

Legislative Council Panel on Housing
Marking Scheme for Tenancy Enforcement
in Public Housing Estates

Purpose

This paper updates Members on progress in implementing the Marking Scheme for Tenancy Enforcement in Public Housing Estates (Marking Scheme) and improvement measures that will take effect on 1 January 2006.

Background

2. In May 2003, Team Clean announced a series of measures to boost hygiene and cleanliness in Hong Kong. To strengthen the enforcement measures against hygiene-related offences in public housing estates and to promote civic responsibility among tenants, the Housing Authority implemented the Marking Scheme in August 2003.

3. In November 2004, the Housing Authority reviewed the progress in implementing the Marking Scheme and endorsed proposals to include new misdeeds, adjust the allotment of penalty points and simplify the warning arrangement with a view to enhancing the effectiveness of the Marking Scheme. The revised scheme took effect on 1 January 2005.

4. At present, the Marking Scheme covers 20 hygiene-related misdeeds. They are categorized into three groups by the seriousness of their consequences and their potential nuisance to the living environment, with Category A, B and C misdeeds carrying three, five and seven points respectively. A list of misdeeds under the Marking Scheme is at **Annex A**. Accumulation of 16 points or more within two years will lead to termination of tenancy.

Present Position

5. With implementation of the Marking Scheme and more rigorous enforcement of the Fixed Penalty (Public Cleanliness Offences) Ordinance

(Cap. 570), the environmental hygiene of public housing estates has shown continuous improvements. The findings of Public Housing Recurrent Surveys (Annex B refers) show that tenants' satisfaction over estate cleanliness has increased from 52.1% in 2003 to 64.3% in 2005. Some 76% of tenants consider the Marking Scheme effective in improving the cleanliness of public housing estates. The number of complaints on cleansing, hygiene and nuisance-related matters has also dropped by 64% from 795 in the second quarter of 2003 to 287 in the first quarter of 2005.

6. As at 28 September 2005, 3 921 allotments of penalty points involving 3 233 households have been made. Of them, 80 households (2.47%) have accumulated 10 points or more due to commitment of two or more misdeeds. Statistics on the allotment of penalty points under the Marking Scheme are shown at Annex C. Littering and spitting in public areas continue to be the most frequently committed offences with 3 058 and 727 cases respectively. For misdeeds with warnings given prior to allotment of points such as drying clothes in public areas, utilizing laundry pole-holders for drying floor mop, putting dripping flower pots or dripping laundry at balconies, and obstructing corridors or stairs with sundry items, a large number of verbal warnings were given but only very few written warnings were ultimately issued, indicating that most households have taken heed of estate management staff's advice.

7. No verbal warnings or penalty points have been allotted for the misdeed of causing mosquito breeding by accumulating stagnant water, a misdeed included since January 2005. Nonetheless, the general feedback is that this item should be retained to prevent mosquito nuisance.

8. As at 28 September 2005, four households had been allotted 16 points. Notices-to-Quit (NTQ) were issued to these families. All of them had appealed against the NTQ. The Appeal Panel (Housing) upheld the NTQ in two cases and, provided that the households concerned do not commit further misdeeds within a specified period of time, agreed to cancel the NTQ in the other two cases. Details of these cases are at Annex D.

Review of the Marking Scheme

9. Judging from tenants' feedback and regular surveys on satisfaction

over estate cleanliness, the Marking Scheme has been effective in heightening tenants' sense of responsibility over the cleanliness and upkeep of public housing estates. It has also provided a framework for consistent enforcement against hygiene-related misdeeds and other environmental and health-related nuisances.

10. A recent appeal case has spurred extensive public discussions on the Marking Scheme. While recognizing the Marking Scheme as a means to foster a sense of civic responsibility among tenants, some quarters take the view that the Housing Authority should strengthen the deterrent effects of the Scheme by increasing the penalty levels. In the light of operational experience and feedback from the public, the Housing Department has identified the following areas for review -

- (a) smoking in no-smoking area should be included under the Marking Scheme;
- (b) illegal cooked food hawking activities should be included as a misdeed;
- (c) penalty against throwing objects from height should be commensurate with the seriousness of the offence;
- (d) tenants whose tenancies have been terminated should only be allowed to re-apply for public housing after meeting specified conditions; and
- (e) an incentive award scheme should be introduced.

11. At its special meeting on 26 October 2005, the Housing Authority considered the above issues and agreed to implement the following improvement measures with effect from 1 January 2006.

