

Executive Summary Direct Investigation Report

Notification Mechanism and Arrangements of Housing Department and Social Welfare Department for Imprisoned Singleton Public Rental Housing Tenants

Introduction

While handling a complaint case, this Office found inadequacies in the mechanism and arrangements of the Housing Department (“HD”) regarding imprisoned singleton public rental housing (“PRH”) tenants (including those who are Comprehensive Social Security Assistance (“CSSA”) recipients), which may result in the PRH flats concerned being left vacant for a prolonged period of time but went unnoticed. In this connection, The Ombudsman initiated a direct investigation against HD and the Social Welfare Department (“SWD”) to examine the notification mechanism and related arrangements for imprisoned singleton PRH tenants.

Our Findings

SWD’s Existing Arrangements

2. CSSA recipients who are in custody or imprisoned in a correctional institution will no longer be eligible for receiving CSSA. When SWD becomes aware of a CSSA recipient’s custody or imprisonment in a correctional institution through regular data checking with CSD, it will inform the recipient of the suspension of CSSA payments, including the rent allowance.

HD’s Existing Arrangements

3. Currently, there is no established mechanism for HD to learn that a PRH tenant is sentenced to a correctional institution. HD will not take any further action unless the tenant or his/her relatives and friends take the initiative to inform the Department, or when there are other signs, such as rent arrears or loss of contact with the tenant. Obviously, HD’s work and role are relatively passive. If a tenant continues to pay rent punctually, the flat concerned may remain vacant for a prolonged period without being noticed.

4. The Hong Kong Housing Authority (“HKHA”) has put in place a Letter of Assurance (“LA”) mechanism. Singleton PRH tenants who are serving a relatively long sentence and have not breached any tenancy conditions (such as having no rent arrears) will be issued an LA by HKHA upon request when HKHA recovers their PRH flats. They would be allocated a PRH flat upon release from prison without the need to queue again as long as they still meet the relevant criteria.

5. Where a singleton tenant defaults on rent payment during imprisonment and HD can neither contact him/her nor learn about his/her imprisonment in any other way, it will follow up the case in accordance with established procedures to recover the flat concerned at the end of the third month of rent arrears. During this processing period, the flat will remain vacant. The tenant will only discover upon release from prison that his/her PRH flat has been recovered, and can only be offered another unit after going through the PRH application process and with full settlement of rent arrears and other outstanding sums.

6. Where the tenant in rent arrears is a CSSA recipient and cannot be contacted, HD will send an enquiry memorandum to SWD in the middle of the second month of rent arrears. However, it can take further action only when notified by SWD that the tenant is already in prison. There is room for improvement in the efficiency of handling such cases. Moreover, HD will not issue the LA to those tenants who are unable to clear their rent arrears, and the tenants may become homeless upon release from prison.

Overall Comments

7. We consider it incumbent upon PRH tenants to pay rent on time. They also have a duty to inform HD immediately of any changes to their occupancy status (such as when a singleton tenant is in prison) which would result in their PRH flats being left vacant.

8. Nevertheless, if singleton PRH tenants fail to inform HD, it often takes at least two to three months before HD can learn about their imprisonment. It is also possible that HD may never be informed and the flats involved would be left vacant. HD's role is somewhat passive under the present mechanism. We consider there to be room for improvement.

9. If PRH tenants default on rent payments, HD would activate the procedures to recover the flats. Upon their release from prison, their PRH flats would have been recovered by HKHA. The tenants have to clear all outstanding rent payments before they are allowed to submit another PRH application. We consider such arrangements unfavourable to ex-inmates' reintegration into society.

10. Since the rent allowances of PRH tenants who are CSSA recipients are directly transferred to HKHA by SWD, any rent arrears with respect to their PRH flats may imply a change in the tenants' CSSA eligibility (e.g. due to imprisonment). This has a direct bearing on the utilisation of PRH flats. We consider that HD needs to find out as soon as possible the reason for any change in a tenant's CSSA eligibility so that prompt action can be taken to recover the flat for reallocation. It can also prevent the situation where a tenant loses both his/her PRH flat and the chance of getting an LA because of rent arrears, which may create another social problem.

Recommendations

11. In the light of the above, The Ombudsman makes four recommendations for improvement to HD:

- (1) to devise an alternative system to issue Conditional Letters of Assurance (“CLAs”). Singleton PRH tenants who default on rent payments because of imprisonment and are willing to terminate the tenancy and surrender their flats to HKHA can still apply for a CLA, provided that their rent arrears are due to special reasons beyond their control (for example, SWD suspends CSSA allowances, including the rent allowance) and no other breach of tenancy conditions is involved. This would allow them to be allocated a PRH flat in the future once all rent arrears/outstanding sums are settled;
- (2) to strengthen the existing notification mechanism with SWD, so that SWD can provide HD directly with the details about PRH tenants’ imprisonment upon suspension of rent allowance payments and obtaining consent from the imprisoned singleton PRH tenants;
- (3) to step up publicity for inmates through the Correctional Services Department (“CSD”) and to remind imprisoned singleton PRH tenants to inform HD promptly for its follow-up action; and
- (4) to study with CSD the feasibility of setting up a regular notification mechanism such that appropriate arrangements can be made as soon as possible for singleton PRH tenants serving prison terms.

Office of The Ombudsman
November 2019