

LEGISLATIVE COUNCIL PANEL ON DEVELOPMENT

Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme

Target Buildings, Inspection Items and Operational Procedures

PURPOSE

This paper seeks Members' views on the selection of target buildings, inspection items and operational procedures under the proposed Mandatory Building Inspection Scheme (MBIS) and the proposed Mandatory Window Inspection Scheme (MWIS).

BACKGROUND

2. In view of our aging building stock, it is necessary to ensure that building owners would take up their building maintenance responsibility on a regular basis to uphold building safety. Based on the community consensus obtained through a two-stage public consultation, we briefed the former Panel on Planning, Lands and Works (PLW Panel) on 22 May 2007 and 24 July 2007 of our intention to put in place the proposed MBIS and MWIS by way of legislation. Key features of the proposed schemes are at [Annex A](#).

3. Members of the PLW Panel have in general supported the introduction of the two mandatory schemes as a practicable long-term solution to the problem of building neglect. We have provided our preliminary responses to Members' comments on building selection, service providers, inspection items, penalty and support measures via PLW Panel paper no. CB(1)2148/06-07(01).

4. We intend to introduce legislation to implement MBIS and MWIS, through amendments to the Buildings Ordinance (BO), at the beginning of the next legislative term, and drafting of the legislation is underway. To expedite subsequent legislative process, we would like to further discuss certain operational aspects of the two proposed schemes with the Panel. To start off the discussion, this paper seeks Members' views on the selection of target buildings, inspection items and operational procedures under the two proposed schemes. We will seek Members' views on other aspects of the schemes at a later stage.

MANDATORY BUILDING INSPECTION SCHEME

I. Selection of Target Buildings

Selection Criteria

5. Every year, 2,000 private buildings will be selected to undergo building inspection under MBIS. Selection criteria include building age, building condition, recent history of building repairs conducted, the need to spread out the selected buildings into different districts and history of inclusion in large scale operations of Buildings Department (BD)'s enforcement action. District Councils will be invited to suggest target buildings based on the above criteria to ensure that the selection of target buildings will cater for local circumstances in various districts. Owners and owners' corporations (OCs) of buildings aged 30 or above are also welcomed to indicate their wish for their buildings to be selected as a target building. Building Authority (BA) will closely liaise with the Urban Renewal Authority (URA) so that buildings for which URA has immediate redevelopment plans will not be selected.

Selection Panel

6. To enhance the transparency in the selection process and community acceptance, buildings shortlisted by the BA based on the selection criteria set out in paragraph 5 above will be presented to a selection panel. With the advice of the selection panel, BA will select around 500 target private buildings per quarter. The selection panel is proposed to comprise representatives from the following fields -

- (a) professional bodies such as the Hong Kong Institute of Architects, the Hong Kong Institution of Engineers and the Hong Kong Institute of Surveyors;
- (b) relevant non-government organisations (NGOs) such as the Hong Kong Housing Society (HKHS) and URA;
- (c) property management associations;
- (d) District Council Members; and
- (e) relevant Government departments, namely BD and Home Affairs Department (HAD).

We welcome Members' views on the composition of the selection panel. Relevant professional bodies, NGOs and District Councils will also be

consulted on the composition of the selection panel.

7. Building owners/ OCs may appeal against the decisions of the BA if they consider that their buildings should not be selected for inspection.

Notification

8. Every quarter, BA will gazette the list of 500 buildings selected, and issue notices to individual owners and OCs (where exist) to carry out building inspection and any necessary repair works. We propose that the notice of building inspection and repair will be delivered by registered post at the last known address of business or residence, and posted upon a conspicuous part of the target buildings. In addition, the list of target buildings will be posted on BD's website and at HKHS's Property Management Advisory Centres (PMACs) for reference.

9. For buildings *with OCs*, owners and OCs will be given six months from the date of the notice to organise and commence the building inspection. The inspection should be completed within nine months from the date of the notice. If repair works are required as revealed from the inspection, the repair works should be completed within 15 months from the date of the notice.

10. We reckon that for buildings *without OCs*, more time may be required to organise building inspection and repair. Hence, for buildings without OCs, we propose to allow owners more time to comply with the requirements. They will be given nine months from the date of the notice to organise and commence the building inspection. The inspection should be completed within 12 months from the date of the notice. If repair works are required as revealed from the inspection, the repair works should be completed within 18 months from the date of the notice.

