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Panel on Housing
Meeting on 7 May 2007

Background brief
on extension of smoking restriction under the Marking Scheme
for Estate Management Enforcement in public housing estates

Purpose

This paper sets out the background of the extension of smoking restriction under the Marking Scheme for Estate Management Enforcement in public housing estates ¹(the Marking Scheme) implemented by the Housing Authority (HA) and summarizes major concerns on related issues raised by members at meetings of the Panel on Housing (the Panel).

The Marking Scheme

2. HA introduced the Marking Scheme in August 2003 to strengthen enforcement against hygiene-related misdeeds in public housing estates as a cleanliness initiative to promote civic responsibility among public rental housing (PRH) tenants and improve the living environment of the estates in the wake of the outbreak of Severe Acute Respiratory Syndrome. Any listed misdeeds committed by a tenant or household member will be marked. Points given for misdeeds will be valid for a period of 24 months. An accumulation of 16 points within a 24-month period will lead to tenancy termination. Similar to other cases of tenancy termination, the tenant can lodge an appeal under section 20 of the Housing Ordinance (Cap. 283). The latest list of points for different misdeeds in public housing estates is in **Appendix I**.

¹ Marking Scheme for Estate Management Enforcement in Public Housing Estates was known as "Marking Scheme for Tenancy Enforcement in Public Housing Estates" when first introduced in 2003.

Incorporation and extension of smoking restriction under the Marking Scheme

3. "Smoking or carrying a lighted cigarette in a lift" was made a misdeed under the Marking Scheme carrying five penalty points with effect from 1 January 2006. There have been suggestions from PRH tenants and Estate Management Advisory Committees (EMACs) that the restriction on smoking should be extended to cover public lifts, lift lobbies, corridors and staircases in a domestic building as smoking in enclosed public areas also affected public health. With effect from 1 January 2007, smoking restriction was extended from public lifts to all common areas within domestic buildings under the Marking Scheme. The revision is in line with the Smoking (Public Health) (Amendment) Ordinance (the Amendment Ordinance) which took effect on the same day. Under the Amendment Ordinance, smoking is prohibited in various public places including public pleasure grounds managed by the Leisure and Cultural Services Department. However, the pleasure grounds in public housing estates have yet to be included under the Marking Scheme since their boundaries are not well-defined.

4. After consultation with EMACs, Housing Department (HD) proposed in February 2007 to further extend the smoking ban to cover all common areas within PRH estate boundaries, including roads, pedestrian paths, pleasure grounds such as open areas, rest gardens, play areas, and sports ground within the estates. The new smoking restriction took effect on 1 April 2007. Warnings were given to smoking tenants within the grace period from 1 April to 9 April 2007, after that five penalty points were allotted without warning. Smoking areas are designated to cater for the need of persistent smokers in housing estates².

Major views and concerns expressed by members on the misdeed of smoking under the Marking Scheme

5. The Panel was briefed on the revision of the Marking Scheme including extension in smoking restriction at the meetings on 5 December 2005 and 6 November 2006. Members of the Panel also raised concerns about the new smoking restriction in public housing estates at the meeting on 2 April 2007. Members' major views and concerns are summarized as follows:

- (a) Including smoking restriction as a misdeed under the Marking Scheme would result in double penalty for PRH tenants as smoking in statutory no-smoking areas is already an offence under the Amendment Ordinance;

² No more than five smoking areas should be designated in each estate irrespective of its size. Bordered by yellow or white lines, each location will be of about five square meters enclosing the periphery of a bench.

- (b) Given that smoking is a personal behaviour, members are concerned that including the smoking ban in all common areas in PRH estates under the Marking Scheme would be unfair to other tenants in the household as the tenancy of the household would be terminated if it has accrued 16 or more points within two years. The measure will hold the entire family liable for misdeeds committed by individual family member. Instead of penalizing the entire family, there is suggestion that the Administration should target at the individual;
- (c) Members express concern that tenants breaching the revised misdeed on smoking will be allotted five penalty points without warning. Concern is also expressed on the small number and limited area of designated smoking areas in each estate; and
- (d) Concern is raised about possible enforcement problems of the (Amendment) Ordinance in HA's areas such as pleasure grounds within the estates, and possible loopholes whereby smokers would smoke in HA's pleasure grounds to circumvent from the restriction under the (Amendment) Ordinance.

Latest development

6. The Administration will brief the Housing Panel on the extension of smoking ban under the Marking Scheme at the coming meeting on 7 May 2007.

