

## **Executive Summary**

### **Direct Investigation into Housing Department’s Mechanism for Taking Follow-up Action against Unauthorised Alterations by Public Housing Tenants**

#### **Background**

Public housing units allocated to tenants by the Housing Department (“HD”) are generally provided with various fixtures and fittings. Under the Tenancy Agreement, tenants are not allowed to install any fixtures, partitions or other erections, or to remove any original fixtures or fittings in their units without prior written consent of HD. These agreement terms aim to ensure the structural safety of public housing as well as better utilisation of original fixtures and fittings.

2. Nevertheless, this Office has found from handling past complaint cases that HD has failed to properly follow up cases involving unauthorised alterations by public housing tenants. In a case involving serious violations that might affect the loading of the housing unit, the tenants concerned have not yet reinstated the original set-up after more than two years. It should be noted that unauthorised alterations may adversely affect nearby housing units and, in more serious cases, affect the building’s loading. In order to gain a better understanding of the issue, The Ombudsman has decided to initiate a direct investigation into HD’s mechanism for taking follow-up action against unauthorised alterations by public housing tenants.

#### **Classification of Fixtures in Public Housing Units**

3. HD has classified the fixtures provided in public housing units into three categories, namely Categories A, B and C. Tenants who intend to apply for altering fixtures should comply with the following requirements:

<b>Category of Fixtures</b>	<b>Specification</b>
A	Alteration is not permitted
B	Prior written application to HD for alteration is required
C	Prior application to HD for alteration is not required

Details of these categories of fixtures are listed in **Annexes 1 and 2**.

## **Procedures and Requirements for Applications for Alterations to Fixtures**

4. Under the procedures stipulated by HD, estate management offices should explain to prospective tenants about the renovation arrangements when they complete the intake formalities at the offices. The tenants are to sign an undertaking immediately to indicate that they understand the requirements relating to renovation and agree to comply with such requirements.

5. Generally speaking, alterations to Category A fixtures may constitute danger or obvious hazard, lead to water seepage or serious nuisance to health or the environment, impair the uniformity of housing estates, contravene prevailing statutory requirements, and breach the statutory acoustic requirements. Applications for alterations to Category A fixtures will, therefore, be rejected by HD.

6. Alterations to Category B fixtures require prior written application to HD and compliance with prescribed requirements. Besides, successful applicants must comply with requirements for such alteration works to ensure that only appropriate works are carried out and appropriate materials used.

7. Prior approval from HD is not required for alterations to Category C fixtures. However, tenants must pay due attention when removing floor slab decorations in living/dining room and bedrooms to avoid damaging the building structure. It is not necessary to notify the estate management office concerned on completion of such alteration works.

## **HD's Mechanism for Follow-up Action against Unauthorised Alterations to Public Housing Units**

8. Subsequent to a review on regulation of alterations to fixtures in public housing units, HD issued a set of internal guidelines in November 2009. Based on the recommendations for improvement we made in relation to a complaint case involving unauthorised alterations, HD amended the foresaid guidelines in August 2016. For the purpose of discussion below, the mechanism used prior to August 2016 is referred to as the "Old Mechanism" and the one adopted thereafter the "New Mechanism".

### ***The Old Mechanism***

9. Under the Old Mechanism, if a tenant was found to have altered any of the Category A fixtures, HD would carry out works to reinstate the original set-up of the housing unit and charge the tenant for the costs. That was to ensure that the materials used and installation method would meet established standards and criteria. Moreover, HD would charge the tenant concerned an administration or supervision fee in addition to the costs of reinstatement works. Where unauthorised alterations to Category B fixtures were found, the tenants must reinstate the housing unit at their own cost.

10. Some tenants might refuse to cooperate. For examples, they deny HD staff or their representatives entry for carrying out necessary repairs; or refuse to discharge their responsibility of repairing pipes or sanitary fittings; or damage down/ sewage pipes causing leakage to the flat below. In such cases, HD could activate the Marking Scheme for Estate Management Enforcement in Public Housing Estates and allot 7 penalty points to the tenant concerned. Where a tenant has accrued 16 penalty points within two years, the tenancy concerned is liable to termination. Moreover, under section 19(1)(b) of the Housing Ordinance, HD may also issue a notice to quit to the tenant concerned, requesting him/her to vacate and return the housing unit to HD by a prescribed date.

