

Legislative Council Panel on Housing

Extension of Smoking Restriction Under the Marking Scheme for Estate Management Enforcement in Public Housing Estates

Purpose

This paper informs Members of the background and latest developments of the implementation of smoking restriction under the Marking Scheme for Estate Management Enforcement in Public Housing Estates (PHEs) (“The Marking Scheme”).

Background

2. Following the outbreak of Severe Acute Respiratory Syndrome in Hong Kong, and in support of the Team Clean’s mission, the Hong Kong Housing Authority (HA) launched the Marking Scheme in August 2003 to enforce tenancy conditions and to require tenants to observe the relevant clauses in the tenancy agreement on good behaviours in respect of environmental issues such as maintaining public hygiene/health and cleanliness in PHEs. Records of the allotment of points as a result of each misdeed committed by a tenant will remain valid for a period of two years and will be purged after the validity period. A tenant will receive a reminder in writing and be interviewed by representatives of the Housing Department (HD) when the accrued points reach 10 or above. He may appeal to the Chief Housing Manager of the region where he lives against any record of allotment of points. If 16 points or above have been allotted to a household within two years, HD will terminate the subject tenancy under Section 19(1)(b) of the Housing Ordinance.

Progress and Review

3. The Marking Scheme is reviewed annually and the Legislative Council has been regularly informed of the progress of its implementation. Currently, the Marking Scheme covers 25 misdeeds, divided by the extent of impact on the environment or public health into Category A (3 points), B (5 points), C (7 points) and D (15 points), the details of which are set out in the Annex. A total of 5 664 cases of point-allotment involving 5 449 households have been recorded since the implementation of the Marking Scheme up to mid-April 2007. A total of 10 households have had their tenancies terminated due to the accumulation of 16 points and four flats have been recovered as a result. In another two cases, upon

the consideration by the Appeal Panel (Housing), the Notices-to-Quit have been cancelled in view of the tenants' subsequent good behaviours. The remaining four cases are awaiting appeal hearings.

4. The implementation of the Marking Scheme has achieved sustained improvement in environmental hygiene in PHEs. According to the findings of Public Housing Recurrent Surveys, tenants' satisfaction over estate cleanliness has increased from 52.1% in 2003 to 68.6% in 2006. Some 96.6% of the tenants are aware of the Marking Scheme while some 83.4% consider that the Marking Scheme can improve the cleanliness of PHEs.

Background and Latest Developments of the Enforcement of Smoking Restriction under the Marking Scheme

5. To support the Government's policy on tobacco control to protect members of the public against secondhand smoking, HA has enforced the smoking restriction under the Marking Scheme since 1 January 2006. As the public lift is a statutory no-smoking area, "smoking or carrying a lighted cigarette in the public lift" has been included as a misdeed under the Marking Scheme and five points will be allotted to a tenant without prior warning for committing the misdeed.

6. On 1 January 2007, the Smoking (Public Health) (Amendment) Ordinance came into force, and the statutory no-smoking areas were extended to cover various indoor public places. On the same day, HA extended the smoking restriction under the Marking Scheme from lifts in PHEs to all common areas within domestic buildings.

7. The statutory no-smoking areas stipulated in the Smoking (Public Health) (Amendment) Ordinance also cover public pleasure grounds managed by the Leisure and Cultural Services Department, but exclude the leisure grounds in PHEs or private courts. Since the implementation of the new legislation, there have been views from members of the public that the leisure grounds in PHEs should be designated as no-smoking areas as soon as possible. We have studied in detail whether the smoking restriction under the Marking Scheme should be extended to such venues. As there are no well-defined boundaries for these leisure grounds, the design of which is often integrated with other outdoor public facilities in PHEs such as access paths, it will be necessary for us to consider whether the smoking restriction under the Marking Scheme should apply to a larger area if the restriction is to be implemented in an effective and clear-cut manner.

8. Having regard to the above considerations, we propose that all outdoor common areas within PHEs be designated as no-smoking areas under the Marking Scheme, except for smoking areas which should be delineated. To gauge the tenants' views on this proposal, we consulted the Estate Management Advisory Committees (EMACs) in early 2007. The majority of EMACs supported the proposal and put forward their views on the setting up of smoking areas in individual estates and the locations of such smoking areas. Taking into account the views of EMACs, HA endorsed on 3 May 2007 that the smoking restriction under the Marking Scheme should be extended to all estate common areas (other than designated smoking areas) with effect from 1 April 2007. Estate management personnel are empowered under Section 21 of the Housing Ordinance to order any non-tenant who contravenes this rule to leave the estate after giving ample notice/ warning.

Publicity and Education Actions

9. We have taken the following measures to publicize the above new rules to tenants and members of the public:

- (a) Letters to all tenants explaining the details of the smoking restriction in the PHEs were issued and flyers were handed out to smokers in PHEs in March 2007.
- (b) No-smoking stickers, signs, posters and location plans of designated smoking areas are displayed in PHEs.
- (c) During the grace period from 1 April to 9 April 2007, verbal warnings were given to offenders.
- (d) Smoking areas are clearly delineated with yellow/white lines.
- (e) There has been wide publicity through the mass media, TV/radio advertisement, Housing TV Channel, HA website, hotline and the Estate Newsletter.

Progress of Implementation

10. Since the enforcement of smoking restriction from 1 January 2006, there have been 91 cases of point-allotment for the misdeed of smoking in the estate common areas as at 26 April 2007. Since the further extension of the smoking restriction on 1 April 2007, we have handled about 2 300 offence cases involving non-tenants. Apart from

tenants of the estates, identified smoking offenders include visitors and customers of estate commercial facilities coming from outside the estate. They have been requested to extinguish their cigarettes or leave.

The Way Forward

11. As the new measure was only recently introduced in April 2007, a detailed assessment of the effectiveness can only be made after accumulation of more experience and information. We shall continue to listen to the views of members of the public and public rental housing tenants on the smoking restriction under the Marking Scheme. We will conduct a comprehensive review of the effectiveness of the measures in the context of the annual review of the Marking Scheme.

Housing Department
April 2007

List of Misdeeds under the Marking Scheme (with effect from 1 April 2007)

Category A (3 points)

A1*	Drying clothes in public areas (except in areas designated by Housing Department (HD))
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 (5 points)

B1	Littering
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
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	Smoking or carrying a lighted cigarette in estate common area (Note 1)
B11*	Causing noise nuisance (Note 2)

Category C (7 points)

C1	Throwing objects from height that jeopardize environmental hygiene
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 HD staff or staff representing HD entry for repairs responsible by HD
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
C10	Damaging or stealing Housing Authority's property
C11*	Accumulating a large quantity of refuse or waste inside leased premises, creating offensive smell and hygienic nuisance

Category D (15 points)

D1	Throwing objects from height that may cause danger or personal injury (Note 3)
----	--

* Warning System is in place for these misdeeds. Points will only be allotted if the offender ignores one written warning and repeats the same misdeed for the second time and onwards.

Note 1 'Estate common area' means any place within the estate boundary to which the public have access and includes common areas of domestic buildings, estate rest gardens, pleasure grounds, pedestrian walkways, estate roads, etc.

Note 2 Noise Control Ordinance provides legislative control over noise at any time. Tenant in breach of relevant provision will be allotted points upon conviction. In that case, the Warning System will not be applicable.

Note 3 For households that have thrown objects from height that are prone to cause injury/death, HD will terminate subject tenancies by the issue of Notices-to-Quit in pursuance of Section 19(1)(b) of the Housing Ordinance.