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Panel on Food Safety and Environmental Hygiene

Background brief prepared by the Legislative Council Secretariat for the meeting on 10 April 2018

Allocation arrangements for new public niches

Purpose

This paper sets out the improvement measures proposed by the Administration for the allocation of new public niches, and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

Background

2. According to information provided by the Administration in February 2018, owing to demographic changes, the number of deaths in Hong Kong has been increasing steadily in the last few decades. It is projected that the trend will continue, with a 26% increase in the annual number in 10 years' time and 58% in 20 years' time. Correspondingly, the annual number of cremations will increase. While the Government has been making all-out efforts to build new columbaria facilities to increase the supply of public niches, it is not realistic to expect the supply to catch up continuously with the rising demand. To optimize the use of new public niches coming on stream in the years ahead, the Administration has recently proposed improvement measures for the allocation of new public niches.

Introduction of a time limit for use of public niches

3. Under current practice, public niches are allocated for permanent use. Field observations conducted by the Administration have revealed that allocated public niches may become increasingly unattended to by descendants with the

passage of time and that grave sweeping for niches allocated years ago is comparatively infrequent. In support of more sustainable development of columbaria facilities, the Administration proposes to introduce a time limit for use of new public niches starting from the coming allocation exercise tentatively scheduled for end-2018. The proposed new arrangements are as follows:

- (a) new niches will be allocated upon application based on an initial interment period of 20 years, after which the interment may be renewed every 10 years on payment of a fee;
- (b) in the event that a niche allocatee or his/her nominated representative decides not to renew the interment, they will be advised to empty the niche concerned before the expiry of the prevailing interment period; and
- (c) if the niche allocatee or his/her nominated representative could not be contacted after repeated attempts¹, the interred ashes will be disposed of in an appropriate way as determined by the Director of Food and Environmental Hygiene, such as scattering into the Gardens of Remembrance managed by the Food and Environmental Hygiene Department ("FEHD") or at designated areas in Hong Kong waters.

Allocation arrangements for new public niches

4. The last major allocation exercise was conducted in phases following the completion in 2012 of Wo Hop Shek Kiu Tau Road Columbarium Phase V and Diamond Hill Columbarium Extension, which provides 43 710 and 1 540 new niches respectively. Following established practices, these niches were allocated upon application by computer balloting. In the light of comments received from members of the public, the funeral trade, the Audit Commission and The Ombudsman, the Administration has reviewed the allocation arrangements and consulted the Working Group on Green Burial and Related Matters under the Advisory Council on Food and Environmental Hygiene as well as the Independent Commission Against Corruption ("ICAC"). With a view to enhancing operational efficiency without compromising fairness and transparency, the Administration proposes to implement the following improvement measures:

¹ As a matter of procedure, FEHD will issue (say, a year before expiry and every three months afterwards if there is no response to earlier approaches) letters and emails to the niche allocatee or his/her nominated representative and will post notices on the wall of the niche concerned, newspapers and FEHD website.

- (a) to continue to allocate new niches by computer balloting, with additional ballot weightings to be given to specified groups of applications including unsuccessful applications in previous allocation exercises and applications for co-location of ashes stored in existing public niches; and
- (b) to assign public niches, irrespective of their level and orientation on a niche wall, randomly by the computer to successful applications so as to expedite the allocation process.

Members' concerns

5. At the meeting on 13 February 2018, the Administration briefed the Panel on the proposed improvement measures for the allocation of new public niches. The major views and concerns expressed by members are summarized below.

Proposed introduction of a time limit for use of public niches

6. While expressing support for the general direction of the Administration's proposal to introduce a time limit for use of new public niches to be allocated in the future, some members considered it premature to roll out the new measure starting from the coming allocation exercise tentatively scheduled for end-2018. In these members' view, consideration should be given to launching a pilot scheme on the new measure to assess the public's acceptance. Some other members, however, expressed worries that the proposal would attract wide public concern and might lead to a surge in the demand for and hence the price of private niches which were not subject to restrictions or conditions on the length of occupation. They called on the Administration to conduct a consultation exercise to gauge the public's views and acceptance before implementing the measure.

7. According to the Administration, while it had been stepping up promotional efforts to encourage the public to make fuller use of existing public niches, there were suggestions from the community and Legislative Council ("LegCo") Members that the Administration should consider introducing a time limit for use of newly allocated public niches. It was also recommended in Director of Audit's Report No. 65 issued in October 2015 that the Administration should examine the feasibility of this suggestion with a view to improving the sustainability of public niche supply. The Administration stressed that under the proposed arrangement, it did allow perpetual use of public niches upon renewal of interment.

8. Enquiry was raised about the fees for niches in government columbaria if they were to be allocated under a time-limited occupation lease (including the fees for the initial 20 years' interment period and the 10 years' renewal periods thereafter). The Administration responded that the current fees for standard and large niches provided by FEHD were \$2,890 and \$3,690 respectively for permanent allocation. If the proposal of setting a time limit for use of public niches was to be implemented, amendments would have to be made to the relevant subsidiary legislation, i.e. Schedule 6 to the Public Health and Municipal Services (Fees) Regulation (Cap. 132CJ), to specify the fees as applicable to finite interment periods and niches of different sizes. The legislative amendments would be subject to negative vetting by LegCo.

