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Legislative Council

LC Paper No. CB(1)678/19-20(04)

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Panel on Housing

Meeting on 1 June 2020

**Background brief prepared by the Legislative Council Secretariat on
tenancy control**

Purpose

This paper provides background information on tenancy control, and a summary of the views and concerns expressed by Members on the subject.

Background

2. High flat rentals have been an area of concern in recent years. There are suggestions from members of the public for the Administration to re-introduce tenancy control, such as control measures on rents and tenure of subdivided units ("SDUs"), with a view to safeguarding the interest of grassroots tenants.¹ In 2014, the Administration conducted a study on Hong Kong's experience and overseas experience in implementing tenancy control and briefed the Panel on Housing ("the Panel") on the research findings and observations.² The Administration elaborated its views on tenancy control in the Long Term Housing Strategy ("LTHS") promulgated in end-2014.³

¹ As mentioned in LC Paper No. [IN16/16-17](#), tenancy control in Hong Kong started with the enactment of the Rents Ordinance in 1921 to protect the tenants from unreasonable rent increases and arbitrary evictions. Since then, the two forms of tenancy control – rent control and security of tenure – had been implemented through the amendment and/or enactment of various relevant ordinances. In December 1998, rent control was abolished, and in July 2004, the security of tenure was removed.

² The Panel discussed the Administration's research findings and observations on the issue of tenancy control at the meeting on [7 July 2014](#) and received public views on the subject at the meeting on [24 July 2014](#).

³ LC Paper No. CB(1)352/14-15(01) (paragraphs 6.15 to 6.18)

Position on tenancy control in Long Term Housing Strategy

3. According to LTHS, public views on the subject of tenancy control were diverse. While there was considerable support of the revival of tenancy control among inadequately housed households ("IHHs") and concern groups championing grassroots rights, others cast doubts on the effectiveness of the measure in offering the desired protection to grassroots tenants. Weighing the pros and cons, and considering the potential adverse consequences associated with these measures which render them counter-productive, the Administration was of the view that it would not be in the interest of IHHs or the general public to introduce any tenancy control measures in Hong Kong⁴.

4. Regarding the suggestions on tenancy control, including the formulation of a standard written tenancy agreement containing provisions that have the same effect as tenancy control (including limiting the rate of increase in rent and stipulating that existing tenants enjoy priority in tenancy renewal), the Government has reiterated on various occasions that tenancy control is a highly controversial issue and needs to be handled in a cautious manner. The Government has studied this subject time and again, but there is yet no consensus in the community over this issue.

Cash allowance to low-income households and need for tenancy control

5. To alleviate the hardship faced by the grassroots, the Chief Executive ("CE") announced in the 2019 Policy Address that she had put forward a proposal to invite the Community Care Fund to launch two rounds of "one-off living subsidy" for the low-income households not living in public rental housing ("PRH") and not receiving Comprehensive Social Security Assistance ("CSSA") in 2020-2021. The Secretary for Labour and Welfare ("SLW") would take the lead in the study of the provision of cash allowance on a regular basis, which was expected to be completed towards the end of 2020. The Transport and Housing Bureau ("THB") would actively support the conduct of the study from the housing policy perspective.

6. When elaborating the housing-related initiatives in the 2019 Policy Address at the Panel meeting on 8 November 2019, the Administration advised that it noted the views in the society that as the Government would study whether to implement a scheme to provide cash allowance to low-income households on a regular basis, the Government should also in parallel explore the feasibility of introducing tenancy control, lest the allowance may push up

⁴ LC Paper No. CB(1)352/14-15(01)

rents of private flats and leave the tenants with no effective assistance. At that time, the Government considered that whether implementing the cash allowance scheme would push up rents, and hence warrant considering the introduction of tenancy control, depended on the eligibility criteria for receiving the cash allowance (e.g. whether the allowance is linked to the actual rental expenses), mode and arrangements in disbursing the allowance, etc. No simple conclusion could be drawn for the time being. The Administration could deliberate the matter after the completion of the study on the regularization of the cash allowance scheme.

7. On 14 January 2020, CE announced 10 new livelihood initiatives to enhance the support for grassroots and underprivileged people. One of the initiatives was to provide a cash allowance on a trial basis to eligible General Applicant households (i.e. families with two or more persons and elderly single-person applicants) which were not living in PRH, not receiving CSSA and had been waiting for PRH for more than three years, until they were offered the first PRH allocation. In determining the rate of cash allowances, reference would be made to the level at about half of the CSSA rent allowance ceiling. The trial scheme was expected to be launched in the second half of 2021, with a review to be conducted three years after implementation.

