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Panel on Housing

Meeting on 4 May 2020

**Updated background brief prepared by the Legislative Council Secretariat
on Marking Scheme for Estate Management Enforcement
in Public Housing Estates**

Purpose

This paper provides updated background information on the Marking Scheme for Estate Management Enforcement in Public Housing Estates ("the Marking Scheme"), and gives a summary of the views and concerns expressed by members of the Panel on Housing ("the Panel") on the subject during the Panel's discussions in recent years.

Background

2. The Hong Kong Housing Authority ("HA") implemented the Marking Scheme in 2003 to strengthen control against hygiene-related misconduct in public rental housing ("PRH") estates. The Marking Scheme covers common misdeeds affecting environmental hygiene and estate management. The list of 28 misdeeds under the Marking Scheme, categorized by severity of their impacts on environmental hygiene or estate management, is in **Appendix I**.

3. Tenants and authorized occupants who are found to have committed misdeeds in the estates in which they reside will be allotted points which will be valid for two years. An accumulation of 16 points within two years will trigger action for termination of tenancy by means of a notice-to-quit ("NTQ") issued by HA.

Overall enforcement results

4. Since the implementation of the Marking Scheme to end December 2018, 34 786 point allotment cases involving 30 212 households have been recorded, with about 4 682 cases (15%) remaining valid. Out of the 90 households with 16 or more valid points accrued, three had surrendered their PRH flats voluntarily. HA had issued 72 NTQs and had withheld the issuance of NTQ of 15 cases on special grounds. The details of the enforcement results for the period from 1 January 2016 to 31 December 2018 are at **Appendix II**.

5. As advised by the Administration in May 2019, for the 16 types of more serious misdeeds for which the warning system was not applicable, three misdeeds, i.e., smoking in estate common area, unauthorized animal keeping and throwing objects from height, constituted a larger portion of the point-allotment cases, and had a more severe adverse impact on environmental hygiene and public safety.

6. According to the "2017 Public Housing Recurrent Survey", 95% of PRH tenants were aware of the Marking Scheme. The level of satisfaction of the overall cleanliness and hygienic condition of estate common areas was 72%, in comparison with 46% in 2002 before the implementation of the Marking Scheme.

Deliberations of the Panel on Housing

7. The Panel discusses the implementation of the Marking Scheme regularly, and was last updated by the Administration on the subject at its meeting on 6 May 2019. The major views and concerns expressed by members are summarized in the ensuing paragraphs.

Effectiveness of the Marking Scheme

8. In view that the penalty points that a PRH tenant accrued under the Marking Scheme would be valid for two years only, some members enquired whether the scheme could achieve its intended purpose and how HA would assist offenders of the misdeeds under the scheme to avoid committing the same misdeed.

9. The Administration advised that the purpose of the Marking Scheme was to encourage a change of the behaviours of PRH tenants who committed the misdeeds. Housing Department ("HD") staff would communicate with tenants who had accrued certain number of penalty points and offer them suggestions

for improvement. For some misdeeds, HA would issue written warnings to first-time offenders, and would allot points only if an offender committed the same misdeed for a second time or again thereafter.

Throwing objects from height

10. Some members opined that throwing objects from height which might cause casualties was a serious offence, and asked about the HA's preventive and monitoring measures to combat the misdeed.

11. The Administration advised that to prohibit acts of throwing objects from height by PRH residents, HA would, under the Marking Scheme, allot seven or 15 points to tenants who committed the misdeed, depending on the seriousness of the incident. For offences that caused serious danger or personal injury, HA would terminate the tenancy of the household concerned immediately pursuant to section 19(1)(b) of the Housing Ordinance (Cap. 283). To effectively tackle this misdeed and safeguard public safety, HA had been adopting proactive measures. These measures included (i) promoting the message against throwing objects from height through the Housing Channel, posters, and partnering functions by Estate Management Advisory Committees and non-governmental organizations; (ii) deployment of mobile digital closed circuit television sets, mobile surveillance system sets and special operation teams to detect suspected offenders; and (iii) intensified patrols and inspections by estate staff at regional level. To enhance the monitoring of throwing objects from height, HA had increased the number of surveillance systems from 191 to 327 in 2018.¹

12. On the question of whether HA would deploy surveillance systems to all black spots of throwing objects from height in PRH estates, the Administration advised that to detect the misdeed of throwing objects from height in black spots, HA would continue to deploy special operation teams and estate staff to conduct patrols and inspections. In considering the suggestion of installing more surveillance systems such as Falling Object Monitoring Systems, HA would strike a balance between protecting personal data privacy and safeguarding public safety with reference to the Personal Data (Privacy) Ordinance (Cap. 486).²

¹ LC Paper No. [CB\(1\)962/18-19\(04\)](#)

² LC Paper No. [CB\(1\)1277/18-19\(01\)](#)

Keeping dogs

13. In view that unauthorized animal keeping was one of the misdeeds under the Marking Scheme, members asked how HD would assess the needs of a PRH tenant requesting to keep a companion dog for mental support.

