p> <p>12 a groundswell of voices in the community urging the</p> <p>13 administration to impose greater regulation on smoking</p> <p>14 on construction site. So there are three levels in this</p> <p>15 regard, if I may give you more information.</p> <p>16 First, we're going to amend Cap 371, Smoking (Public</p> <p>17 Health) Ordinance, and the construction site will be</p> <p>18 a no smoking area. However big or small, the</p> <p>19 construction site will be no smoking.</p> <p>20 MR SW LEE: Would you pause here. So it will like the bus</p> <p>21 stop.</p> <p>22 MR YUEN TSZ LOK: Right.</p> <p>23 MR SW LEE: Where there is no smoking, this is going to take</p> <p>24 place like this, this is what you're going to do at this</p> <p>25 time legislative amendment?</p>

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<p>1 MR YUEN TSZ LOK: Yes.</p> <p>2 Furthermore, we will amend Cap 600, that's the Fixed</p> <p>3 Penalty (Smoking Offences) Ordinance. We're going to</p> <p>4 imposing a fixed penalty. If colleagues turn up at the</p> <p>5 site and find people smoking, there will be a fixed</p> <p>6 penalty ticket of \$3,000. So it would be the same as</p> <p>7 smoking in a no smoking area.</p> <p>8 Third, as my colleague said, we're going to be</p> <p>9 amending Construction Sites (Safety) Regulation. For</p> <p>10 the previous two levels, they are about the workers</p> <p>11 smoking, but on the construction site, the contractors</p> <p>12 also should have the obligation. We will be amending</p> <p>13 section 56 of the CSSR regarding the smoking</p> <p>14 prohibition. We will impose a duty on the contractors</p> <p>15 to take reasonable steps to make sure that nobody is</p> <p>16 smoking on site, or tobacco cannot be taken into the</p> <p>17 construction site.</p> <p>18 MR SW LEE: We understand. You have the amendment. On</p> <p>19 construction site, if you see people smoking, not only</p> <p>20 can you penalise the worker, you can also penalise the</p> <p>21 contractor or the foreman. That's the overriding</p> <p>22 intention.</p> <p>23 MR YUEN TSZ LOK: Correct.</p> <p>24 MR SW LEE: It's not that I don't understand the amendment,</p> <p>25 but the issue is in the construction site you don't see</p>	<p>1 they have the expertise, what do you say on this one?</p> <p>2 MR YUEN TSZ LOK: I can elaborate on this one. My</p> <p>3 colleagues told the Committee that we would ask for the</p> <p>4 certificate to see whether the nettings are in</p> <p>5 compliance with the standard. We understand that the</p> <p>6 Buildings Department has -- in a laboratory, they have</p> <p>7 a list of names. We get the certificate and check the</p> <p>8 laboratory. After the test, the laboratory is</p> <p>9 recognised by the Buildings Department.</p> <p>10 MR SW LEE: The scaffolding and the nettings, we have seen</p> <p>11 pages 4 and 5, basically this is something within the</p> <p>12 purview of the Labour Department.</p> <p>13 MR YUEN TSZ LOK: Correct.</p> <p>14 MR SW LEE: One of the things is to make sure that the</p> <p>15 protective screen or the nettings will have to fulfil</p> <p>16 the fire-retardant characteristics.</p> <p>17 MR YUEN TSZ LOK: Correct.</p> <p>18 MR SW LEE: So in general, you would liaise with the</p> <p>19 Buildings Department for joint actions, and after the</p> <p>20 fire at Wang Fuk Court there are voices in the</p> <p>21 community, the government ordered that the nettings had</p> <p>22 to be taken down. But in future, when it comes to law</p> <p>23 enforcement, to make sure that the nettings are good</p> <p>24 enough, after the Wang Fuk Court fire, will you be</p> <p>25 liaising with the Buildings Department for joint</p>
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<p>1 people smoking and you can't rely on this new</p> <p>2 legislation to prosecute because you need evidence.</p> <p>3 MR YUEN TSZ LOK: Yes.</p> <p>4 MR SW LEE: And your colleagues are saying that there may be</p> <p>5 difficulties gathering evidence. So have you considered</p> <p>6 any measure or you're going to keep it under wraps?</p> <p>7 MR YUEN TSZ LOK: Simply put, in future, on construction</p> <p>8 sites, if any residents see workers smoking, they can</p> <p>9 furnish us with evidence and we can take enforcement</p> <p>10 action because smoking is a breach of the law and it's</p> <p>11 one of the considerations.</p> <p>12 MR SW LEE: Legislative amendment will take some time.</p> <p>13 MR YUEN TSZ LOK: Right.</p> <p>14 MR SW LEE: Until the legislation is amended, can you give</p> <p>15 us more information about the smoking ban? It is hardly</p> <p>16 ever invoked, your colleague explained this before.</p> <p>17 Statistically, can you tell us how often have you</p> <p>18 imposed smoking bans?</p> <p>19 MR YUEN TSZ LOK: I don't have the information with me.</p> <p>20 MR SW LEE: From your memory, has this ban been imposed?</p> <p>21 MR YUEN TSZ LOK: Yes. My memory -- from memory, I think</p> <p>22 that we have imposed this.