Study on tenancy control of subdivided units

8. Another initiative announced by CE on 14 January 2020 was to set up a task force to study feasible options on the tenancy control of SDUs on the ground that without proper rental regulations, rental subsidies or electricity and water charges reductions provided by the Government would hardly benefit the large number of families⁵ living in SDUs who have been bearing heavy rents and unfavourable rental arrangements for a long time. On 16 April 2020, THB announced the appointment of the Task Force for Study on Tenancy Control of Subdivided Units ("the Task Force") for a term of 18 months till October 2021⁶. The Task Force, comprising members from various sectors of the community, would study the feasibility and options for tenancy control of subdivided units as well as other related issues of tenancy control. The Task Force would announce the details of the study on tenancy control of SDUs in due course.

⁵ According to the Long Term Housing Strategy Annual Progress Report 2019, it is estimated that there were 96 400 households living in SDUs.

⁶ For the composition of the Task Force, see <https://www.info.gov.hk/gia/general/202004/16/P2020041600303p.htm>

Members' views and concerns

9. Members have expressed views on matters relating to tenancy control at meetings of the Legislative Council and its committees. The Panel held two meetings jointly with the Panel on Welfare Services on 4 June and 6 July 2018 to discuss with the Administration and receive public views on the subject matter. The Subcommittee to Follow Up Issues Related to Inadequate Housing and Relevant Housing Policies formed under the Panel also discussed issues relating to tenancy control and rent subsidy measures. The major views and concerns of Members are summarized in the ensuing paragraphs.

Rent control measures

10. Members expressed grave concern about the impact of high flat rentals on low-income tenants, and enquired whether the Administration would consider afresh implementing rent control or work out new measures to effectively help members of the public to rent private housing at reasonable rents.

11. The Administration advised that empirical findings, both local and overseas, suggested that tenancy control measures often led to an array of unintended consequences, including those detrimental to the tenants whom the measures sought to assist. These unintended consequences included reducing supply of rented accommodation; encouraging landlords to be more selective about their tenants, thereby limiting access to adequate housing by those with unstable financial means (e.g. daily-waged workers), ethnic minorities, persons with disabilities, and other socially disadvantaged groups; encouraging certain behaviour from landlords to offset the impact of the tenancy control measures (including increasing initial rent and requiring the tenants to pay excessive miscellaneous charges, etc.); and discouraging proper maintenance of rented accommodation by landlords. The Administration considered that to address the supply-demand imbalance and to curb rent increases, the fundamental solution lied with a continued increase in housing supply.

12. Noting that a large number of applicants awaiting PRH were residing in SDUs and the rents of SDUs were extremely high, and that it was announced in the 2019 Policy Address that the Government would study whether to implement a scheme to provide cash allowance to low-income households on a regular basis, some Members enquired whether the Government would also in parallel explore the feasibility of introducing tenancy control on SDUs, and implementing measures on rent control accordingly. Some Members urged the Administration to study the relationship among rent subsidy, partial tenancy control and the introduction of Special Rates on vacant second-hand residential units, and their effects on one another.

13. The Administration advised that the Government had conducted a detailed study on Hong Kong's experience and overseas experience in implementing tenancy control in 2014. To assist low-income households on their living difficulties, the 2019 Policy Address put forward a proposal to invite the Community Care Fund to launch two rounds of "one-off living subsidy" in 2020-2021 for the low-income households not living in PRH and not receiving CSSA. Meanwhile, SLW would take lead in the study on the regularization of the cash allowance scheme, and the study was expected to complete by end-2020. THB would actively support the conduct of the study from the housing policy perspective.

14. Some Members expressed concern about the unreasonable rent increases, in particular for small flats and SDUs, and urged the Administration to consider providing rent subsidy and implementing rent control if necessary in order to alleviate the difficulties faced by the SDU households. They opined that in providing cash allowance to tenants, the Administration had partly introduced rent subsidy but did not take forward the suggestion on rent control. They enquired about the rationale behind the conduct of the study on whether to implement a scheme to provide cash allowance to low-income households on a regular basis, whether on completion of the study the Administration would consider the suggestion on rent control, and whether the Administration would extend the rent subsidy to all PRH applicants on the PRH waiting list.

15. The Administration advised that the Government had studied the subject of tenancy control, and had briefed the Panel and listened to public views on the subject time and again. The Administration was concerned that tenancy control often led to an array of adverse consequences, including those to the detriment of the tenants whom the measures sought to assist. To alleviate the difficulties faced by grassroots households, CE announced in the 2019 Policy Address that a cash allowance would be provided to offer relief for low-income households not living in PRH and not receiving CSSA (including people on the waiting list). As for the study on providing cash allowance on a regular basis, the Administration expected that it would complete by end-2020.

