

**For discussion
on 19 November 2019**

**Legislative Council
Subcommittee to Follow Up Issues Related to
Inadequate Housing and Relevant Housing Policies**

**Government's response to various suggestions
relating to inadequate housing**

Purpose

The housing problem in Hong Kong lies with the long term demand-supply imbalance. Coupled with abundant liquidity and persistent ultra-low interest rates in the global monetary environment, property prices and rentals are high, and the housing burden of the general public is heavy. Some low-income households may have to rent inadequate accommodations. There are views in the community that the Government should adopt certain measures (e.g. introducing tenancy control, formulating standard tenancy agreement, etc.) to assist the inadequately housed households (IHHs). This paper sets out the Government's views and responses to various suggestions.

Tenancy control

2. Tenancy control (including control on rents and control on tenure) is a highly controversial issue. The Government has studied this subject time and again, but there is yet no consensus in the community over this issue. In 2013, the Long Term Housing Strategy Steering Committee (the Steering Committee) launched a three-month public consultation on Hong Kong's Long Term Housing Strategy (LTHS). Among other issues, the Steering Committee invited public views on whether tenancy control should be re-launched. In February 2014, the Steering Committee published the LTHS Report on Public Consultation, which set out that while there was rather strong support for re-launching tenancy control amongst concern groups for the grassroots and tenants of subdivided units (SDUs), views from respondents amongst the general public were relatively mixed. Some respondents cast doubts on the effectiveness of tenancy control in offering the intended protection to tenants. The Steering Committee was concerned about the consequences of implementing tenancy control, which might include an immediate increase in rental levels and a reduction in supply of rental units. Given the controversies surrounding tenancy control, the Steering Committee cautioned that clear community consensus had to be secured before any form of tenancy control was contemplated.

3. The Government subsequently conducted a detailed study in Hong Kong's past experience as well as overseas experience in implementing tenancy control, and briefed the Legislative Council (LegCo) Panel on Housing and listened to public views in July 2014¹. After considering the relevant study and the views of the Steering Committee, the Government promulgated the LTHS in December 2014 and elaborated its views on tenancy control in paragraphs 6.15 to 6.18. The Government also attended the joint meetings of the LegCo Panel on Housing and LegCo Panel on Welfare Services in June and July 2018 to again listen to the views of LegCo members and public deputations on tenancy control, and share the Government's views². The Government's views are summarised as follows –

- (a) Empirical findings, both local and overseas, suggest that tenancy control measures often lead to an array of unintended consequences including those to the detriment of the tenants whom the measures seek to assist. The unintended consequences include reducing supply of rented accommodation; limiting access to adequate housing by the socially disadvantaged as landlords have become more selective about their tenants; encouraging certain behaviour from landlords to offset the impact of the tenancy control measures (including charging a higher initial rent and demanding excessive miscellaneous charges); and discouraging proper maintenance of the rented accommodation by landlords.
- (b) There are views suggesting the Government to implement tenancy control only on units below a certain size or rent. However, as seen from the experience of some overseas economies, if tenancy control is imposed only on a particular market sector (often on lower-end residential properties), there may be inadvertent spillover effects on the uncontrolled sector. For example, as some tenants will not be able to rent flats in the controlled sector, they may be forced to seek accommodation in the uncontrolled sector, hence pushing up the rental level of the latter. Besides, some overseas experience suggests that tenancy control has failed to effectively address the housing needs of the grassroots, since the main target of the control measures is specific classes of premises instead of particular groups of tenants. Some overseas experience also suggests that with the implementation of tenancy control, a prospective tenant may find it difficult to secure a tenancy through the open market, and can only obtain information of rented accommodation through indirect means, which will not be easily accessible by the socially disadvantaged.

¹ LC Paper No. CB(1)1709/13-14(01).

² LC Paper No. CB(1)1052/17-18(01).

- (c) Weighing the pros and cons, the Government is of the view that introducing tenancy control in any form may be counterproductive and will not be in the interest of the IHHs or the general public.

Standard tenancy agreement

4. There are views that the Government should stipulate that all tenancy agreements must be made in writing, and formulate a standard tenancy agreement containing provisions that have the same effect as tenancy control. Such provisions include limiting the rate of increase in rent and stipulating that existing tenants enjoy priority in tenancy renewal, etc. As mentioned in paragraph 3 above, the Government is concerned that these proposed measures may be counterproductive and may not offer protection to tenants as intended by their proponents. In addition, allowing landlords and tenants to create a tenancy agreement orally has all along been practised in Hong Kong. If such arrangement is to be changed, amendments to ordinances such as the Landlord and Tenant (Consolidation) Ordinance have to be made. It may also have fundamental implications on the transfer of property interests (including interests in tenure) in Hong Kong. Hence, we must exercise caution in considering the matter. For example, if we introduce legislation to require all tenancy agreements to be made in writing, there may be immediate impact on tenants whose tenancy agreements with the landlords are created orally. Landlords may be prompted to create a new tenancy agreement with the tenants with an increased rent, which in turn aggravates the housing burden of the grassroots.

