

## **ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE**

### **HEAD 62 - HOUSING DEPARTMENT Subhead 003 Recoverable salaries and allowances**

Members are invited to recommend to Finance Committee the creation of the following permanent post in the Housing Department with effect from 15 July 2007 –

1 Assistant Director of Housing  
(D2) (\$110,000 - \$116,800)

### **PROBLEM**

The supernumerary post of Assistant Director of Housing (AD of H) (D2) in the Independent Checking Unit (ICU) of the Housing Department (HD) (departmentally known as AD(ICU)) will lapse on 15 July 2007. The HD needs the continued support of the directorate post for running a third-party building control system, in line with the requirements of the Buildings Ordinance (BO) and the Lifts and Escalators (Safety) Ordinance (L&E(S)O), over mainly Housing Authority (HA)'s buildings.

### **PROPOSAL**

2. We propose to create one permanent AD of H (D2) post in the HD with effect from 15 July 2007 to head the ICU of the HD to ensure that an effective independent building control system that is compatible with the BO and the L&E(S)O will be maintained for HA's buildings on an on-going basis.

**/JUSTIFICATION .....**

## JUSTIFICATION

### ICU

#### *Independent building control functions*

3. Although HA's buildings are built to standards consistent with those set under the BO for private developments, HA's construction projects and buildings are statutorily exempted from the control of the BO. In November 2000, to give further assurance of the quality of public housing, the HD established an ICU to exercise third-party regulatory control over HA's new buildings in line with the requirements of the BO by following the technical standards and practices adopted by the Building Authority (BA) for control of private buildings. The work of the ICU in this aspect involves, among others, checking building design and construction proposals, and undertaking subsequent site inspections and monitoring of works against approved plans as the works progress to various stages. The AD(ICU) post has been created on a supernumerary basis to head the ICU since 15 January 2001.

4. In April 2001, the ICU took over the Lift Ordinance Enforcement Unit of the HD which was established in 1989 to examine, control and certify new and existing lifts and escalators in HA's buildings after the L&E(S)O was amended to exempt HA's buildings from compliance with certain provisions of the Ordinance. The Unit's work was to mirror the Electrical and Mechanical Services Department's certification and inspection role in respect of private lifts and escalators. In May 2003, the ICU also took over the Building Control Unit which was formerly under the Estate Management Division of the HD and was responsible for the building control of Home Ownership Scheme (HOS) courts and Tenants Purchase Scheme (TPS) estates, which are subject to the same control as private buildings under the BO, under a delegated authority from the BA<sup>1</sup>.

5. In November 2005, the ICU's independent building control functions have been further extended to cover HA's divested retail and car-parking (RC) facilities, similarly under a delegated authority from the BA under the BO. The independent building control system is also being extended to gradually cover all HA's existing buildings.

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<sup>1</sup> We have informed the Finance Committee (FC) of the transfer of the Lift Ordinance Enforcement Unit and the Building Control Unit to the ICU vide EC(2001-02)7.

6. Since November 2005, we have redeployed, on a temporary basis, one Chief Architect (CA) (D1) post from the Development and Construction Division (DCD) of the HD to the ICU to cope with the increasing and heavy workload arising from the expansion of the independent building control system. In addition, in line with the Buildings Department (BD)'s practice, the ICU has adopted a three-tier vetting system<sup>2</sup> for examining construction proposals that involve structural alteration to existing buildings, which requires an additional layer of review of the proposals at D1 level. In view of the pressing need to deal with a growing number of such proposals submitted by The Link REIT in respect of the divested RC facilities, we have deployed a Chief Structural Engineer (CSE) (D1) post in DCD on a part-time basis to the ICU to discharge this function since April 2006<sup>3</sup>. We will review these temporary redeployments in early 2008 when examining the deployment of all D1 officers in the HD for assessing the continual need of the two existing supernumerary D1 posts which are due to lapse in mid-2008<sup>4</sup>.

### *Technical audit and internal audit functions*

7. In the HD, there is a Technical Audit Unit which is responsible for the review of operations and practices relating to capital and maintenance works; review of effectiveness of the controls on consultants' standard of service; and cost effectiveness of and suitability of materials and processes in capital and maintenance works. There is also an Internal Audit Unit which is responsible for all other audits including system-based audit; operations, computer and system development audit; value-for-money audit; and outstation offices inspection. Previously, each of these two Units was headed by an officer at senior professional level (MPS 45 – 49 or equivalent), who reported direct to the Permanent Secretary for Housing, Planning and Lands (Housing) (PSH). Since October 2003, AD(ICU) has been tasked to supervise the two Units in order to enhance co-ordination and efficiency of various checking and audit functions within the HD, as well as to relieve PSH partially of his supervisory duties<sup>5</sup>.