</p> <p>23 MR SW LEE: The second question: from the senior level</p> <p>24 consideration, I'm sure you can assist us. The nettings</p> <p>25 and the inspection by the frontline officer, whether</p>	<p>1 operation or what?</p> <p>2 MR YUEN TSZ LOK: If I may elaborate, chairman. As I said,</p> <p>3 the BD laboratory list is available online. We check</p> <p>4 the certificate against the BD list. If they are</p> <p>5 recognised entities, we believe that they are</p> <p>6 laboratories up to scratch, they can issue the</p> <p>7 certificate.</p> <p>8 MR SW LEE: So in future, the nettings, if they are safe</p> <p>9 enough to be erected, they have to be tested by</p> <p>10 laboratories recognised by Hong Kong. That's the first</p> <p>11 step, isn't it?</p> <p>12 MR YUEN TSZ LOK: My understanding is that -- this is for</p> <p>13 the Buildings Department -- I know that the BD list,</p> <p>14 it's not confined to Hong Kong entities. There is a</p> <p>15 list there.</p> <p>16 MR SW LEE: So unlike the past, in the past -- let's see</p> <p>17 whether I get it right. From the Labour Department's</p> <p>18 point of view, when you see the certificate and the name</p> <p>19 is contained in the BD list, you will accept the</p> <p>20 certificate and also the testing findings and you will</p> <p>21 find this to be in order and that's going to be the</p> <p>22 practice, the policy of the Labour Department; is that</p> <p>23 right?</p> <p>24 MR YUEN TSZ LOK: Yes.</p> <p>25 MR SW LEE: Upon receipt of the certificates, other than</p>

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<p>1 matching it with the recognised list, would you also                  2 verify it again?                  3 MR YUEN TSZ LOK: Let me clarify. When there are any doubts                  4 about the certificates, you can call the laboratory.                  5 MR SW LEE: But my meaning is that it will be too late.                  6 Even though there is a list, some people may still                  7 falsify the documents. When you receive a certificate,                  8 should you verify it regularly, instead of waiting till                  9 something happens?                  10 MR YUEN TSZ LOK: When we see contractors wanting to lie to                  11 us, of course we might not know, but then if we know of                  12 it, then we would defer it to other departments.                  13 MR SW LEE: All right. Let's say I give you a certificate                  14 from ABC laboratory. ABC laboratory is under the list                  15 given by BD. I give you the certificate. You don't                  16 know whether ABC laboratory really issued the                  17 certificate; am I correct?                  18 MR YUEN TSZ LOK: We would believe the contractor.                  19 MR SW LEE: It seems that we rely on the self-discipline of                  20 contractors.                  21 I'm not going to continue with this issue. Let me                  22 move on.                  23 You work on policy. Although there are some                  24 problems that need to be resolved by expert witnesses,                  25 I would like to ask you whether you would like to state</p>	<p>1 I understand that if that place is under the purview of                  2 LD, as long as it does not affect the means of escape,                  3 then you would not reject the idea of having an access                  4 opening.                  5 MR YUEN TSZ LOK: As long as it does not affect the means of                  6 escape.                  7 MR SW LEE: But if it violates section 54 and it might                  8 affect means of escape, am I to understand that the LD                  9 will not permit this as it would affect means of escape?                  10 MR YUEN TSZ LOK: Let's take a look at (2). It is in                  11 relation to 54(1). We're talking about a construction                  12 site. When we talk about means of escape for public                  13 safety, that would differ from what occurs on                  14 a construction site.                  15 MR SW LEE: Let's use Wang Fuk Court as an example.                  16 Section 51 would not be applicable because Wang Fuk                  17 Court is not a construction site.                  18 MR YUEN TSZ LOK: The windows of the back staircase would                  19 not be a construction site.                  20 MR SW LEE: But you can't try to designate the sites into                  21 different areas. Some of them would be construction                  22 sites, some of them would not be.                  23 MR YUEN TSZ LOK: That's correct. But please let me                  24 clarify. We consider the means of escape of where the                  25 workers are or where aware they work.</p>