A. Additional Misdeeds

(a) Smoking or Carrying a Lighted Cigarette in Public Lift

12. Smoking causes serious health hazard and should be discouraged in public places, particularly enclosed areas. Lifts are designated no-smoking

areas under the Smoking (Public Health) Ordinance (Cap.371). Signs prohibiting smoking have been put up inside lifts in public housing estates. Any person who smokes or carries a lighted cigarette inside lift has committed an offence. The offender will be asked by estate management staff to extinguish the lighted cigarette or leave the lift car. Relevant extract of the Smoking (Public Health) Ordinance is at **Annex E** for Members' easy reference.

13. The Housing Authority has decided that smoking or carrying a lighted cigarette in a lift should be made a misdeed under the Marking Scheme. If the offender is a tenant or authorized occupant in the estate where the offence has taken place, five penalty points will be allotted to the concerned household. We are aware that there may be difficulties in enforcement. We shall step up our publicity action in this aspect to deter the misdeed and to gain tenants' cooperation.

(b) Illegal Hawking of Cooked Food

14. Illegal cooked food hawking causes environmental nuisance and threatens public health. We have therefore raised the penalty points on the misdeed of using leased premises as food factory or storage from five points to seven from 1 January 2005 after our last review of the Marking Scheme. So far, three households have been allotted penalty points for committing this misdeed.

15. Enforcement actions against illegal hawking of cooked food within public housing estates are taken by both the Housing Department and Food and Environmental Hygiene Department. From 1 April 2003 to 31 March 2005, there were 765 convictions. Of these, 296 offenders (i.e. 39%) committed the offence within their residing estates. We consider that stricter enforcement should be taken against illegal cooked food hawkers in public housing estates. Hence, the Housing Authority decided to include the misdeed of illegal hawking of cooked food within estate of abode in the Marking Scheme. Upon conviction, the household concerned will be allotted seven points.

B. Adjustment of Penalty Points

16. Throwing objects from height has been one of the major concerns of public housing tenants. Such behaviour not only poses health hazards but also endangers tenants' safety. A special team of ex-policemen has been deployed by the Housing Department since December 2003 to assist in surveillance works. Digital Falling Object Monitoring System and falling objects monitoring closed-circuit television have also been placed at strategic locations or black spots for greater deterrent effect. As at 28 September 2005, 47 households have been allotted penalty points for committing this misdeed. No repeat offender has been recorded.

17. The nuisance or danger caused by fallen objects differs considerably in seriousness. While items like rubbish and sanitary napkins cause hygienic problems, objects like knives, choppers, glass bottles and furniture pose imminent danger to passers-by and may lead to death or serious casualty.

18. In order to impress upon tenants that reckless acts of throwing objects from height which may cause danger or personal injury will not be tolerated, more penalty points will be allotted against this misdeed under the revised Marking Scheme. The existing misdeed of throwing objects from height will be split into two different misdeeds under two categories in accordance with the seriousness of possible consequence, as follows :

- (a) 'Throwing objects from height that jeopardize environmental hygiene' will attract seven penalty points, same as the original misdeed of 'Throwing objects from height'; and
- (b) 'Throwing objects from height that may cause danger or personal injuries' will attract 15 penalty points taking into account the seriousness of possible consequences.

19. In addition, we will also consider invoking section 19(1)(b) of the Housing Ordinance (Cap. 283) to terminate the tenancy immediately if a tenant has committed an unscrupulous act of throwing object(s) from height that has resulted in casualties.

20. For misdeeds committed by psychiatric patients, mentally retarded or children below the age of 14 unattended by adults, we will consider the

circumstances of the case before deciding whether enforcement action under the Marking Scheme should be taken.

21. A list of misdeeds and penalty points under the revised Marking Scheme is at **Annex F**.

C. Restrictions on Ex-tenants in Applying for Public Housing

22. Currently, the average waiting time for public rental housing is around two years. The general public opinion is that immediate rehousing of ex-tenants whose tenancies have been terminated under the Marking Scheme through the General Waiting List or the Express Flat Allocation Scheme will undermine the deterrent effect of the Marking Scheme. In this regard, the Housing Authority has decided that under the revised Marking Scheme,

- (a) ex-tenants will be barred from applying for public rental housing through the Waiting List for two years, counting from the day after date of termination of previous tenancy under the Marking Scheme. This time bar is considered to be reasonable as penalty points allotted under the Marking Scheme will be cancelled upon expiry of a two-year validity period;
- (b) ex-tenants will not be offered a flat of better quality in terms of geographical locality, age of building and floor level upon rehousing; and
- (c) for cases with special or compassionate considerations, the above restrictions can be lifted with approval from Assistant Director/Estate Management of the Housing Department.