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<sup>2</sup> In the past, the HD adopted a two-tier system, i.e. a professional or senior professional officer would vet an application; the vetting result would then be reviewed by a senior professional or directorate officer.

<sup>3</sup> We have informed FC of the redeployments of the CA and the CSE posts vide EC(2006-07)11.

<sup>4</sup> FC approved the creation of one supernumerary Chief Estate Surveyor post and one supernumerary CSE post up to 6 July 2008 vide EC(2006-07)11.

<sup>5</sup> We have informed FC of the transfer of the Technical Audit Unit and the Internal Audit Unit to the ICU vide EC(2004-05)9.

### **Application of the BO to HA's Buildings**

8. The AD(ICU) post was created on a supernumerary basis to head the ICU pending completion of the Administration's detailed assessment of the legal, staff management and resource implications of lifting the current statutory exemption of HA's buildings from the BO. We have now completed the assessment.

9. We agree in principle with the lifting of the exemption for HA's buildings under the BO which would bring HA's buildings under the same system of regulatory control under the BO as private buildings. However, owing to the considerations set out in paragraphs 10 to 13 below, we have decided not to lift the exemption for HA's buildings under the BO.

10. Experience in the progressive adoption of the statutory requirements in the regulatory control of HA's buildings by the ICU in the past years reveals that applying the BO formally to HA's buildings would have significant implications to a large number (over 2 100) of civil servants working in the HD who are responsible for implementing building projects of the HA. In particular, these staff will assume enhanced responsibilities under the BO serving as Authorised Persons / Registered Structural Engineers / Registered Geotechnical Engineers / Technically Competent Persons in the design and / or supervision of HA's building projects. They will face potential criminal liability under the BO for contravening certain provisions of the Ordinance, just like the technical personnel involved in implementing a building project in the private sector.

11. Imposing criminal liability on public officers and the Government (i.e. the HD)<sup>6</sup> would be against the existing practice of most common law jurisdictions in the world today, which generally provides for immunity on the Government and public officers in respect of criminal liability. The Government's legal policy is that no criminal liability should be imposed on public officers and the Government. Applying the BO to HA's buildings would result in the imposition of criminal liability on the HD and civil servants working in the HD, which is in conflict with this policy.

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<sup>6</sup> If the BO is applicable to HA's buildings, it is possible that the HA as the building owner, may become criminally liable for contravening certain provisions of the BO. As the HD is the executive arm of the HA, it may be possible that if the HA commits an offence under the BO, the HD will also be held criminally accountable.

12. Furthermore, as the enhanced responsibilities of the civil servants concerned are not specified in their original conditions of employment, and in view of the serious repercussions of committing a criminal offence for civil servants (in respect of employment and pension), it will be necessary to consult them fully before implementing any change.

13. With the establishment of the ICU in November 2000, there is now in place a stringent and effective system of regulatory control over HA's buildings despite that they are exempted from the BO. As its name suggests, the ICU exercises independent checking and control over the buildings under its jurisdiction. Running such a control system modeled closely on that provided under the BO for all stages of a building project, the ICU adopts technical standards and practices which are identical to those adopted by the BD for private buildings. Indeed, there has been no record of substandard design or construction of HA's buildings after ICU's establishment.

14. Having regard to the effectiveness of ICU's independent control work, we consider that there is no urgent need to formally apply the BO to HA's buildings. Given the fundamental policy objection to the imposition of criminal liability on the Government and public officers, we do not propose to lift the exemption of HA's buildings under the Ordinance. Instead, the current ICU's control arrangements, which has proved to be effective, should continue.

### **Need for a Permanent Post of AD of H**

15. Under HA's Public Housing Construction Programme, the HA will construct an average of 16 000 new public rental housing (PRH) flats each year over the next five years. HA's existing building stock comprises PRH flats (153 estates with about 600 000 flats), retail premises (over 200 000m<sup>2</sup> in Internal Floor Area (IFA)), car-parking premises (about 27 000 car-parking spaces) and other non-domestic premises (about 770 000m<sup>2</sup> in IFA). There are also some 400 000 flats in 185 HOS courts and TPS estates. HA's divested RC facilities comprise retail premises of about 1 000 000m<sup>2</sup> in IFA and some 100 000 car-parking spaces. In view of the large number of flats and huge area of premises involved, and the need for the existing independent building control system as explained above, there is a practical need to maintain ICU's operation for the long term. Given the heavy existing and expanding (see paragraph 18 below) responsibilities of the ICU and its significant role in the independent building control system, it is essential to have a dedicated staff at directorate level to continue to head the ICU.

