

**For discussion on  
10 April 2018**

**Legislative Council Panel on Food Safety and Environmental Hygiene**

**New Allocation Arrangement for Public Niches**

**Introduction**

At the meeting on 13 February 2018, we briefed Members on proposals for new allocation arrangement for public niches and promotion of green burial. Taking into account views of Members as well as a number of District Councils we have consulted to date, we have refined our proposals. This paper sets out our refined proposals and the proposed way forward.

**Background**

2. The last major exercise to allocate public niches was completed in 2016. On current planning, the following columbarium projects are scheduled for completion in these two years –

Columbarium Project	No. of Niches	Completion Date
Wong Nai Chung Road (Wan Chai)	855	Late 2018
Tsang Tsui (Tuen Mun)	160 000	Latter Half of 2019
Wo Hop Shek (Phase 1) (North District)	44 000	Late 2019

With the opportunity presented by new public niches tentatively scheduled to be allocated from late 2018 onwards<sup>1</sup>, it is high time that we consider updating the allocation arrangements, with an aim to enhancing the sustainability of columbarium facilities.

**Extendable arrangement for the use of niches**

3. Land is a scarce and much sought-after resource in Hong Kong. To optimise the use of land for public columbaria use, the Food and Environmental Hygiene Department (FEHD) has since January 2014

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<sup>1</sup> Some may be allocated ahead of completion where appropriate.

removed the cap on the number of sets of ashes that may be placed in public niche by (a) relaxing the definition of “close relative”; and (b) allowing the public to place more than two sets of ashes in a standard niche and more than four sets of ashes in a large niche. Optimisation of resources for columbaria development has been adopted by other operators, such as the Board of Management of the Chinese Permanent Cemeteries (BMCPC).<sup>2</sup> In addition, shared use of niches also brings convenience, as families do not have to travel from place to place on the grave sweeping day to pay tributes to ancestors accommodated in different columbaria.

4. Assuming full development of all sites identified for public columbaria under the district-based columbarium development scheme, we will be able to increase public niche supply by some 800 000 to 900 000. Projection based on latest demographic and operational data is that in the next 20 years (from 2018 – 2037), the cumulative number of cremations is around 1.1 million. There is an imperative for us to explore more sustainable development of columbarium facilities. We **propose** to introduce, starting from the coming allocation exercise, an extendable arrangement in the allocation of public niches, i.e. an initial interment period of 20 years, followed by extension every 10 years on payment of the prevailing prescribed fees. Details of the proposed extendable arrangement are provided in **Annex A**. In other words, there is no time limit to the use of a niche allocated, provided that the related persons (i.e. the niche allocatee or nominated representative(s)) confirm the continued use by extending the interment period following the 20/10-year schedule.

5. Taking into account our policy on encouraging co-location of additional ashes (i.e. shared use of niches) as well as the views of some Members favouring facilitation of niche extension, we **propose** that –

- (a) the new set of ashes will, starting from the co-location date, be given a fresh initial interment period of 20 years, which may be extended at 10-year intervals afterwards;
- (b) the above new interment schedule will supersede and replace the original interment schedule due to the first set of ashes occupying the niche; and

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<sup>2</sup> The Chinese Permanent Cemeteries (Amendment) Bill 2015 was passed by LegCo in May 2016. Thereafter, similar measures have been adopted by BMCPC, including broadening the definition of “relatives” for placing additional sets of ashes in its facilities, allowing subsequent interment of ashes into exhumable lots and ossuary niches, and removing the cap on the number of sets of ashes that can be placed in a niche.

- (c) if more sets of ashes are added to the niche later, the same new interment schedule will apply and supersede the original one.

6. In other words, a fresh initial interment period of 20 years (extendable at 10-year intervals) will start to count from the deposition of the very last set of ashes to the niche. A comparison table illustrating the difference by way of an example is as follows –

Scenario	Applicable interment periods
1. No co-location	20 years + 10 years upon each subsequent extension
2. Co-locating the ashes of the second deceased on the 18 <sup>th</sup> year of the initial interment period of the first deceased	18 years (in respect of the first deceased) + 20 years (in respect of the second deceased) + 10 years upon each subsequent extension

### **Arrangement during the interment period and beyond**

7. To handle the impending expiry of the interment period of a niche, we **propose** a possible scheme along the following lines –

- (a) We encourage descendants to use FEHD’s Internet Memorial Service to set up memorial webpages whereby they can pay tribute and express condolence to their ancestors at any time and from anywhere. As a warm reminder, a note will be placed on the webpage to mark the expiry date of the current interment period.<sup>3</sup> Also, in the light of concern expressed at the last Panel meeting and by some DC Members, we **propose** exploring the idea of inserting a link on the webpage to allow the related person(s) to update any change in contact information online.
- (b) If there are any changes in the contact details of the related persons, it is incumbent upon them to inform FEHD of the updates. We would in any case send reminders by SMS and email every 5 years to remind them of making any updates.
- (c) One year before expiry of the interment period, we would approach the related persons by SMS, email and other appropriate

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<sup>3</sup> FEHD may also create a dedicated memorial webpage for the deceased at the Internet Memorial Service free of charge if the applicant indicates consent and provides an email address in the application form for a niche.

means of the time to remind them to apply for extension or to vacate the niches in good time. The same step will be repeated six months before expiry of the interment period.