16. At the policy briefing of the Panel on 8 November 2019, the Panel passed two motions urging the Administration to examine the relationship between the provision of cash allowance on a regular basis and changes in rent, the feasibility of implementing rent control, as well as reinstating tenancy control as soon as possible.

Tenancy control on residential properties below a certain rateable value

17. Some Members urged the Administration to consider implementing "partial tenancy control" as a short term measure, which would target at SDUs and cubicle apartments and would limit the rate of rent increase on the basis of the percentage of increase, the rate of inflation or the market rent of similar flats in the nearby areas. Members also suggested that the Administration should consider implementing tenancy control on flats with an annual rateable value of, say, less than \$60,000.

18. The Administration advised that as seen from the tenancy control experience of some overseas economies, if tenancy control was imposed only on a particular market sector (often on lower-end residential properties), there might be inadvertent spillover effects on the uncontrolled sector. For example, some tenants would not be able to rent flats in the controlled sector, they might be forced to seek accommodation in the uncontrolled sector, hence pushing up the rental level of the latter.⁷

19. According to the Administration, some overseas experience suggested that tenancy control had failed to effectively address the housing needs of the grassroots, since the main target of the control measures was specific classes of premises instead of particular groups of tenants. Some overseas experience also suggested that with the implementation of tenancy control, a prospective tenant might find it difficult to secure a tenancy through the open market, and could only obtain information of rented accommodation through indirect means, which would not be easily accessible by the socially disadvantaged.

Oral tenancies and tenancy agreements

20. Members opined that households renting private accommodation, especially grassroots households living in SDUs, were indeed under a heavy burden in the midst of the current supply-demand imbalance in housing, and there were cases in which the landlord had not signed a tenancy agreement with the SDU tenant, and hence did not need to give a notice period for terminating tenancy. At the meeting on 9 January 2017, the Panel passed a motion requesting the Administration to immediately formulate and implement a "tenancy stabilization mechanism", which should include the introduction of legislation to require the signing of tenancy agreements to protect the rights and interests of both the landlords and the tenants, and the requirement that a tenancy agreement should set out a fixed tenancy term and a notice period for termination of tenancy.

⁷ LC Paper No. CB(1)1466/16-17(01)

21. The Administration advised that it had been a long-established practice in Hong Kong for landlords and tenants to enter into oral tenancies. If the Administration required written tenancy agreements for all tenancies by legislation, it would pose an immediate effect on sitting tenants of oral tenancies, and prompt the relevant landlords to enter into new tenancy agreements with the tenants. In the midst of a shortage in housing supply, landlords might make various demands to their advantage during the creation of written tenancy agreements. With regard to the tenure of tenancies and the notice periods for termination, tenancies at present might be terminated in ways agreed between landlords and tenants according to their practical needs. If the tenancy agreement had not set out the relevant requirements, or if the landlord and the tenant had not agreed upon other ways to terminate the tenancy, according to common law, a fixed term tenancy would end upon expiry of the term, and a periodic tenancy might be terminated by a notice to quit, with the notice period at a length similar to that of the periodic tenancy. Such arrangement could provide flexibility for landlords and tenants to agree on a termination arrangement that fitted both parties' needs.⁸

22. The Administration added that landlords and tenants might also refer to the "Notes on Signing a Tenancy Agreement" and "A Guide to Tenancy" 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 might use the free tenancy advisory services provided by the Rating and Valuation Department.

Installation of separate water and electricity meters for tenants of subdivided units

23. Members have expressed concerned that SDUs tenants were often overcharged by their landlords for the use of water and electricity, due to the absence of separate water and electricity meters for these tenants. Members had requested the Administration to, inter alia, arrange separate water and electricity meters to be installed in SDUs and permit SDUs tenants to open water and electricity accounts of their own for payment of tariffs, so as to prevent overcharging of water and electricity tariffs by landlords.

24. The Administration advised that under current policies, SDUs tenants might, subject to landlord's consent, certain preconditions and safety standards, apply to the Water Supplies Department ("WSD") and the two power companies

⁸ LC Paper No. CB(1)1170/16-17(01)

(i.e. CLP Power Hong Kong Limited and Hongkong Electric Company Limited) for installation of separate water and electricity meters respectively. WSD and the two power companies had implemented measures to assist SDUs tenants as far as possible. The Administration added that if SDUs tenants suspected that they might have been overcharged by their landlords for the use of water or electricity, they could report the case to WSD or the two power companies for follow-up and investigation.