14. The Administration advised that in formulating the policy of animal keeping in PRH estates, HA's consideration was to build a harmonious community whereby the different interests of all PRH residents were being respected at large. As keeping dogs in densely populated public housing estates might induce noise nuisance and hygiene issues, it was necessary for HA to include unauthorized dog keeping as one of the misdeeds under the Marking Scheme. While keeping dogs by PRH tenants was generally not allowed, HA had endorsed the implementation of a one-off Temporary Permission Rule in 2003. The rule allowed PRH tenants to continue keeping small dogs which were already kept in PRH units before 1 August 2003 until the dogs' natural death. In addition, HA would exercise discretion in giving permission for keeping service dogs for those with special needs, such as guide dogs for visually impaired tenants and companion dogs for tenants who had strong special needs for mental support.

Trial scheme for keeping guide dog puppies

15. Members noted that in view of the growing public awareness of the development of guide dog services, HD had launched a trial scheme in early 2018 under which two foster families would be selected from PRH estates for keeping guide dog puppies under training in their PRH units. On the question about the progress of the trial scheme, the Administration advised that the two participating guide dog organizations (i.e. the Hong Kong Guide Dogs Association Limited and the Hong Kong Seeing Eye Dog Services) had conducted briefings to the Estate Management Advisory Committees of the relevant PRH estates and arranged publicity. The two organizations had each selected a foster-family. The families would provide foster care to the puppies for about one year once suitable puppies were available.³

³ According to the Administration (LC Paper No. [CB\(1\)1176/17-18\(01\)](#)), HD would collect feedback six months after the commencement of the trial scheme and conduct a mid-term review, to evaluate whether improvement measures were necessary to facilitate the implementation of the scheme. Upon the completion of the training of the guide dog puppies, HD would evaluate the effectiveness of the trial scheme to determine the way forward.

Smoking in estate common areas

16. Some members were concerned about the large number of point-allotment cases for the misdeed of smoking in PRH estate common areas, and enquired about the enforcement actions against the misdeed. The Administration advised that tenants who committed the misdeed of smoking or carrying a lighted cigarette in estate common areas would be allotted five points under the Marking Scheme. For those tenants who were found smoking in a statutory no-smoking area in the estates they resided, HD would issue Fixed Penalty Notices to them pursuant to the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600), in addition to allotting points. In order to continue combating such misdeed, apart from estate management staff, HA had deployed special operation teams to PRH estates to take enforcement and control actions.⁴

Causing noise nuisance

17. Some members opined that HD's estate staff might have difficulties in substantiating noise nuisance complaints, as PRH tenants who deliberately caused noise nuisance could easily avoid being caught by checking from their television at home, which was connected to cameras inside of the lift cars in PRH blocks, whether estate staff were going upstairs to inspect their units. The Administration advised that estate staff understood that tenants causing noise nuisance might adopt such tactics and they might hence visit the alleged PRH unit through staircases. On the question of the criteria adopted by HA in ascertaining whether there was noise nuisance, the Administration advised that HA adopted a "reasonable man approach" in determining whether there was noise nuisance, and the enforcement efforts would focus on noise nuisance occurred between 11 pm to 7 am. Upon receiving noise nuisance complaints, estate staff would visit the alleged PRH unit to ascertain that it was the source of noise nuisance. Households nearby would be consulted on whether the noise level was unacceptable before a written warning was given to the offending tenant.

18. Some members opined that HA should consider using equipment/devices for measuring noise to help ascertain the source of noise nuisance. On the question of whether HA would consider taking enforcement action against the misdeed of causing noise nuisance on the basis of the evidences provided by the complainants, the Administration advised that HA introduced the Marking Scheme as a measure to educate tenants about providing a decent and safe living environment in PRH estates. It was not the objective of HA to encourage tenants to monitor the behaviour of one another.