23. Restrictions (a) and (b) will also apply to tenancies terminated by the Housing Authority for reasons other than those under the Marking Scheme.

D. Enhancing Community Involvement

24. The ultimate goal of the Marking Scheme is the building up of a sustained healthy living environment. This can only be achieved if public

housing tenants maintain a high level of cleanliness in their own units as well as the surrounding environment. To nurture this culture, the Public Housing Estate Cleanliness Incentive Scheme has been launched since June 2003 to encourage community involvement.

25. Under the Cleanliness Incentive Scheme, the local management mobilized members of the Estate Management Advisory Committees (EMACs) and residents' associations, and volunteers of non-governmental organizations (NGOs) to clean the common areas of the estates and organize cleansing competitions. In addition, activities including cleansing slogan contest, photographic competition, cleansing cum environmental protection carnival and the distribution of bleaching agents to tenants were also organized. From January 2004 to March 2005, 247 activities (including 100 cleansing operations), involving 77 499 residents and 2 292 volunteers, were organized under the Scheme.

26. Alongside the launching of the Cleanliness Incentive Scheme, the comprehensive cleansing exercise 'Operation Tai Ping Tei' ^{Note}, traditionally held near the Chinese New Year season, has increased to four times a year in all estates since September 2003. Besides, Team Clean Corners with photographs showing improvements in estate black spots are set up in estates to keep residents abreast of cleansing-related activities and the collective achievement. In support of the revised Marking Scheme, the following measures will be implemented to enhance the Cleanliness Incentive Scheme :

- (a) We shall encourage management regions to share their experience in organizing promotional/educational activities in order to disseminate the good practices to all regions. The good performance of individual regions will be benchmarked for continuous improvement.
- (b) EMACs and NGOs will be encouraged to participate in the comprehensive cleansing 'Operation Tai Ping Tei' now being held at quarterly intervals or in other cleansing exercises.

^{Note} The 'Operation Tai Ping Tei' is a cleansing campaign organized to boost the awareness of cleanliness amongst public rental housing residents through the participation of the whole community (including Housing Department staff, cleansing contractors' staff, local residents and volunteers) in a series of comprehensive cleansing activities in public housing estates.

- (c) Funding at the rate of \$5 per household per year from the EMAC Central Reserve Fund for regional programmes will be allocated to every public housing estate for organizing the 'Operation Tai Ping Tei'. Taking an average public housing estate with 4 000/5 000 households as an example, \$20,000 to \$25,000 will be provided. The total funding support amounting to around \$3 million per annum is considered generally sufficient for the purpose; and
- (d) An incentive award scheme will be introduced to muster tenants' support. The top three most hygienic public housing estates will be publicized in Estate Newsletters and awards be given on monthly basis in recognition of their achievements. Besides, a certificate will be presented to the Mutual Aid Committee of the cleanest block of every public housing estate on an annual basis.

Publicity

27. In order to heighten tenants' awareness of the Marking Scheme, since 1 January 2005 we have publicized monthly statistics on point allotment and misdeeds committed by tenants of individual blocks in anonymity. As revealed by the Public Housing Recurrent Survey 2005, 95% of our tenants are now aware of the Scheme.

28. Nevertheless, to ensure that tenants understand the Scheme fully, we shall keep up with our publicity efforts through estate newsletters, the Housing Authority Channel, brochures and posters.

Advice Sought

29. Members are invited to note the progress in implementing the Marking Scheme and the measures to enhance its effectiveness.