Review of the Landlord and Tenant (Consolidation) Ordinance

25. There were views that the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) ("LTO") did not provide protection to tenants against frequent rent increases. At the meeting on 3 July 2017, the Panel passed a motion that the Administration should comprehensively review LTO and conduct a public consultation exercise on the outcome of the review.

26. The Administration advised that regarding tenancy arrangements, LTO dealt with matters relating to rights and obligations of landlords and tenants. LTO did not regulate the level of charges agreed between landlords and tenants. Before entering into a tenancy agreement, landlords and tenants should agree on the terms and conditions, including the level and basis for calculating rents and other charges (e.g. water and electricity charges). Once the tenancy agreement was entered into, both parties were required to abide by the relevant terms and conditions.⁹

Council questions

27. Questions on various issues related to tenancy control, including providing disbursement of living subsidy to "N have-nots", electricity charges of SDUs, rent control and providing support for tenants in inadequate housing were raised at the Council meetings by Hon CHAN Han-pan, Hon LUK Chung-hung, Hon LEUNG Yiu-chung, Hon LEUNG Kwok-hung and Hon Vincent CHENG on 23 November 2016, 7 December 2016, 22 March 2017, 17 May 2017 and 21 November 2018, respectively. The Council questions and the Administration's replies are hyperlinked in the **Appendix**.

⁹ LC Paper No. CB(1)1466/16-17(01)

Latest position

28. The Administration will brief members at the Panel meeting on 1 June 2020 on the study on tenancy control of SDUs.

Relevant papers

29. A list of relevant papers is set out in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
28 May 2020

Appendix

Tenancy Control

List of relevant papers

Council/ Committee	Date of meeting	Papers
Panel on Housing	7 July 2014 & 24 July 2014	Administration's paper on tenancy control (LC Paper No. CB(1)1709/13-14(01)) Minutes of meetings on 7 July 2014 (LC Paper No. CB(1)43/14-15) and 24 July 2014 (LC Paper No. CB(1)286/14-15)
Panel on Housing	5 January 2015	Administration's paper on Long Term Housing Strategy and Long Term Housing Strategy Implementation Milestones as at December 2014 (LC Paper No. CB(1)352/14-15(01))
Council	23 November 2016	Council question on disbursement of living subsidy to "N have-nots"
Council	7 December 2016	Council question on electricity charge of subdivisions of flat units
Panel on Housing	9 January 2017	Minutes of meeting (LC Paper No. CB(1)628/16-17) Follow-up paper (LC Paper No. CB(1)1170/16-17(01))
Council	22 March 2017	Council question on electricity charges for tenants of subdivided units
Council	17 May 2017	Council question on measures to meet public demand for housing
Panel on Housing	3 July 2017	Minutes of meeting (LC Paper No. CB(1)71/17-18) Follow-up paper (LC Paper No. CB(1)1466/16-17(01))
Panel on Housing	9 January 2018	Minutes of meeting (LC Paper No. CB(1)892/17-18) Follow-up paper (LC Paper No. CB(1)696/17-18(01))

Council/ Committee	Date of meeting	Papers
Panel on Housing and Panel on Welfare Services	4 June 2018 & 6 July 2018	Minutes of meetings on 4 June 2018 (LC Paper No. CB(1)1413/17-18) and 6 July 2018 (LC Paper No. CB(1)352/18-19)
Council	21 November 2018	Council question on support for tenants in inadequate housing
Panel on Housing	8 November 2019	Administration's paper on housing-related initiatives in the Chief Executive's 2019 Policy Address and Policy Address Supplement (LC Paper No. CB(1)32/19-20(01)) Minutes of meeting (LC Paper No. CB(1)492/19-20) Follow-up paper (LC Paper No. CB(1)286/19-20(01))
Subcommittee to Follow Up Issues Related to Inadequate Housing and Relevant Housing Policies	19 November 2019	Administration's paper on Government's response to various suggestions relating to inadequate housing (LC Paper No. CB(1)139/19-20(02)) Report of the Subcommittee issued on 24 April 2020 (LC Paper No. CB(1)555/19-20)
		Press release of the Government on Chief Executive announces 10 new initiatives to benefit livelihoods for over a million grassroots and underprivileged people dated 14 January 2020
		Press release of the Government on the set up of the Task Force for the Study on Tenancy Control of Subdivided Units dated 16 April 2020
Panel on Housing		Administration's letter on the Progress of the Task Force for the Study on Tenancy Control of Subdivided Units dated 29 April 2020 (LC Paper No. CB(1)578/19-20(01))