⁴ LC Paper No. [CB\(1\)962/18-19\(04\)](#)

Problem of refuse flats

19. Some members were concerned that "refuse flats" resulted from some PRH residents who had the habit of accumulating refuse or waste inside their units caused hygiene nuisance to their neighbours, and issuing warnings or allotting points under the Marking Scheme might not deter them effectively. The Administration advised that apart from issuing warnings or allotting points under the Marking Scheme, HD would collaborate with the Social Welfare Department and non-government organizations to provide assistance to the offenders.

Water dripping from air-conditioners

20. Members asked whether HD would assist tenants to deal with problems of water dripping from air-conditioners. The Administration advised that as a general practice, as summer approached, estate staff would issue notices to remind PRH tenants to fix the problems of water dripping from the air-conditioners inside their flats and would provide appropriate assistance to needy tenants, such as elderly households and tenants with disabilities, in this regard.

Enforcement of the Marking Scheme on household basis

21. Some members considered that an individual member of a PRH household who committed a misdeed under the Marking Scheme should be punished accordingly, but other household members should not be liable for the misdeed and their rights to continue to live in the PRH unit should not be affected. The Administration advised that allocation of PRH units was on the basis of households and not individuals. According to the tenancy agreement signed between HA and the PRH tenants, tenants were required to take responsibility for their own actions and those of their household members.

22. Members enquired whether a PRH household was in effect subject to double penalty in circumstances where an individual member of the household who was convicted of a criminal offence was punished by the Court and the household was allotted marks for the same misdeed under the Marking Scheme as well. The Administration explained that all Hong Kong citizens had the obligation to observe the laws of Hong Kong and should be subject to penalty for any statutory offences they had committed. The Marking Scheme had been introduced by making reference to the contractual relationship between landlords and tenants which provided a clear and effective management tool to initiate tenancy enforcement actions against those tenants who broke the contract. Thus, there was no contradiction between the enforcement of the laws of Hong Kong and the implementation of the Marking Scheme.

Issuance of notices-to-quit to tenants

23. Members enquired about the average time between HA's issue of an NTQ to a household and the household's surrender of the PRH unit concerned, and the reasons for withholding the issuance of NTQs to 15 households who had accrued 16 or more valid points as at end-December 2018. The Administration advised that after receiving an NTQ, the household concerned was required to surrender the PRH unit within one month. A tenant receiving an NTQ might lodge an appeal to the Appeal Panel (Housing) in writing within 15 days from the date of issue of the notice. The Appeal Panel (Housing) would arrange an appeal hearing about six months after an appeal had been received, and its decision made on the appeal would be final. On the reasons for withholding NTQs in the 15 cases, the Administration advised that these included medical grounds or recommendations of the Social Welfare Department.⁵

Latest development

24. The Administration will brief members on the latest progress and effectiveness of the Marking Scheme at the Panel meeting on 4 May 2020.

Relevant papers

25. A list of relevant papers is set out in **Appendix III**.

Council Business Division 1
Legislative Council Secretariat
28 April 2020

⁵ LC Paper No. [CB\(1\)1277/18-19\(01\)](#)

**List of Misdemeanors under the Marking Scheme for
Estate Management Enforcement in Public Housing Estates**

Category A (3 penalty points)

A1*	Drying clothes in public areas (except in areas designated by Housing Department ("HD"))
A2* #	Hanging floor mop outside the window or balcony
A3* #	Putting dripping object at window, balcony or façade
A4* #	Dripping oil from exhaust fan

Category B (5 penalty 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
B11*#	Causing noise nuisance
B12	Illegal gambling in public places
B13*	Water dripping from air-conditioner

Category C (7 penalty 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
C12 #	Using leased premises for illegal purpose

Category D (15 penalty points)

D1 #	Throwing objects from height that may cause danger or personal injury
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*Under the Warning System in place for these misdeeds, first-time offenders will receive a written warning. HD will allot points if an offender commits the same misdeed for a second time or again thereafter.

#14 misdeeds applicable to PRH units in Tenants Purchase Scheme and Buy-or-Rent Option Estates.