5. As circumstances of each case are different, the Government considers it more appropriate to allow landlords and tenants to negotiate and agree on the format (e.g. oral or written tenancy agreement) and detailed terms and conditions of the tenancy agreement (e.g. the notice period and arrangement for the termination of tenancy, the level and basis for calculating rents and other charges, etc.). This provides greater flexibility for both parties to formulate tenancy arrangements that suit their practical needs. Landlords and tenants may refer to the “Notes on Signing a Tenancy Agreement” and “A Guide to Tenancy”³ published by the Estate Agents Authority for a better understanding of various matters that they should pay attention to when entering into tenancy agreements. Landlords and tenants in need may use the free tenancy advisory services provided by the Rating and Valuation Department (RVD). RVD also provides free mediatory services on tenancy matters subject to the agreement of both the landlord and the tenant.

³ These two booklets can be downloaded from the website of the Estate Agents Authority (“Notes on Signing a Tenancy Agreement” – <http://www.eaa.org.hk/consumers/doc/tenancy.pdf>; “A Guide to Tenancy” – https://www.eaa.org.hk/Portals/0/Sections/CC/AGuideToTenancy_eng.pdf).

Cash allowance

6. Some suggest that the Government should provide rent subsidy to grassroots households. The Government understands that grassroots households face a heavy burden in their livelihoods. Different Government departments have all along been providing appropriate assistance to grassroots households from different perspectives including housing, social welfare, community support, etc. For example, for those who have genuine and imminent long-term housing needs but have no other feasible means to solve their housing problems, they can approach the Social Welfare Department (SWD) for assistance. SWD will assess each case and recommend eligible cases to the Housing Department for Compassionate Rehousing for early allocation of public rental housing (PRH) units. Under the Comprehensive Social Security Assistance (CSSA) Scheme, recipients (including tenants of PRH and private residential units) are entitled to allowance for covering their cost of accommodation. Furthermore, the Community Care Fund (CCF) has launched three rounds of “One-off Living Subsidy” for the low-income households not living in PRH and not receiving CSSA. The Government also provides financial assistance to low-income households through recurrent cash schemes such as the Working Family Allowance Scheme and the Work Incentive Transport Subsidy Scheme.

7. To further alleviate the difficulties faced by grassroots households, the 2019 Policy Address has put forward a proposal to invite the CCF to launch two rounds of “One-off Living Subsidy” for the low-income households not living in PRH and not receiving CSSA in the next financial year. This will allow time for the Government to complete the study on devising a scheme to provide cash allowance on a regular basis towards the end of 2020. The Secretary for Labour and Welfare will take lead in the relevant study, while the Transport and Housing Bureau will actively support the conduct of the study from the housing policy perspective.

8. Some consider that the Government should in parallel explore the feasibility of introducing tenancy control, lest the regular cash allowance may push up rents of private flats and leave the tenants with no effective assistance. The Government considers that whether implementing the cash allowance scheme would push up rents, and hence warrant considering the introduction of tenancy control, depends on the eligibility criteria for receiving the cash allowance (e.g. whether the allowance is linked to actual rental expenses), mode and arrangements in disbursing the allowance, etc. No simple conclusion can be drawn for the time being. Tenancy control is a highly controversial issue. The Government needs to handle the issue in a very cautious manner. It will be more prudent and appropriate to deliberate on the matter after the completion of the study on the regularisation of the cash allowance scheme.

Regulating the charges for water and electricity usage in SDUs

9. There are views that the Government should regulate the charges for use of water and electricity in SDUs by the landlords, such as making it a statutory requirement to install separate water and electricity meters in all SDUs to prevent overcharging by landlords. The arrangement for SDU landlords to collect water and electricity charges from their tenants involves an array of issues (including electricity, building structures, tenancy arrangements between landlords and tenants, etc.). Relevant Government departments, CLP Power Hong Kong Limited and Hongkong Electric Company Limited have implemented measures to assist households in need. In respect of tenancy arrangements, the Government has all along reminded landlords and tenants through public education that before entering into a tenancy agreement, they should agree on the terms and conditions including the level of and basis for calculating water and electricity charges so as to avoid future tenancy disputes over such issues.

10. According to the Waterworks Regulations, registered consumer of the Water Supplies Department (WSD) may recover from the occupier of the premises the cost of water supplied through its inside service, including water charge and other reasonable costs (e.g. maintenance costs). The consumer, however, must not profit from the cost recovery process. According to the Supply Rules signed by the two power companies and their consumers, unless with the company's prior written consent, a consumer is prohibited from reselling electricity to a third party. If SDU tenants suspect that they have been overcharged by their landlords for the use of water or electricity, they can report the case to the WSD or the two power companies for follow-up and investigation.