**List of Misdeds under the Marking Scheme
(1.1.2005 – 31.12.2005)**

Offences		Penalty Points
Category A		
A1*	Drying clothes in public areas (except in areas designated by Housing Department)	3
A2*	Utilizing laundry pole-holders for drying floor mop	
A3*	Putting dripping flower pots or dripping laundry at balconies	
A4*	Dripping oil from exhaust fan	
Category B		
B1	Littering	5
B2	Disposing of domestic refuse indiscriminately, such as improper disposal in lift lobbies or inside bins without cover	
B3	Keeping animal, bird or livestock inside leased premises without prior written consent of the Landlord	
B4	Allowing animal and livestock under charge to foul public places with faeces	
B5*	Accumulating a large quantity of refuse or waste inside leased premises, creating offensive smell and hygienic nuisance	
B7*	Obstructing corridors or stairs with sundry items rendering cleansing difficult	
B8	Boiling wax in public areas	
B9*	Causing mosquito breeding by accumulating stagnant water	
Category C		
C1	Throwing objects from height	7
C2	Spitting in public areas	
C3	Urinating and defecating in public places	
C4	Dumping or disposing of decoration debris indiscriminately at refuse collection point, within building or in other public areas	
C5*	Denying Housing Department staff or staff representing Housing Department entry for repairs responsible by Housing Department	
C6*	Refusing repair of leaking pipes or sanitary fittings responsible by the tenant	
C7*	Damaging down/sewage pipes causing leakage to the flat below	
C8	Using leased premises as food factory or storage	

* Warning System is in place for these misdeeds. Penalty points will only be allotted if the offender ignores 1 verbal warning and 1 written warning and repeats the same misdeed for the third time and onwards.

Table 1 : Tenants' Satisfaction Levels on Estate Cleanliness

	2002	2003	2004	2005
Very satisfied / satisfied	45.5%	52.1%	61.7%	64.3%
Fair	31.8%	29.0%	22.4%	29.6%
Dissatisfied / very dissatisfied	22.7%	18.9%	15.9%	6.1%

Source: Public Housing Recurrent Surveys (2002 – 2005)

Table 2 : Tenants' Views on the Marking Scheme

		Proportion
Awareness of the scheme	Yes	95.0%
	No	5.0%
Whether the scheme can improve cleanliness of public rental housing	Yes	76.0%
	No	20.9%
	No comment	3.1%
Whether the penalties are reasonable	Stringent	13.1%
	Reasonable	63.0%
	Lenient	20.6%
	No comment	3.3%

Source: Public Housing Recurrent Survey 2005

Annex C

Cumulative Reported Misdeeds under Marking Scheme (1.8.2003 - 28.9.2005)			
Offence	Verbal Warning	Written Warning	Points- Allotted Cases
A1 Drying clothes in public areas (except in areas designated by Housing Department)	456	1	0
A2 Utilizing laundry pole-holders for drying floor mop	1726	0	0
A3 Putting dripping flower pots or dripping laundry at balconies	387	2	1
A4 Dripping oil from exhaust fan	20	0	0
B1 Littering	-	-	3058
B2 Disposing of domestic refuse indiscriminately, such as improper disposal in lift lobbies or inside bins without cover	-	-	2
B3 Keeping animal, bird or livestock inside leased premises without prior written consent of the Landlord	-	-	56
B4 Allowing animal and livestock under charge to foul public places with faeces	-	-	0
B5 Accumulating a large quantity of refuse or waste inside leased premises, creating offensive smell and hygienic nuisance	34	11	16
B7 Obstructing corridors or stairs with sundry items rendering cleansing difficult	1702	10	2
B8 Boiling wax in public areas	-	-	0
B9 Causing mosquito breeding by accumulating stagnant water	0	0	0
C1 Throwing objects from height	-	-	47
C2 Spitting in public areas	-	-	727
C3 Urinating and defecating in public places	-	-	4
C4 Dumping or disposing of decoration debris indiscriminately at refuse collection point, within building or in other public areas	-	-	1
C5 Denying Housing Department staff or staff representing Housing Department entry for repairs responsible by Housing Department	13	4	4
C6 Refusing repair of leaking pipes or sanitary fittings responsible by the tenant	5	2	0
C7 Damaging down/sewage pipes causing leakage to the flat below	2	0	0
C8 Using leased premises as food factory or storage	-	-	3
Total :	4345	30	3921

Cases being Issued Notice-to-Quit (NTQ) under Marking Scheme

Estate	Misdeed Committed	Penalty Points	NTQ Issue Date	Date of Appeal	Date of Appeal Hearing
Lok Fu Estate	B1 / B1 / C2	17	13.10.2004	15.10.2004	21.12.2004*
Yau Oi Estate	C1 / B1 / B1	17	30.11.2004	30.11.2004	8.9.2005**
Tsz Ching Estate	C2 / B1 / B1	17	14.1.2005	19.1.2005	30.6.2005***
Tsz Ching Estate	C2 / B7 / B5	17	28.2.2005	9.3.2005	28.10.2005**

* Appeal Panel (Housing) decided that the NTQ should be cancelled if no further misdeed is committed by concerned family on or before 13.8.2005.

