

立法會 *Legislative Council*

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Paper for the House Committee meeting on 5 January 2001

Position report on the current studies and investigations relating to the building problems in public housing

Purpose

This paper provides a position report on the latest developments of the studies and investigations relating to the building problems in public housing.

Background

2. At the House Committee meeting on 3 November 2000, members considered the way forward in examining the building problems in public housing having regard to the public concern about the incidents in Tin Chung Court, Shatin Area 14B Phase 2, Tung Chung Area 30 Phase 3 and Shek Yam Phase 2. Members noted that a number of investigations/reviews had been initiated by the authorities to address public concern on the poor building quality of public housing. As some of the then outstanding investigations/reviews would be completed by the end of 2000, the House Committee agreed to defer the decision on whether a select committee should be set up to inquire into the building problems in the production of public housing units to the first meeting of the House Committee meeting in January 2001. The terms of reference of the then outstanding investigations/reviews as well as the position of their investigations/reviews as at 3 November 2000 are at **Appendix I**.

Latest position

Investigation Panel on Staff Discipline in Tin Chung Court and Yuen Chau Kok Incidents

3. The Investigation Panel on Staff Discipline in Tin Chung Court and Yuen Chau Kok Incidents headed by Mr Stephen SELBY (the Investigation Panel) submitted its investigation report to the Secretary for Housing on 28 November 2000. The LegCo Panel on Housing (the Housing Panel), at a special meeting on

19 December 2000, discussed the recommendations of the Investigation Panel and, at a closed-door session of the meeting, raised questions on the contents of the three confidential reports.

4. The Housing Panel examined in detail the following aspects of the investigation :

- (a) the neutrality of the Investigation Panel and its ability to investigate the senior officers involved in these two incidents and to call upon witnesses outside the Government;
- (b) the grounds for supporting the Investigation Panel not to recommend any disciplinary action against the Director of Housing and the Deputy Director of Housing (Works); and
- (c) the limitation of the Investigation Panel in recommending actions against those officers who have left the civil service.

Neutrality of the Investigation Panel

5. As the Investigation Panel comprised only civil servants, members of the Housing Panel cast doubt on its neutrality in conducting a fair investigation on the misconduct of civil servants connected with the two incidents. They also raised question on Mr SELBY's seniority to look into possible acts of misconduct of very senior officials in the Housing Department (HD), e.g. the Director of Housing remunerated at D7 of the Directorate Pay Scale.

6. According to the Administration, it has all along been Government's practice to appoint civil servants to look into staff disciplinary matters. In selecting Mr Stephen SELBY as the Chairman of the Investigation Panel, the Administration has already had regard to his senior ranking in the civil service. Prudence has been exercised not to appoint any staff from HD to sit on the Investigation Panel. Given the nature of the task and for the purpose of ensuring professional inputs, two professional staff in the building field from other Government departments have been appointed as members of the Investigation Panel.

7. As regards the ability of the Investigation Panel in calling upon witnesses or ascertaining required information from outside the Government, Mr SELBY confirmed that the Investigation Panel has been able to have access to all information relevant to the investigation.

Grounds for not recommending disciplinary action against the Director of Housing and the Deputy Director of Housing(Works)

8. Much of the criticism has been laid on the recommendation of the Investigation Panel that disciplinary actions should be taken against low and middle

ranking officers in HD but not the Director of Housing and the Deputy Director of Housing (Works). Members have found it unacceptable that the Director and the Deputy Director, being the most senior officials in HD, could be absolved of the responsibility for such serious blunders. Notwithstanding the Administration's explanation that the respective job descriptions of the Director and the Deputy Director as endorsed by the Housing Authority in 1997 make it clear that they should not be responsible for the day-to-day operations of HD, members cannot accept that the duties of the Director and the Deputy Director only refer to strategic guidance rather than the direct management of day-to-day operations. Attention has also been drawn to the Administration that the requirement for professional staff in HD to oversee a great number of housing projects is already a failure in strategic planning. Under the present management system, it is practically not possible for the professional staff to monitor closely the piling works in each and every project under their charge. The building profession has long ago called on the Administration to deploy resident engineers to all piling sites of the Housing Authority (HA) but their request has gone unheeded. The decision of HA to outsource site monitoring work in 1997 is partly to blame for the occurrence of the Tin Chung Court incident. Under such circumstances, it would be unfair to require the staff at the working level to bear the responsibility for policy failure and the consequences of the existing unsatisfactory management system.