11. Under current policies, SDU tenants may apply to the WSD and the two power companies for installation of separate water and electricity meters respectively. Landlord's consent on the application is required for carrying out the necessary conversions. The application must also meet certain preconditions and safety standards (e.g. electrical installations must comply with the safety standards stipulated in the Electricity Ordinance); with regard to water meters, there should be individual access to the premises such that WSD officers may carry out inspection for the inside service when necessary without using access occupied by other parties. Detailed requirements and information can be located on the websites of WSD and the two power companies.

12. Whether separate water or electricity meters can be installed in individual SDU is constrained by the design and environment of the relevant building, and there is no universal arrangement that applies to all. Nevertheless, WSD and the two power companies have implemented measures

to assist SDU tenants as far as possible. On the installation of separate water meters, WSD has relaxed certain requirements, such as allowing tenants to provide an email address instead of a formal mailing address, introducing smart water meters that allow for taking meter readings remotely, etc. As for electricity meters, the two power companies have announced using the Community Energy Saving Funds to provide subsidies to landlords of SDUs for carrying out rewiring work for installation of separate electricity meters.

Introducing vacancy tax on all residential properties

13. There are views that the Government may consider introducing vacancy tax on all residential properties with a view to increasing the supply of rental accommodation. RVD conducts vacancy survey at the end of each year. In this survey, properties which are not physically occupied or which are under refurbishment would be treated as vacant. According to RVD's statistics, the vacancy rate of private residential properties in Hong Kong has maintained at a rather low level in the past few years. The vacancy rate as at end-2018 was 4.3%, which was lower than the longstanding average vacancy rate of 5% during the period from 1998 to 2017. Generally speaking, it is more common for newly completed residential properties to be classified as vacant units. The main reason is that it takes time for developers to sell the units, or for new owners to look for tenants or to decorate the units. If private residential units completed in 2018 are excluded, the vacancy rate for the remaining units as at end-2018 would be 2.8%. The above figures indicate that it is not common for flat owners to leave their properties vacant. Besides, it is an inevitable market phenomenon for landlords to leave their properties vacant for a period of time when they search for buyers/tenants, negotiate for price/rent or refurbish their properties. With a rather low vacancy rate of private residential properties, the Government considers that introducing an overall vacancy tax may not be an effective measure to help increase housing supply.

14. As opposed to the overall private residential property market, the Government is more concerned about vacancy of first-hand private flats owned by developers. The Government hence proposed to amend the Rating Ordinance to introduce Special Rates on vacant first-hand private flats with a view to encouraging more timely supply of these flats. The Government introduced the Rating (Amendment) Bill 2019 into LegCo for scrutiny on 23 October 2019.

Increasing public housing supply

15. The continued increase in land and housing supply (especially public housing supply) remains the fundamental solution to the problems of surging rent and housing difficulties caused by insufficient housing supply. The Government announced the LTHS in 2014, which adopts the “supply-led” and “flexible” principles, with a view to addressing the problem of housing demand-supply imbalance and enhancing the housing ladder. According to the framework established under the LTHS, the Government continues to update the long term housing demand projection annually and presents a rolling ten-year housing supply target. This enables the Government to constantly plan ahead and develop land and housing according to the supply target, in order to meet the housing needs of the community over the long term. When determining the ten-year housing supply target, the Government has already taken into account the housing needs of the IHHs.

16. The Government has been striving to increase public housing supply on the basis of the LTHS. Based on the figures as at September 2019, the estimated total public housing production of the Housing Authority and the Hong Kong Housing Society (HKHS) in the five-year period from 2019-20 to 2023-24 is about 100 700 units, comprising about 74 700 PRH / Green Form Subsidised Home Ownership Scheme units and about 26 000 other subsidised sale flats (SSFs). To further expedite the supply of public housing, the Government has already implemented the following policies and measures in 2018 –

- (a) allowed a further increase of domestic plot ratio for public housing sites in selected Density Zones of the Main Urban Areas and New Towns by 10% (i.e. up to maximum 30% increase in total) where technically feasible, with a view to optimising land resources and maximising public housing supply in the short and medium terms;
- (b) re-allocated nine private housing sites for public housing development. These sites are expected to provide some 11 000 units. In fact, the Government has already re-allocated 21 sites originally intended for private housing development for public housing use since 2013-14; and
- (c) revised the land premium arrangement for subsidised housing projects of the HKHS, which will enable HKHS to continue to provide rental units and SSFs and implement the re-development programme of aged rental estates on a financially sustainable basis.

The Government will remain committed to increasing public housing supply in accordance with the supply target under the LTHS, so as to benefit IHHs and effectively address the long term housing needs of the public.

17. Members are invited to note the contents of this paper.

Transport and Housing Bureau
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