** Appeal Panel (Housing) confirmed the NTQ.

*** Appeal Panel (Housing) decided that the NTQ should be cancelled if no further misdeed is committed by concerned family on or before 3.7.2006.

Provisions of the Smoking (Public Health) Ordinance (Cap. 371)

Section: 2 – Interpretation

In this Ordinance, unless the context otherwise requires-

‘manager’ in relation to a lift, includes the owner, occupier or lessee of the building in which the lift is situated or the person in charge or control of such building or lift;

‘public lift’ means a lift to which the public have access.

PART II

Section: 3 - Prohibition on smoking in certain designated areas

- (1) The areas described in Schedule 2 are designated as no smoking areas.
- (2) No person shall smoke or carry a lighted cigarette, cigar or pipe in a no smoking area.
- (3) The manager of a no smoking area may, in respect of any person who appears to be contravening subsection (2)-
 - (a) after indicating that the person is smoking or carrying a lighted cigarette, cigar or pipe, as the case may be, in a no smoking area in contravention of subsection (2), require the person to extinguish the lighted cigarette, cigar or pipe;
 - (b) where the person fails to extinguish the lighted cigarette, cigar or pipe, require him-
 - (i) to give his name and address and to produce proof of identity; and
 - (ii) to leave the no smoking area;
 - (c) where the person fails, as required under paragraph (b)-
 - (i) to give his name and address and to produce proof of identity; or
 - (ii) to leave the no smoking area,remove him from the no smoking area by the use of reasonable force if necessary and detain him and call for the assistance of a police officer to assist in the enforcement of this section.

Section: 7 – Offences under Part II

- (1) Any person who contravenes section 3 or 4 commits an offence and is liable on summary conviction to a fine of \$5000.

Schedule: 2 – Designated no smoking areas

1. Any area opened, kept or used for, or in connection with, the purpose of providing seating accommodation in a cinema, theatre or concert hall.
2. Any public lift.
3. Any amusement game centre.
4. (a) Any indoor area open to the public in a supermarket or bank.
(b) Any indoor area open to the public in department stores or shopping malls, except the restaurant within a department store or a shopping mall.

**List of Misdeds under the Marking Scheme
(w.e.f. 1.1.2006)**

Offences		Penalty Points
Category A		
A1*	Drying clothes in public areas (except in areas designated by Housing Department)	3
A2*	Utilizing laundry pole-holders for drying floor mop	
A3*	Putting dripping flower pots or dripping laundry at balconies	
A4*	Dripping oil from exhaust fan	
Category B		
B1	Littering	5
B2	Disposing of domestic refuse indiscriminately, such as improper disposal in lift lobbies or inside bins without cover	
B3	Keeping animal, bird or livestock inside leased premises without prior written consent of the Landlord	
B4	Allowing animal and livestock under charge to foul public places with faeces	
B5*	Accumulating a large quantity of refuse or waste inside leased premises, creating offensive smell and hygienic nuisance	
B7*	Obstructing corridors or stairs with sundry items rendering cleansing difficult	
B8	Boiling wax in public areas	
B9*	Causing mosquito breeding by accumulating stagnant water	
B10 [#]	Smoke or carry a lighted cigarette in public lift	
Category C		
C1 [@]	Throwing objects from height that jeopardize environmental hygiene	7
C2	Spitting in public areas	
C3	Urinating and defecating in public places	
C4	Dumping or disposing of decoration debris indiscriminately at refuse collection point, within building or in other public areas	
C5*	Denying Housing Department staff or staff representing Housing Department entry for repairs responsible by Housing Department	
C6*	Refusing repair of leaking pipes or sanitary fittings responsible by the tenant	
C7*	Damaging down/sewage pipes causing leakage to the flat below	
C8	Using leased premises as food factory or storage	
C9 [#]	Illegal hawking of cooked food	
Category D		
D1 [#]	Throwing objects from height that may cause danger or personal injury	15

* Warning System is in place for these misdeeds. Penalty points will only be allotted if the offender ignores 1 verbal warning and 1 written warning and repeats the same misdeed for the third time and onwards.

[#] New misdeeds to come into effect as from 1.1.2006.

[@] Before 1.1.2006, this misdeed refers to 'Throwing objects from height'.