9. The Administration's explanation in this respect is that departmental work manuals and instructions have laid down clearly the responsibilities of HD staff at different levels. If HD staff discharge their respective responsibilities dutifully in accordance with these documents, problems should not arise. The officers concerned have the ultimate responsibilities for ensuring the satisfactory completion of the task entrusted to them although they may have delegated the job to officers down the line. Should there be evidence to establish any act of misconduct or failure of duty by civil servants, the Administration considers it appropriate to take administrative or disciplinary actions against the officers concerned. The recommendations of the Investigation Panel have been referred to the Secretariat on Civil Service Discipline. The findings of the Investigation Panel will not be treated as conclusive evidence to establish the misconduct of the staff concerned. Any disciplinary proceedings, if commenced, will be conducted in accordance with established practices.

10. On the wider issue of building quality of public housing, the Administration has reiterated the 50 initiatives embarked upon in January 2000 by HA to improve the monitoring and accountability system in building projects. These measures include, inter alia, the deployment of resident engineers to all piling sites. In addition, consideration will also be given to the recommendations of Construction Industry Review Committee, which will soon complete its review, on the ways to improve the efficiency and cost-effectiveness of the local construction industry.

Actions against ex-civil servants

11. Members also note that the Investigation Panel does not recommend any actions in dealing with the staff who have left the civil service. According to the

Administration, the task of the Investigation Panel is to review the performance of individual officers in the two piling works for consideration of disciplinary action. As officers who have left the service are no longer civil servants, they are not subject to civil service rules and regulations. The Administration may resort to legal proceedings should any act of the ex-civil servants committed in their official capacity warrant the taking of such a course of action.

Integration of the various investigations undertaken by HA

12. Although three separate investigations have been conducted into the two incidents, members have pointed out the inadequacy in that they have focussed on the individual incidents per se without providing an integrated picture of the follow-up actions to rectify the problem. To address members' concern in this respect, the Administration has provided a confidential paper to consolidate the findings, recommendations and follow-up actions on the three relevant investigations which has been issued to members vide LC Paper No. CB(1)383/00-01 on 2 January 2001.

Construction Industry Review Committee

13. The review, originally scheduled for completion by the end of 2000, is expected to be completed by January 2001.

Committee on the Review of the Institutional Framework for Public Housing

14. The review is scheduled for completion by the end of March 2001.

The Ombudsman

15. According to the Housing Bureau, the Ombudsman will complete its investigation in the second quarter of 2001.

Advice sought

16. Members are requested to note the latest position of the studies and investigations currently undertaken in relation to the two incidents and the work of HA and the construction industry as set out above.

Prepared by
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Position as at 3 November 2000

Name of Investigation body	Appointed by	Membership	Terms of reference	Target completion date
Investigation Panel on Staff Discipline in Tin Chung Court and Yuen Chau Kok Incidents	Secretary for Housing	Mr Stephen SELBY (Chairman) Mr CHOY Kin-kuen Mr CHAN Chiu-ming Mrs WONG MA Wai-mei	(i) to establish and collate evidence, if any, of misconduct to enable consideration of disciplinary proceedings against any staff member concerned in the Housing Department; and (ii) to identify specific acts of misconduct, if any, which warrant administrative or disciplinary action.	mid to end of November 2000
Construction Industry Review Committee	Chief Executive	Hon TANG Ying-yen (Chairman) Professor Michael ANSON Mr Francis BONG Shu-ying Mr CHAN Kam-ling Mrs Pamela CHAN Mr Keith KERR Mr KWOK Kwok-chuen Mr Daniel LAM Chun Mr Frederick MA Si-hang Mr Alasdair MORRISON Mr POON To-chuen Mr Albert TONG Yat-chu Mr Robin J WHALLEY Secretary for Housing Secretary for Works Director of Buildings	(i) to examine the current state of the construction industry in respect of quality, quantity, environmental friendliness, manpower, safety and supervision; (ii) to identify specific actions and good practices to improve the efficiency and cost effectiveness of local construction in terms of quality, customer satisfaction, timeliness in delivery and value for money; and (iii) to advise on an order of priority for implementation.	end of 2000
Committee on the Review of the Institutional Framework for Public Housing	Chief Executive	Chief Secretary for Administration (Chairman) Chairman of the Housing Authority Chairman of the Housing Society Secretary for Housing Secretary for Planning and Lands Secretary for the Treasury Director of Housing	(i) to examine the roles and responsibilities of the Housing Bureau, the Housing Authority, the Housing Department and the Housing Society in the delivery of the public housing programme; and (ii) to make recommendations on the best institutional framework for public housing.	end of March 2001
The Ombudsman	N/A	N/A	(i) to investigate into the management of construction projects by the Housing Authority and the Housing Department.	Not yet confirmed