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<p>1 your position on the issue on access openings?                  2 MR YUEN TSZ LOK: I have heard Mr Li. Mr Li looks at the                  3 access opening from the perspective of a frontline                  4 worker. I understand that. On the policy level, the                  5 access opening is not essential. The access opening is                  6 for exit and entry to the scaffolding, but there are                  7 many different ways to access the scaffolding.                  8 I understand what Mr Li meant. If there is danger,                  9 then the workers can, through the access opening, leave                  10 the scaffolding very quickly. Let's say the fire escape                  11 is not through a window and not through concrete. The                  12 workers would not be able to go through a solid concrete                  13 wall to escape.                  14 We all understand that the access opening has its                  15 use, but we need to look at the location, the size, the                  16 number of openings. Contractors need to make a risk                  17 assessment and not just to make an opening where                  18 convenient. The access openings may involve structural                  19 problems and contractors may need to discuss this with                  20 the relevant departments before opening those accesses.                  21 MR SW LEE: I understand where you're coming from. Can we                  22 look at section 54, page 186.                  23 You can see that if anyone will wilfully alter,                  24 damage or impair means of escape, that no person shall                  25 do that. But if it does not breach the legislation, can</p>	<p>1 MR SW LEE: I think I will defer this to the expert                  2 witnesses. I do not have any other questions.                  3 Questions by THE MEMBERS                  4 DR REX AUYEUNG PAK-KUEN: Mr Yuen, you talked about the                  5 amendment of legislation, but could you give us more                  6 information on enforcement? We want to stop people from                  7 smoking, but -- and you said that photos could also be                  8 used as evidence. Can you share with us more                  9 information on that?                  10 MR YUEN TSZ LOK: If smoking is to be banned, then through                  11 the information given by the complainant, we can use the                  12 evidence as a basis to consider prosecution. Other than                  13 evidence provided by the complainant, we can also                  14 explore with TACO to see how we can adopt technology.                  15 In this matter, some workers may be smoking in the upper                  16 floors which may not be seen obviously, so we may be                  17 able to use drones to check that.                  18 DR REX AUYEUNG PAK-KUEN: What is difficult at the moment is                  19 that you need to see it with your own eyes. Other than                  20 raising the penalty, I do not see any changes made to                  21 enforcement.                  22 MR YUEN TSZ LOK: Currently, smoking is not a violation at                  23 the moment at construction sites. We cannot just                  24 prosecute smokers at construction sites, but in future,                  25 once the law is amended --</p>

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<p>1 THE HON MR JUSTICE DAVID LOK: What you're saying is that</p> <p>2 you cannot prosecute workers at the moment because it is</p> <p>3 not covered under the law. Smoking itself is not a</p> <p>4 violation. There would still be other enforcement</p> <p>5 matters. Counsel understand that it is very difficult</p> <p>6 to raise the burden of proof in litigation cases. We</p> <p>7 understand that evidence is very important in court. We</p> <p>8 use the common law, and of course we would have to raise</p> <p>9 evidence. In future, however, we may need to consider</p> <p>10 different measures or adopt new technology. This is not</p> <p>11 something limited to the Labour Department. There is a</p> <p>12 lot of new technology out there. It all depends on</p> <p>13 whether we are willing to use it or whether we are</p> <p>14 willing to invest in it.</p> <p>15 We understand that we cannot prevent everything.</p> <p>16 However, when we know that there are risks, we would for</p> <p>17 sure prioritise safety and to see whether there are new</p> <p>18 ways in which evidence or proof could be accepted.</p> <p>19 MR YUEN TSZ LOK: I understand. We continue to explore</p> <p>20 technology and it's not only limited to smoking. We do</p> <p>21 this for occupational health and safety in general.</p> <p>22 THE HON MR CHAN KIN-POR: Even if the safety nets are</p> <p>23 fire-retardant, they are made of nylon, and after two or</p> <p>24 three years it might not be as flame-resistant and</p> <p>25 it would still burn when there is a huge blaze. The</p>	<p>1 scaffolding nets.</p> <p>2 Counsel Lee has asked you previously -- you said</p> <p>3 that the BD has a list of recognised laboratories and</p> <p>4 there must be a recognised safety certificate issued by</p> <p>5 these laboratories.