16. ICU's building control functions were originally applied as an administrative control system to all new projects approved by the HA's Building Committee<sup>7</sup> from May 2000 only and have been developed in three stages since the establishment of the ICU. The first stage which started in 2001 mainly involved the checking of foundation plans, general building plans and drainage plans on new building projects. In the second stage which commenced in 2002, the scope of checking was expanded to cover demolition projects, superstructure plans, excavation and lateral support plans, ground investigation plans and site monitoring trials, as well as on-going building projects approved before May 2000 to verify compliance of the designs. In the third stage starting from 2003, the checking functions were further extended with a view to covering all existing HA's buildings. Besides, a large number of the HA's building stock (in particular, HA's divested RC facilities) has been brought under the control of the BO since November 2005 and the ICU has been delegated with the authority from the BA for the building control of these buildings.

17. The building control functions of the ICU constitute an integral and continuous portion of the diverse schedule of the AD(ICU). Underpinned by more than 220 staff, this post is currently in charge of a very heavy portfolio as evidenced by the growing number of professional teams headed by senior professionals in the ICU over the years (from three in 2000 to 14 in 2007).

18. Apart from the on-going building control activities, the ICU is also embarking on the following new initiatives, the main objectives of which are to bring in place sustainable control measures to enhance and safeguard the structural and fire safety of HA's premises –

- (a) to take forward the implementation of the Fire Safety (Buildings) Ordinance (scheduled to take effect on 1 July 2007) in HA's buildings as well as other buildings under ICU's jurisdiction (including HOS courts, TPS estates and PRH buildings within the divested lots);
- (b) to continue the Planned Survey on HOS courts and TPS estates to identify unauthorised building works and confirm the condition of the building fabrics; and
- (c) to continue to oversee the compilation of as-built records for HA's existing buildings, HOS courts and TPS estates, in line with BD's existing practice and format for private buildings, to facilitate building control.

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The HA's Building Committee is to advise the HA mainly on policies related to the implementation of the construction and major improvement, renovation and rehabilitation programmes, and to monitor progress on these programmes.

19. We need an AD of H post to steer the implementation of the above initiatives and to oversee the continued operation as well as further development of the independent building control system in the HD.

20. The proposed AD(ICU) post will continue to report to PSH. The job description of the post as well as the organisation chart of the HD showing the span of control of the post are at Enclosures 1 and 2 respectively.

Encls. 1 & 2

### **ALTERNATIVES CONSIDERED**

21. We have explored whether other directorate staff in the HD can take up the responsibilities of the AD(ICU) post. Over the past four years, we have achieved a net reduction of 24 directorate posts (including equivalent HA contract posts) or 33% reduction as compared to the directorate establishment as at 1 January 2003. As a result, HD's remaining directorate staff have been stretched to the limit, so that there is practically no room for them to absorb the additional duties and responsibilities of AD(ICU). We have also critically examined the other alternative of allowing the lapse of the supernumerary AD(ICU) post. However, given the important and expanded role of the ICU, we need a dedicated staff at the directorate level to continue to head the Unit. To allow the lapse of the post will hamper the effectiveness of the existing independent building control system which is vital to maintaining the standards of the design and construction of HA's buildings.

### **FINANCIAL IMPLICATIONS**

22. The additional notional annual salary cost at mid-point of the proposal is \$1,360,800. The full annual average staff cost of the proposal, including salaries and staff on-cost, is \$2,264,000. The full cost will be recovered from the HA under the usual arrangement for HD staff seconded to the HA. The proposal is covered in ECI(2006-07)8 on "Update on Overall Directorate Establishment Position".

### **CONSULTATION WITH LEGISLATIVE COUNCIL PANEL**

23. We consulted the Legislative Council Panel on Housing on 5 March 2007. Members had no objection to the proposed creation of the permanent AD of H post.