11. If owners and OCs have genuine difficulties in complying with the specified timeframe as per paragraphs 9 and 10, they may write to BA to seek extension of time. The BA will take relevant factors into account in considering such applications.

12. Subsequently, at ten-year intervals (counting from the date of the notice), the BA will serve a fresh notice of building inspection and repair to owners and OCs again to inform them of the need to undergo the next cycle of inspection and repair.

II. Inspection Items

13. The coverage of the proposed MBIS is confined to building components located in common areas and external walls that are essential to public safety in order to minimise the financial costs and other burden on owners. The list of proposed inspection items are set out at **Annex B.**

Unauthorized Building Works

14. We have considered whether we should make use of the opportunity of the MBIS to clear all unauthorized building works (UBWs) of a target building. Based on BD's experience in its large scale operations to remove UBWs, the total number of UBWs may amount to some 55,000 for 2,000 target buildings. Removing all UBWs in the context of mandatory building inspection may create serious practical difficulties for some owners, occupiers and the OCs. There may be arguments and conflicts amongst the owners in a building and cause delays in conducting the mandatory inspections. In situations where occupiers of the UBWs need to be evicted (including those living in illegal rooftop structures or illegal extensions from private premises), the situation is even more difficult as this will create rehousing problems.

15. On balance, we consider that BD's established enforcement policy on the removal of UBWs should be followed. Under the proposed MBIS, Registered Inspectors (RIs) appointed by the owners will be required to conduct comprehensive visual inspections to identify all UBWs in the common areas, exterior parts as well as those on the external ground, open space, gardens, playgrounds, private streets and access roads, earth retaining structures and slopes etc. of a building. The RIs should compile detailed records of all UBWs in the inspection reports for submission to the BA. The RIs should also highlight any UBWs which will obstruct inspection/necessary rectification/repair works required under the MBIS in the inspection reports.

16. The RI should also determine whether the UBWs constitute an obvious or imminent danger to life or property, or are newly built. If any UBWs are unstable; show serious signs of distress; overload and cause serious signs of distress to the parent structures; cause serious environmental nuisance to the occupants or the public; constitute an emergency or are under construction, the RIs should notify the BA immediately. If necessary, the RIs should also alert the OC, occupiers and owners, to take steps to remove the danger, and should propose remedial actions to restore building safety immediately.

17. The BA will issue statutory orders to owners for removal of the UBWs falling within the priorities for enforcement action under the BD's enforcement policy, including the UBWs that will obstruct inspection/rectification/repair works under the MBIS. The BD will aim to, as far as possible, dovetail the issue of statutory orders for the removal of UBWs with the timing of planned rectification/repair works under the MBIS to facilitate owners' scheduling of works.

18. For other categories of UBWs, the BD will consider issuing warning notices (WNs) as appropriate to owners and register the WNs in the Land Registry according to the relevant provisions in the BO so that prospective buyers/occupiers can gain access to such information. However, we will encourage and provide advice for individual owners or OCs to remove these UBWs during the rectification/repair works as it will be more convenient and less costly to do so. The proposed minor works control system will provide simplified statutory procedures for owners to remove certain UBWs.

III. Operational Procedures

19. We propose that the following operational procedures should be followed under the proposed MBIS –

- (a) BA, with the advice of the selection panel, selects 500 target private buildings every quarter, with an annual target of 2,000 private buildings.
- (b) BA gazettes the selected buildings and uploads such list onto its website and posts the same at the PMACs. The BA also serves notices of building inspection and repair on concerned owners and OCs.
- (c) Owners/OCs of selected buildings may appeal against the decisions of the BA should they have a reason that the buildings do not require inspection.
- (d) The notice of building inspection and repair will stipulate the timeframe for the appointment of RI and completion of building inspections and necessary repair works.
- (e) Owners/OCs of a selected building with an OC should appoint RIs within six months (for a building without an OC, nine months) from the date of the notice of building inspection and repair.
- (f) The RIs conduct building inspections (mainly visual and non-intrusive) personally. For buildings with OCs, all building