9. In response to members' enquiry as to whether consideration would be given to imposing a time limit for occupation of public niches which had been allocated but become unattended to by descendants with the passage of time, the Administration advised that as those niches were allocated prior to the current proposal on time-limited niches, it currently had no plan to look into the introduction of a time limit for niches already occupied even though they might have left unattended to by descendants.

Interment period

10. There was a view that FEHD should make endeavour to contact the niche allocatees or their nominated representatives before the deadline for filing renewal applications to ascertain their wish to renew the interment. Some members suggested that FEHD might, say once every two years, remind the niche allocatees or their representatives of the expiry date of the leases through electronic means or letters. In the event that the niche allocatee or his/her nominated representative could not be contacted after repeated attempts and that the ashes placed in a niche had to be disposed of, FEHD should keep proper record of the ash disposal arrangement. The Administration advised that while FEHD would make every effort to contact the niche allocatees or their representatives, it was incumbent upon the allocatees/nominated representatives to update FEHD of contact details from time to time and to take the initiative to file an application for renewal of interment.

11. Some members considered that the Administration should exercise more flexibility in handling applications for renewal of interment. Enquiries were raised whether (a) other relatives/friends of the deceased not nominated in the application form would be allowed to apply for renewal of interment in the event that the niche allocatee or the nominated representative could not be contacted or refused to follow up the matter with FEHD; and (b) organizations or community bodies could be nominated as niche allocatees or representatives.

According to the Administration, there were diverse views on the proposed arrangements for handling applications for renewal of interment. Suggestions made would be taken into account in refining and developing the proposals for implementation.

Allocation arrangements for public niches

Computer balloting

12. Many members expressed concern that under the existing mechanism whereby public niches were allocated by computer balloting, some applicants might have to wait for a very long time for allocation of niches. In these members' view, although computer balloting might be useful in assigning those niches located at relatively less favoured positions (e.g. on the rows of niches close to the floor level), since demand nowadays outstripped supply as evidenced by the successful allocation of all niches in the last major allocation exercise in 2016, it was more appropriate for FEHD to allocate the niches on a first-come-first-served basis.

13. According to the Administration, FEHD had all along been upholding the principles of fairness, openness and impartiality in the allocation of public niches to eligible persons in need. The existing allocation method by computer balloting was in line with a previous recommendation of ICAC from corruption prevention, fairness and transparency perspectives. The Administration proposed that niche allocation should continue to be determined by computer balloting as this would better meet the actual needs of the population, including those who passed away in later years. Since the number of deaths in Hong Kong had been increasing steadily in the last few decades with the demand for public niches outstripping the supply in recent years, it was very likely that those who passed away in later years would be denied access to public niches if the "first-come-first-allocated" approach was adopted and a registration and queuing system was established.

14. Some members remained of the view that applicants should be given a choice to select niches. There was a suggestion that FEHD should assign, on a random basis, a computer-generated priority number to eligible applications. Applicants would then be invited to select niches according to their priority numbers. In response, the Administration explained that in order to expedite the allocation process, a new arrangement was proposed for all future allocation exercises under which applications which were successful in the balloting would be given a specific niche generated by the computer and thus assigned. The applicant would be invited to decide whether to take up that specific niche, and

if so to complete the niche allocation formality according to the scheduled date and time. If the applicant decided not to take up the niche or did not show up as scheduled, the application would be considered to have been processed and the niche given up. This arrangement could help shorten the processing time and was more manageable, as the applicant did not have to wait for his/her turn to allow those in front of him/her to select a niche first. It was estimated that the number of niches to be allocated on each working day might be increased by at least 50% when compared with previous arrangements.

Giving additional ballot weightings to specified groups of applications

15. While expressing support for the direction of the proposal to give additional ballot weightings to specified groups of applications, some members considered that the Administration should accord heavier weighting to those applicants who had participated in several ballots but still had not been allocated niches. The Administration advised that it considered reasonable to give additional ballot weightings to those unsuccessful applications in the coming and future allocation exercises, so that they would stand a higher chance of success than first-time applications. According to the Administration's proposal, one additional "ballot paper" would be given irrespective of the number of previous failure record, for parity with the additional weighting given for co-location of ashes.

Latest development

16. The Administration will revert to the Panel at the meeting on 10 April 2018 on its response to members' suggestions in respect of the proposed arrangements for allocation of new public niches and the progress made in consulting District Councils.

Relevant papers

17. A list of the relevant papers on the LegCo website is in the **Appendix**.

Appendix

Relevant papers on allocation arrangements for new public niches

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	13.2.2018 (Item VII)	<u>Agenda</u>

Council Business Division 2
Legislative Council Secretariat
3 April 2018