**/BACKGROUND .....**

**BACKGROUND**

24. Reporting direct to PSH, a supernumerary AD of H (D2) post was first created on 15 January 2001 under delegated authority for the setting up of the ICU and formulation of its expansion plan. On 8 June 2001, FC approved vide EC(2001-02)7 the creation of the supernumerary AD of H post for three years effective from 15 July 2001 to head the ICU. On 25 June 2004, FC approved vide EC(2004-05)9 an extension of the supernumerary AD of H post for another three years until 14 July 2007. Given the continual building control functions of the ICU and the new initiatives to be shouldered, there is a need to make permanent the existing supernumerary AD of H post.

**ESTABLISHMENT CHANGES**

25. The establishment changes in the HD for the past two years are as follows –

Establishment (Note)	Number of posts		
	Existing (as at 1 April 2007)	As at 1 April 2006	As at 1 April 2005
A	46+(3)#	48+(1)	54+(2)
B	1 132	1 177	1 224
C	7 584	7 842	8 438
<b>Total</b>	<b>8 765</b>	<b>9 068</b>	<b>9 718</b>

**Note:**

- A - ranks in the directorate pay scale or equivalent (including equivalent HA contract posts)
- B - non-directorate ranks the maximum pay point of which is above MPS Point 33 or equivalent (including equivalent HA contract posts)
- C - non-directorate ranks the maximum pay point of which is at or below MPS Point 33 or equivalent (including equivalent HA contract posts)
- ( ) - number of supernumerary directorate posts approved by FC
- # - As at 1 April 2007, there was no unfilled directorate post in the HA.

**CIVIL SERVICE BUREAU COMMENTS**

26. Having regard to the justification put forward in this paper, the Civil Service Bureau (CSB) supports the proposed creation of the AD of H post. The CSB considers that the grading and ranking of the proposed post is appropriate, taking into account the level and scope of responsibilities required.

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**ADVICE OF THE STANDING COMMITTEE ON DIRECTORATE SALARIES AND CONDITIONS OF SERVICE**

27. The Standing Committee on Directorate Salaries and Conditions of Service has advised that the grading proposed for the post would be appropriate if the proposal were to be implemented.

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Housing, Planning and Lands Bureau  
June 2007