- inspections should be completed within nine months (for buildings without OCs, 12 months) from the dates of the notices.
- (g) If the initial inspection reveals that detailed investigation is necessary, RIs should submit a detailed investigation proposal to BA for vetting.
 - (h) The RIs should not conduct detailed investigation unless agreement and acceptance on the proposal has been obtained from the BA. Owners/OCs may appoint the same RI or different RI to carry out the DI.
 - (i) The RIs should submit inspection reports together with a rectification/repair proposal, if necessary, to the BA on behalf of the owners/OC.
 - (j) If building rectification/repair works are required, owners/OCs should appoint Registered Contractor (RC) to carry out building rectification/repair under the supervision of the same RI or another RI to be appointed by the owners/OCs as they may think fit. For buildings with OCs, the building rectification/repair works should be completed within 15 months (for buildings without OCs, 18 months) from the date of the notice of building inspection and repair.
 - (k) The RIs should submit the completion reports and certificates of completion of the rectification/repair works to the BA on behalf of the owners/OCs.
 - (l) BA conducts audit checks (both desktop and on site) of the inspection reports, including the detailed investigation reports, and the rectification work reports on a random basis.
 - (m) If the owners/OCs fail to comply with the notice of building inspection and repair, BA will register the notice in the Land Registry against the building and post such information on its website and at the PMACs.
 - (n) BA may instigate prosecution actions against non-compliant owners in particular individual uncooperative owners.
 - (o) The BA may also carry out building inspections and/or the necessary repair works on behalf of the defaulting owners/OCs, and recover all the costs incurred from the defaulting owners/OCs, together with a surcharge.
 - (p) BD will provide information about compliance status for MBIS on its website and at the PMACs.

MANDATORY WINDOW INSPECTION SCHEME

I. Selection of Target Buildings

20. The selection procedures will follow those for the MBIS. 5,800

target private buildings (approximately 200,000 households) will be selected each year (i.e. 1,450 buildings in each quarter) by the BA with the advice from the selection panel mentioned in paragraph 6 above. Owners and OCs of buildings aged ten or above are also welcomed to indicate their wish for their buildings to be selected as target buildings. The BA will gazette the list of target buildings and serve notices of window inspection and repair to concerned individual owners or OCs by registered post to the addresses of the subject premises. The list will also be posted on the BD's website and at the PMACs. Again, owners/OCs may appeal against BA's decision.

21. The concerned owners and OCs will receive a notice of window inspection and repair upon the gazettal of the list of target buildings. They will have three months from the date of the notice to organise and commence the window inspection. The inspection and any necessary repair works should be completed within six months from the date of the notice.

22. If owners/OCs have genuine difficulties in complying with the requirements within the specified timeframe, they may apply to the BA for extension of time. The BA will take relevant factors into account in considering such applications.

23. Subsequently, at five-year intervals (counting from the date of the notice), the BA will serve a fresh notice of window inspection and repair to owners and OCs again to inform them of the need to undergo the next cycle of window inspection and repair.

II. Inspection Items

24. The proposed MWIS will cover all windows, both fixed and openable, in common areas and private premises. All components of windows including the frames, rivets and screws, hinges, sliding tracks, shoes, window stays, glass panes, sealant and putty should be inspected.

III. Operational Procedures

25. We propose that the following operational procedures should be followed under the proposed MWIS –

- (a) 5,800 target buildings (involving approximately 200,000 households) will be selected by BA with the advice of the selection panel every year and the selection will be conducted at

quarterly intervals.

- (b) The BA gazettes the selected buildings and uploads such list onto its website and posts the same at the PMACs. The BA also serves notices of window inspection and repair on the concerned owners and OCs to the addresses of the subject premises.
- (c) Owners/OCs of selected buildings may appeal against the decisions of the BA should they have a reason that the windows in the buildings do not require inspection.
- (d) The notice of window inspection and repair will stipulate the timeframe for the appointment of qualified person (QPs) and completion of window inspections and necessary repair works.
- (e) Owners/OCs of a selected building should appoint QPs within three months from the date of the notice of window inspection and repair.
- (f) The QPs conduct window inspections personally. The inspection should be commenced within three months from the date of the notices of window inspection and repair. All window inspection and necessary rectification/repair works should be completed within six months from the date of the notices. Owners/OCs may also choose to appoint RCs or registered minor works contractors to carry out window rectification/repair works under the supervision of the QPs.
- (g) The QPs should submit certificates of window inspection and completion of works to the BA.
- (h) The BA conducts audit checks on the certificates submitted by the QPs.
- (i) The BA will issue fixed amount penalties to individual owners who do not comply with the notices of window inspection and repair, and may instigate prosecution action against non-compliant owners.
- (j) If the OCs/co-owners fail to comply with the notice of window inspection and repair for common areas, the BA will register the notice in the Land Registry against the building and post such information on its website and at the PMACs.
- (k) The BA may carry out window inspection and/or necessary repair works on behalf of the defaulting owners/OCs for common areas. BA will recover all the costs incurred from the defaulting owners/OCs together with a surcharge.
- (l) The BD will provide information about compliance status for MWIS on its website and at the PMACs.