- (d) If the related persons have not sought extension of interment by the expiry of the interment period, FEHD will make continuous attempts to approach them, such as publishing notices in the Government Gazette, newspapers and FEHD website, contacting them by letter, SMS and e-mail, and posting a notice on the niche wall concerned.
- (e) If the related persons have not sought extension of interment or removed the ashes from the niches one year and a half **after** the expiry of the interment period (covering the Ching Ming and Chung Yeung Festivals), or if they cannot be contacted after repeated attempts during the time, FEHD will, following proper procedures, find an appropriate time to remove the ashes from the niches, and the vacated niches will become available for re-allocation.
- (f) The ashes removed will be disposed of in an appropriate manner, and the means and location of final disposal of the removed ashes will be properly documented by FEHD.

8. It is anticipated that counting from the first attempt to contact the related persons (one year before the expiry of the interment period), the whole process of recovering an unattended to niche takes at least two year and a half to complete. The ongoing process will be aborted once a related person contacts FEHD and confirms an extension by payment of the prevailing prescribed fees.

9. To provide added flexibility of niche extension, we **propose** to allow a niche allocatee to nominate a reasonable number of representatives who may apply for extension of the interment period of a niche (with order of priority indicated). If there are any changes to the nominated representative(s) or the contact details in the future, the allocatee and/or nominated representative(s) should inform FEHD accordingly.

### **Entertaining past allocation failure and encouraging co-location of ashes**

10. We have critically reviewed the suggestion of compiling a waiting list for applicants of public niches who would be entertained on a first-come-

first-served basis, and are not inclined to adopt this suggestion given the following considerations –

- (a) Hong Kong is facing an aging population. The cumulative number of cremations in the next 20 years (from 2018 to 2037) is projected to be around 1.1 million. It is apparent that the current proposals for public columbarium projects, even if materialised at the end despite all the difficulties, could not alone meet such demands. Applications for licences etc. to the Private Columbaria Licensing Board closed at end-March 2018. It is still early days to speculate the number of new niches available in the private sector. A waiting list to be entertained on a first-come-first-served basis is inequitable in principle as it would prejudice those deceased in later years.
- (b) Given the scarcity of land resources in Hong Kong, sole or predominant reliance on the deposition of cremated ashes in niches (be these public or private) is not sustainable. A choice to develop a piece of land for a columbarium project for the deceased is at the same time a choice to deprive future generations of other deserving purposes such as health, educational and other community facilities. The Government has since 2007 adopted a forward-looking approach by advocating and promoting other ash disposal methods, most notably green burials and shared use of niches, which are considered as more efficient use of land resources, viable and sustainable in the longer term.
- (c) There is a huge niche price difference between public and private columbaria. A waiting list set for public niches could inadvertently breed lucrative speculative activities (e.g. re-selling the private niches for pecuniary gains upon allocation of a public niche for a deceased relative). There is no law against such speculation and even if there were, policing and enforcement would be difficult.

11. We are guided by the principle of fairness, transparency and sustainability of columbarium development and promote the policy of shared use of niches in formulating the updated allocation arrangements. Consistent with such policy objectives and to help address, partially, the concern of those who failed in past niche allocation, we **propose** to enhance the chance of successful balloting for two categories of applicants – those who opt for co-location and those who have failed in the last allocation exercise. Details are set out in **Annex B**.

### **Niche Allocation by Computer balloting**

12. Upon completion, the Tsang Tsui Columbarium will make available 160 000 niches which, on current planning, will be released for allocation over a course of eight years. Other columbarium projects under construction or planning would be completed in the years to come, making more niches available for allocation. We expect, therefore, to allocate at least some 20 000 niches annually in the next 10 years or so. In the light of the recurrent nature of the allocation exercise, the large number of niches to be allocated each year and the workload involved, it is most important to allocate the niches in a fair, transparent and efficient manner. With improvements over the previous allocation exercise completed in 2016, we **propose** that allocation of niches among valid applications will be conducted by computer balloting on a random basis.<sup>4</sup>

13. The proposed arrangement is also a fair and transparent way to allocate all new niches, irrespective of its level and orientation on a niche wall. Unlike niches in the private columbaria where there are huge price differences among niches in different locations of the same columbarium, the price of a niche in public columbaria is uniform. The Independent Commission Against Corruption considers allocation by randomised computer balloting satisfactory.