**Job Description**  
**Assistant Director (Independent Checking Unit)**

**Rank** : Assistant Director of Housing (D2)

**Responsible to** : Permanent Secretary for Housing, Planning and Lands  
(Housing)

**Major Duties and Responsibilities –**

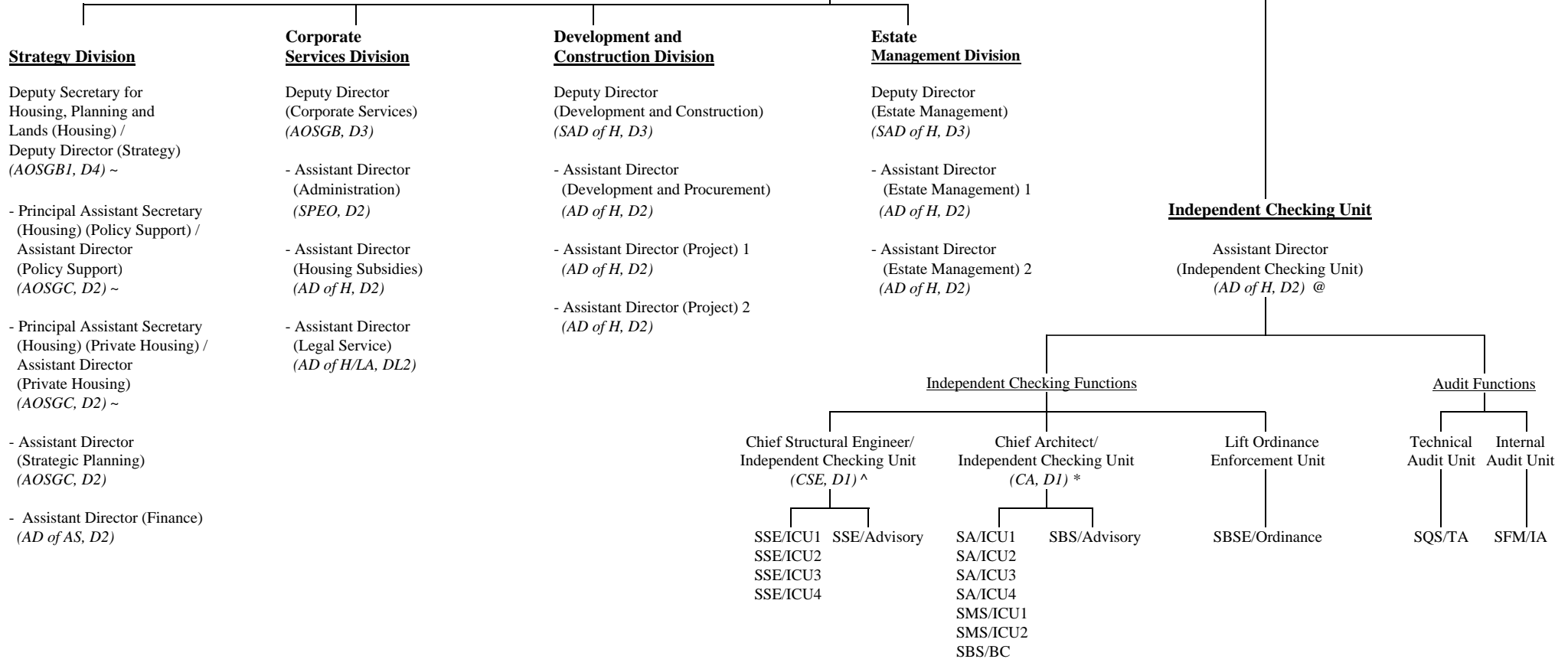
1. to head the Independent Checking Unit (ICU) to manage the checking of submissions from Divisions of the Housing Department (HD) to ensure compliance with statutory requirements under the Buildings Ordinance (BO) and the Lifts and Escalators (Safety) Ordinance (L&E(S)O);
2. to study, formulate and develop policies, in relation to regulatory compliance of Housing Authority (HA)'s projects, consistent with those required by the BO and the L&E(S)O, and in consultation with the Buildings Department (BD) and the Electrical and Mechanical Services Department;
3. to develop and maintain an appeal system in consultation with the BD in respect of disputes that may arise from the ICU's decisions on regulatory matters on HA's projects;
4. to review and develop independent checking practices for all submissions and approvals, applications for consent to the commencement of works, final inspections and the issue of occupation permit for building projects;
5. to review independent checking practices for all submissions, approvals, final inspections and the issue of operation permits for lifts and escalators;
6. to formulate the appropriate organisation structure, manpower requirements and practices of the ICU, seeking the BD's advice as necessary;
7. to liaise with Divisions of the HD, other departments, external non-Governmental bodies involved in the development process and consultants and contractors employed by the HA/HD, on regulatory compliance of the HA's projects with the BO;
8. to oversee the building control work on Home Ownership Scheme courts, Tenants Purchase Scheme estates and divested properties carried out under delegated authority from the Director of Buildings; and
9. to manage the progress and reporting of the work of the internal audit units in HD and to assist the Audit Sub-Committee of the Strategic Planning Committee in considering the findings of their reports.

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## Organisation Chart of Housing Department

### Permanent Secretary for Housing, Planning and Lands (Housing)/Director of Housing

(AOSGAI, D8)



**Legends:**

- |   |  |  |  |
|---|--|--|--|
| AOSGA1 - Administrative Officer Staff Grade A1          | SPEO - Senior Principal Executive Officer                  | SSE - Senior Structural Engineer (MPS Point 45-49)   | ~ - These posts are given bureau designations in addition to normal departmental designations to better reflect the nature of their duties which are largely policy-related. |
| AOSGB1 - Administrative Officer Staff Grade B1          | CA - Chief Architect                                       | SFM - Senior Finance Manager (Housing Authority contract post equivalent to MPS Point 45-49) | ^ - This post is deployed from the Development and Construction Division on a part-time basis.   |
| AOSGB - Administrative Officer Staff Grade B            | CSE - Chief Structural Engineer                            | BC - Building Control  | * - This post is deployed from the Development and Construction Division on a temporary basis.   |
| AOSGC - Administrative Officer Staff Grade C            | SA - Senior Architect (MPS Point 45-49)                    | ICU - Independent Checking Unit  | @ - Supernumerary post proposed to be made permanent.  |
| SAD of H - Senior Assistant Director of Housing         | SBS - Senior Building Surveyor (MPS Point 45-49)           | IA - Internal Audit  |  |
| AD of H - Assistant Director of Housing                 | SBSE - Senior Building Services Engineer (MPS Point 45-49) | TA - Technical Audit   |  |
| AD of H/LA - Assistant Director of Housing/Legal Advice | SMS - Senior Maintenance Surveyor (MPS Point 45-49)        |  |  |
| AD of AS - Assistant Director of Accounting Services    | SQS - Senior Quantity Surveyor (MPS Point 45-49)           |  |  |