SYNCHRONIZATION BETWEEN MBIS AND MWIS

26. To minimise the disturbance to building owners/OCs, the implementation of the MBIS will synchronize with the MWIS. As the inspection cycle for the MBIS is ten years and that for the MWIS is five years, the target buildings for the MBIS will also be selected for the MWIS as far as possible such that the owners or OCs can carry out the inspection and any necessary repair for the elements covered in the MBIS and the MWIS concurrently.

ADVICE SOUGHT

27. Members are invited to provide views on target building selection, inspection items, and operational details of the proposed MBIS and MWIS.

28. Taking into account Members' views on the operational procedures of MBIS and MWIS, we will also consult the Independent Commission Against Corruption on the proposals before finalization.

Development Bureau
May 2008

Key Features of the Proposed MBIS & Proposed MWIS

MBIS

Features	Proposals
Target Buildings	Private buildings aged 30 years or above (except domestic buildings of 3 storeys or less)
Inspection Items	Common parts of buildings and features on the external walls
Inspection Cycle	10 years
Registered Inspectors	In addition to Authorised Persons/Registered Structural Engineers, other registered professionals in the relevant field with relevant experience are eligible for registration
Penalty	Mainly targeting at uncooperative owners/occupiers

MWIS

Features	Proposals
Target Buildings	Private buildings aged 10 years or above (except domestic buildings of 3 storeys or less)
Inspection Item	Openable and fixed windows in both common parts of buildings and individual private premises
Inspection Cycle	5 years
Penalty	Fixed Penalty

Annex B**List of Inspection Items under the MBIS**

Elements	Items to be covered
External Elements and Other Physical Elements	<p>External finishes, fixtures, installations and appendages to the external walls, regardless of whether they belong to co-owners or individual owner. Examples are:</p> <ul style="list-style-type: none"> (i) external finishes such as tiling and rendering; (ii) louvers (common parts); (iii) cladding, curtain wall and skylight; and (iv) appendages, including racks, awnings, planters, air conditioner hoods or platforms, eaves, mouldings, projections, architectural features, drying racks, railings, signboards and television-screen type signboards on external walls.¹ <p>Other physical elements should include the following²:</p> <ul style="list-style-type: none"> (i) finishes, stone cladding and false ceiling in common corridors and lobbies; and (ii) manually operated metal gates of substantial size.
Structural Elements	<p>Structural elements in the common parts of the main building and all other ancillary building structures within the lot boundary, such as elevated driveways, bridging structures, club house, guard house, swimming pool including filtration plant room etc. Examples are: columns, walls, beams, slabs, staircases, water tanks, suspended manholes, parapets and balustrades, screen walls, basement walls, hanging structures, cantilevered projecting structures and transfer structures.</p>
Fire Safety Elements	<p>Fire safety provisions in the common parts and exterior parts of a building, including means of escape; means of access for fire fighting and rescue; fire resisting construction and compartmentation in common parts</p>
Drainage System	<ul style="list-style-type: none"> (i) Drainage pipes located at external walls of the building; (ii) drainage pipes in common parts including those at slope etc within the lot boundary;

¹ Unauthorized/abandoned signboards erected in common areas and at the exteriors (including balconies) of the buildings are to be identified and reported to BD in the course of building inspection. BD will tackle unauthorized/abandoned signboards under its separate enforcement scheme.

² Other physical elements should not include retaining structures and slopes.

Elements	Items to be covered
	(iii) drainage pipes laid within common pipe ducts; and (iv) underground common drainage system.
Unauthorized Building Works (UBWs)	<p>All UBWs in the common areas and exterior parts as well as those on the external ground, open space, gardens, playground, private streets and access roads, earth retaining structures, slopes, etc. are to be identified and reported to BD in the course of building inspection.</p> <p>In accordance with BD's existing policy on removal of UBWs, BD will issue separate statutory orders to demand removal of UBWs constituting an obvious or imminent danger, obstructing inspection/rectification works or falling under BD's priority enforcement items.</p>

Remark: The detailed standards and requirements of inspection and rectification works to be followed by registered inspectors and contractors will be stipulated by BD in the form of codes of practice. We will seek Members' views on the regulation of service providers under the MBIS at a later stage.