### **Fee proposals for extendable niches**

14. The one-off fees for the permanent deposit of ashes are currently \$2,800 for a standard niche and \$3,600 for a large niche respectively, which were basically set by the two ex-municipal councils some 20 years ago.<sup>5</sup> Despite the fact that this rate is far from being able to recover the full cost in operating public columbaria, in a bid to encourage sustainable development of columbaria facilities, the Government **proposes** no change to the current fees in absolute terms, i.e. \$2,800 for a standard niche and \$3,600 for a large niche, though the term would be for 20 years rather than permanently.

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<sup>4</sup> The applicant will be invited to decide whether to take up that specific niche, and if so to complete the niche allocation formalities according to the scheduled date and time. If the applicant decides not to take up the said niche or does not show up as scheduled, the application will be considered to have been processed and the niche given up.

<sup>5</sup> In 2013, the fees for niches allocated in columbaria in the New Territories were lowered to align with the fees in respect of the urban area.

15. As the current fees are set out in Schedule 6 of the Public Health and Municipal Services (Fees) Regulation (Cap. 132CJ), we would propose amendment by way of subsidiary legislation to give effect to the new fees set out above, subject to negative vetting by the Legislative Council.

### **Consultation with District Councils**

16. On the proposed adoption of extendable niches, we have set in train a series of consultation sessions with 18 District Councils or their relevant committees (DCs), and so far completed seven in the districts of Sha Tin, North, Southern, Islands, Tsuen Wan, Kwun Tong and Yau Tsim Mong. All support in principle more sustainable use of land resources through adoption of extendable niches. We will continue to consult the remaining 11 DCs in the coming two months.

### **Way Forward**

17. Members are invited to note and comment on the proposals in this paper. We have taken on board Members' suggestion at the February meeting and consulted a number of DCs. We shall continue with such consultations. We shall also finalise operational details and make preparations for the allocation arrangement scheduled before end of the year, as well as prepare necessary legislative amendments to effect the proposed fees for extendable niches, with a view to tabling them before the Legislative Council in good time before the allocation exercise.

**Food and Health Bureau  
Food and Environmental Hygiene Department  
April 2018**

## **Annex A**

### **Extendable arrangement for the use of public niches<sup>6</sup>**

The gist of the arrangement is as follows –

- (a) niches will be allocated to applicants subject to an initial interment period of 20 years, after which the interment may be renewed every 10 years on payment of the prevailing prescribed fees;
- (b) before expiry of the initial 20 years' interment period (or each 10-year extension period thereafter), the Government will contact the niche allocatees or their representatives as nominated in the application forms (collectively referred to as related persons) through their last known contact details to ascertain their wish to extend the interment or otherwise;
- (c) in the event that the related persons decide not to extend the interment, they will be advised to vacate the niches before the expiry of the prevailing interment period;
- (d) if the related persons cannot be contacted after repeated attempts, the ashes will be disposed of in an appropriate manner as the Director of Food and Environmental Hygiene sees fit, such as scattering the ashes in the Garden of Remembrance managed by the Food and Environmental Hygiene Department or in designated areas in Hong Kong waters; and
- (e) the final ash disposal arrangement will be set out in an agreement to be signed between a niche allocatee and the Government, with unequivocal terms that the onus is on the allocatee to handle the ashes after expiry of the 20-year initial interment period or each 10-year extension period and to update the Government of contact details from time to time.

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<sup>6</sup> In case of co-location involving an additional set of ashes, the steps from (a) to (e) will apply afresh.



**Annex B**

**Ballot Weighting of Different Grouping of Applications**

<b>Ballot weighting<sup>7</sup></b> <b>Grouping of applications</b>	<b>Normal</b>	<b>Additional</b>	<b>Total</b>
	<b>Number of “ballot papers”</b>		
<b>Group A:</b> one set of ashes, with no previous failure record <sup>8</sup>	1	0	<b>1</b>
<b>Group B:</b> one set of ashes, with a previous failure record <sup>9</sup>	1	1	<b>2</b>
<b>Group C:</b> co-location of two sets of ashes, with no previous failure record <sup>10</sup>	2	1	<b>3</b>
<b>Group D:</b> co-location of two sets of ashes, with a previous failure record <sup>11</sup>	2	2	<b>4</b>

<sup>7</sup> This table sets out the proposed methodology for allocation of standard niches. The same approach will be adopted for large niches.

<sup>8</sup> Previous failure record refers to that of the same deceased only, and does not include the case of an applicant who has been invited but failed to choose a public niche in allocation exercise.

<sup>9</sup> One additional “ballot paper” will be given irrespective of the number of previous failure record, for tidiness and broad parity with the additional weighting for co-location of ashes.

<sup>10</sup> This is the case of co-location of two sets of ashes. If there is a third deceased for ash co-location, the normal ballot weighting will be 3, and so the total number of “ballot papers” is 4.

<sup>11</sup> This is the case of co-location of two sets of ashes. If there is a third deceased for ash co-location, the normal ballot weighting will be 3, and so the total number of “ballot papers” is 5.