</p> <p>6 MR YUEN TSZ LOK: Yes.</p> <p>7 MR JENKIN SUEN: In J1-2, page 6200, we see this is a</p> <p>8 practice note which was issued in 2024. Have you seen</p> <p>9 this before?</p> <p>10 MR YUEN TSZ LOK: Yes.</p> <p>11 MR JENKIN SUEN: Let's look at page 6205. Here you can see</p> <p>12 a diagram. My understanding is that other than having</p> <p>13 a recognised safety certificate which the BD can use as</p> <p>14 reference, would you know whether the contractors or the</p> <p>15 BD would conduct another test?</p> <p>16 MR YUEN TSZ LOK: My understanding is that they would do</p> <p>17 that.</p> <p>18 MR JENKIN SUEN: On this page you would also see the</p> <p>19 workflow. For example, you would see on-site sample</p> <p>20 being taken and then a sample taken from the</p> <p>21 scaffolding. According to this new practice note, how</p> <p>22 would the BD conduct spot checks?</p> <p>23 MR YUEN TSZ LOK: I think the BD will be able to better to</p> <p>24 answer this question.</p> <p>25 MR JENKIN SUEN: But you know that the BD would conduct</p>
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<p>1 scaffolding nets are to protect workers from being hit</p> <p>2 by objects falling from height, but can it really be</p> <p>3 enough protection? Because you might use catch fans</p> <p>4 instead, as it might have the same function. Would you</p> <p>5 actually reconsider to see whether scaffolding nets are</p> <p>6 really necessary? Because the nets would still burn</p> <p>7 after having used it for a couple of years. Have you</p> <p>8 done any research on that?</p> <p>9 MR YUEN TSZ LOK: We need scaffolding nets because,</p> <p>10 according to 49(1) of Construction Sites (Safety)</p> <p>11 Ordinance, we do need the scaffolding nets to protect</p> <p>12 workers. We are just adopting reasonable measures.</p> <p>13 You asked whether scaffolding nets are necessary and</p> <p>14 whether there are better replacements. This is</p> <p>15 something we can consider more in detail.</p> <p>16 THE HON MR CHAN KIN-POR: Yes, please do. This is very</p> <p>17 important because, without the nets, it would be much</p> <p>18 better and you can't really have the nets covering the</p> <p>19 buildings for over two years.</p> <p>20 THE HON MR JUSTICE DAVID LOK: Any questions from other</p> <p>21 involved parties?</p> <p>22 Counsel Suen.</p> <p>23 Examination by MR JENKIN SUEN</p> <p>24 MR JENKIN SUEN: Mr Yuen, there are a couple of questions</p> <p>25 I would like to follow up, first of which being the</p>	<p>1 these tests?</p> <p>2 MR YUEN TSZ LOK: Yes.</p> <p>3 MR JENKIN SUEN: There's another point I would like to</p> <p>4 clarify with you on smoking. Counsel Lee asked you a</p> <p>5 few times, under the current legislation or new</p> <p>6 legislation, you need to see smoking to take action.</p> <p>7 You explain that the difference between the legislations</p> <p>8 would be that smoking would be totally banned under the</p> <p>9 new legislation, which means that when there is evidence</p> <p>10 showing smoking, you would be able to take immediate</p> <p>11 action.</p> <p>12 You talked about three points just now, the third</p> <p>13 being the work of contractors. So that would relate to</p> <p>14 CSSR section 56, that the contractors must take all</p> <p>15 measures to ensure there is no smoking at construction</p> <p>16 sites. When you don't see smoking, can you still</p> <p>17 prosecute the contractors based on the different</p> <p>18 penalties?</p> <p>19 MR YUEN TSZ LOK: Well, after amending section 56 on the</p> <p>20 Smoking (Public Health) Ordinance, smokers can be banned</p> <p>21 from the venue. Contractors would have this authority</p> <p>22 to ban smokers. We need to look at the actual</p> <p>23 circumstances. When no one is smoking, yet we find that</p> <p>24 there are traces of smoking -- let's say there's always</p> <p>25 a smoking ban yet we see cigarette butts all over the</p>

1 place, that would be evidence showing that they haven't  
2 taken enough appropriate measures. We would try to  
3 understand whether the contractors have breached the  
4 ordinances or whether they have taken any appropriate  
5 measures to try to stop smoking.  
6 THE HON MR JUSTICE DAVID LOK: The contractors blame the  
7 cigarette butts on residents.  
8 MR JENKIN SUEN: So this warrants a holistic view of things.  
9 THE HON MR JUSTICE DAVID LOK: I have been out of court for  
10 too long.  
11 MR JENKIN SUEN: Thank you, Mr Yuen.  
12 THE HON MR JUSTICE DAVID LOK: No other questions?  
13 Mr Yuen, you are done with your testimony. Thank  
14 you.  
15 (The witness was released)  
16 (3.01 pm)  
17 MR VICTOR DAWES: Chairman, no other witness will give  
18 evidence. Tomorrow, four officers from the Fire  
19 Services Department will assist the Committee.  
20 THE HON MR JUSTICE DAVID LOK: So we will pick up at  
21 10.00 am tomorrow.  
22 (3.01 pm)  
23 (The hearing adjourned until 10.00 am  
24 on Wednesday, 22 April 2026)  
25