Source: LC Paper No. [CB\(1\)962/18-19\(04\)](#)

**Summary of the Marking Scheme for
Estate Management Enforcement for the past 3 years
(1 January 2016 to 31 December 2018)**

Category of Misdeeds		2016		2017		2018	
		Warning issued	Points allotted Cases	Warning issued	Points allotted Cases	Warning issued	Points allotted Cases
A1	Drying clothes in public areas (except in areas designated by the Housing Department ("HD"))	60	7	15	9	46	7
A2	Hanging floor mop outside the window or balcony	2	0	2	0	2	0
A3	Putting dripping object at window, balcony or façade	30	4	16	5	15	5
A4	Dripping oil from exhaust fan	0	0	0	0	1	0
B1	Littering	-	137	-	141	-	242
B2	Disposing of domestic refuse indiscriminately, such as improper disposal in lift lobbies or inside bins without cover	-	9	-	3	-	4
B3	Keeping animal, bird or livestock inside leased premises without prior written consent of the Landlord	-	552	-	595	-	553
B4	Allowing animal and livestock under charge to foul public places with faeces	-	0	-	0	-	0
B7	Obstructing corridors or stairs with sundry items rendering cleansing difficult	22	8	15	5	17	7
B8	Boiling wax in public areas	-	0	-	0	-	0
B9	Causing mosquito breeding by accumulating stagnant water	1	0	0	0	0	0
B10	Smoking or carrying a lighted cigarette in estate common area	-	1 041	-	1 104	-	1 404
B11	Causing noise nuisance	12	11	10	11	6	6
B12	Illegal gambling in public places	-	233	-	214	-	213
B13	Water dripping from air-conditioner	137	25	113	35	70	27
C1	Throwing objects from height that jeopardize environmental hygiene	-	117	-	154	-	146
C2	Spitting in public areas	-	12	-	17	-	13
C3	Urinating and defecating in public places	-	6	-	2	-	1
C4	Dumping or disposing of decoration debris indiscriminately at refuse collection point, within building or in other public areas	-	1	-	1	-	2

Category of Misdeeds		2016		2017		2018	
		Warning issued	Points allotted Cases	Warning issued	Points allotted Cases	Warning issued	Points allotted Cases
C5	Denying HD staff or staff representing HD entry for repairs responsible by HD	42	31	18	9	33	33
C6	Refusing repair of leaking pipes or sanitary fittings responsible by the tenant	3	0	0	0	0	0
C7	Damaging down/sewage pipes causing leakage to the flat below	0	0	1	0	0	0
C8	Using leased premises as food factory or storage	-	0	-	1	-	0
C9	Illegal hawking of cooked food	-	0	-	1	-	0
C10	Damaging or stealing Housing Authority's property	-	2	-	8	-	3
C11	Accumulating a large quantity of refuse or waste inside leased premises, creating offensive smell and hygienic nuisance	8	10	15	13	2	15
C12	Using leased premises for illegal purpose	-	11	-	16	-	9
D1	Throwing objects from height that may cause danger or personal injury	-	10	-	9	-	21
Total		317	2 227	205	2 353	192	2 711

Source: LC Paper No. [CB\(1\)962/18-19\(04\)](#)

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

List of relevant papers

Committee	Date of meeting	Paper
Panel on Housing	4 March 2013	Administration's paper (LC Paper No. CB(1)619/12-13(06)) Minutes of meeting (LC Paper No. CB(1)1390/12-13)
Panel on Housing	3 March 2014	Administration's paper (LC Paper No. CB(1)984/13-14(06)) Minutes of meeting (LC Paper No. CB(1)1505/13-14) Administration's consolidated response to the follow-up actions arising from the meeting (Paragraph 13 of LC Paper No. CB(1)1915/13-14(02))
Panel on Housing	14 April 2015	Administration's paper (LC Paper No. CB(1)702/14-15(06)) Minutes of meeting (LC Paper No. CB(1)883/14-15) Administration's supplementary paper (LC Paper No. CB(1)1109/14-15(01))
Panel on Housing	6 June 2016	Administration's paper (LC Paper No. CB(1)988/15-16(05)) Minutes of meeting (LC Paper No. CB(1)1146/15-16) Administration's supplementary paper (LC Paper No. CB(1)1137/15-16(01))
Panel on Housing	9 May 2017	Administration's paper (LC Paper No. CB(1)768/16-17(01)) Minutes of meeting (LC Paper No. CB(1)395/17-18) Administration's supplementary paper (LC Paper No. CB(1)1452/16-17(01))

Committee	Date of meeting	Paper
Panel on Housing	7 May 2018	Administration's paper (LC Paper No. CB(1)894/17-18(01)) Minutes of meeting (LC Paper No. CB(1)654/18-19) Administration's supplementary paper (LC Paper No. CB(1)1176/17-18(01))
Panel on Housing	6 May 2019	Administration's paper (LC Paper No. CB(1)962/18-19(04)) Minutes of meeting (LC Paper No. CB(1)1304/18-19) Administration's supplementary paper (LC Paper No. CB(1)1277/18-19(01))