References

7. A list of relevant papers with their hyperlinks is in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
4 May 2007

**Marking Scheme for Estate Management Enforcement
in Public Housing Estates**

Categories of Misdemeanors

The misdemeanors items (effective from 1 April 2007) are tabulated below :-

Category A (3 Points)	Application of Warning System (Y/N)
Drying clothes in public areas (except in areas designated by the Housing Department)	Y
Utilizing Laundry pole-holders for drying floor mop	Y
Putting dripping flower pots or dripping laundry at balconies	Y
Dripping oil from exhaust fan	Y
Category B (5 Points)	
Littering	N
Disposing of domestic refuse indiscriminately, such as improper disposal in lift lobbies or inside bins without cover	N
Keeping animal, bird or livestock inside leased premises without prior written consent of the Landlord (Note 1)	N
Allowing animal and livestock under charge to foul public places with faeces	N
Obstructing corridors or stairs with sundry items rendering cleansing difficult	Y
Boiling wax in public areas	N
Causing mosquito breeding by accumulating stagnant water	Y
Smoking or carrying a lighted cigarette in estate common area (Note 2)	N
Causing noise nuisance (Note 3)	Y
Category C (7 Points)	
Throwing objects from heights that jeopardize environmental hygiene	N
Spitting in public areas	N
Urinating and defecating in public places	N
Dumping or disposing of decoration debris indiscriminately at refuse collection point, within building or in other public areas	N
Denying the Housing Department (HD) staff or staff representing the HD entry for repairs responsible by HD (Note 4)	Y
Refusing repair of leaking pipes or sanitary fittings responsible by the tenant	Y

Damaging down / sewage pipes causing leakage to the flat below	Y
Using leased premises as food factory or storage	N
Illegal Hawking of cooked food	N
Damaging or stealing Housing Authority's property	N
Accumulating a large quantity of refuse or waste inside leased premises, creating offensive smell and hygienic nuisance	Y
Category D (15 Points)	
Throwing objects from height that may cause danger or personal injury (Note 5)	N

Note 1 : The Subsidized Housing Committee of the HA endorsed at its meeting on 25 September 2003 to uphold the ban on dogs in public housing estates while to grant a general permission for the keeping of small household pets (including desexed cats) that do not pose any health hazard and cause any nuisance. Other animals such as wild lives, domesticated farm animals etc. (e.g. snakes, chicken, pigs ducks, monkeys, pigeons) will be strictly prohibited.

HD will adopt the Temporary Permission Rule to handle dogs actually kept in public housing before implementation of the Marking Scheme. According to the Temporary Permission Rule, permission may be given upon application for tenants to continue keeping those small dogs (i.e. less than 20 kg in weight) that have been kept in the premises before 1 August 2003 subject to meeting a set of strict rules and conditions laid down by the HD. This is a one-off measure. Concerned tenants must submit the application for continual dog-keeping to respective management office on or before 31 October 2003. Tenants who are not granted such permission will have to dispose of their dogs within one month. Tenants who are granted the permission should strictly comply with the prescribed rules for dog keeping. The permission will be withdrawn if there are two substantiated incidents of creating nuisance/breaking the rules (either through complaints from other tenants or by management staff's observation that nuisances have been created).

From 1 November 2003 onwards, permission for dog-keeping will only be considered upon application for cases with strong special needs, e.g. tenants with visual/audio disabilities keeping service dogs. With effect from 1 November 2003, tenants who keep prohibited dog(s) or animal(s) inside leased premises without prior written consent of the Landlord will be allotted penalty points under the Marking Scheme.

Note 2 : '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 road, etc.

Note 3 : 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 4 : Repair items may include internal fixtures and fittings, drains and pipes and structural members such as ceiling, walls and floors, etc.

Note 5 : 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.

(Source: Extracts from the Hong Kong Housing Authority's website)

**Extension of smoking restriction under the Marking Scheme
for Estate Management Enforcement in public housing estates**

List of References

Council/Committee	Date of meeting	Paper
Panel on Housing	5 December 2005	LC Paper No. CB(1)402/05-06(03) http://www.legco.gov.hk/yr05-06/english/panels/hg/papers/hg1205cb1-402-3-e.pdf LC Paper No. CB(1)402/05-06(04) http://www.legco.gov.hk/yr05-06/english/panels/hg/papers/hg1205cb1-402-4-e.pdf LC Paper No. CB(1)469/05-06(01) http://www.legco.gov.hk/yr05-06/chinese/panels/hg/papers/hg1205cb1-469-1-c.pdf LC Paper No. CB(1)669/05-06(01) http://www.legco.gov.hk/yr05-06/english/panels/hg/papers/hg1205cb1-669-1-e.pdf Minutes http://www.legco.gov.hk/yr05-06/english/panels/hg/minutes/hg051205.pdf
Panel on Housing	6 November 2006	LC Paper No. CB(1)212/06-07(03) http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg1106cb1-212-3-e.pdf LC Paper No. CB(1) 212/06-07(04) http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg1106cb1-212-4-e.pdf Minutes http://www.legco.gov.hk/yr06-07/english/panels/hg/minutes/hg061106.pdf