11. Tenants who obtained consent from HD to alter Category B fixtures must comply with the relevant requirements when carrying out such works. They would also be responsible for the future maintenance and replacement of those fixtures.

12. According to internal guidelines under the Old Mechanism, estate management offices were not required to inspect the housing units to check if alterations made would meet the requirements on completion of such works. Nor had HD laid down in those guidelines the duties of frontline officers in following up cases involving unauthorised alterations, the actual procedures and timeframes, or the responsibilities of supervising officers.

### ***The New Mechanism***

13. In June 2015, this Office made a number of improvement recommendations to HD in relation to a complaint case about unauthorised alterations to fixtures. Based on our recommendations, HD reviewed the Old Mechanism and completed the revision of its internal guidelines in August 2016. Thereafter, HD has adopted the New Mechanism for following up alterations to fixtures by tenants. There are three major areas of differences between the Old and New Mechanisms:

#### **(1) Categories of Fixtures**

14. Based on the categorisation of fixtures under the Old Mechanism, HD has added some new items of fixtures while deleting other items. HD has also reclassified some of the fixtures. The major changes to the categorisation of fixtures under the New Mechanism are as follows:

- (a) Relaxing the requirements by taking out some items from Category A and placing them under Category B. Those items include: floor tiles of balcony/toilet/bathroom/kitchen, shower tray, shower cubicle, bath-tub, water closet pan, cooking bench, branch pipe and fitting.
- (b) New items added to Category A fixtures include: acoustic window/balcony, flower bed, air-conditioner hood, dry wall, wall enclosing kitchen/toilet/bathroom, flat number plate.

- (c) New items added to Category B fixtures include: addition of sliding window behind structural protective barrier at balcony, alterations to existing non-structural internal wall (other than kitchen, toilet and bathroom), addition of block/brick wall or floor screeding.

(2) Timeframes for Monitoring and Enforcement Actions

15. Under the New Mechanism, the timeframes for monitoring and taking enforcement actions are clearly stated in the guidelines. HD adheres to its previous practice of rejecting all applications for alterations to Category A fixtures while requiring tenants to obtain its consent before making any alterations to Category B fixtures. Normally, on receipt of an application, the estate management offices shall conduct a site inspection within 90 calendar days to check for any irregularities especially those involving alterations to Category A fixtures.

(3) Duties of Frontline and Supervising Officers

16. The guidelines under the New Mechanism include provisions that set out the duties of various ranks of officers. If estate management offices are aware of any unauthorised alterations by tenants, frontline officers will conduct site inspections with the support of works staff to verify the unauthorised alterations. Besides, the officers will serve an enforcement notice to the tenant concerned demanding reinstatement within 60 calendar days upon knowledge of the situation.

17. HD should carry out reinstatement works as soon as possible in case the tenant refuses to cooperate. If estate management offices encounter any difficulties, they should seek support from the District Tenancy Management Offices under HD. If the tenant concerned is willing to cooperate, he/she should complete the reinstatement works within 60 calendar days after receipt of the enforcement notice. Or the tenant may request to extend the works period by up to 90 or 180 calendar days if there are any difficulties in doing so, provided that he/she has obtained prior approval from the Housing Managers/ Property Service Managers (in case of application for an extension for 90 days) or from the Senior Housing Managers/ Senior Property Service Managers (in case of application for an extension of 180 days). For applications for extension with full justification, the works may be extended beyond 180 calendar days, provided that prior approval is granted by the Regional Chief Manager.

18. Regional Chief Managers should maintain proper records of cases involving unauthorised alterations and review their progress as appropriate.

## **Our Comments**

### ***Problems under the Old Mechanism***

19. On the whole, problems in HD's monitoring work under the Old Mechanism are mainly reflected in the following areas:

(i) Delay in following up cases

20. Under the Old Mechanism, HD had not formulated any procedures and timeframes for following up cases, as well as the duties of officers concerned. According to HD's records, of the 65 cases of reinstatement works completed in the past four financial years, 10 cases took six months or longer (in fact 7 cases took more than nine months), while the longest-standing case was not successfully handled until after more than two years. As at 30 June 2016, there were 27 pending cases of unauthorised alterations, of which 18 cases took six months or longer and yet the reinstatement works had not been completed (in fact 13 cases took nine months or longer), while the oldest pending case had been pursued for nearly three years. So we can see the serious delay by the Department.

(ii) Staff failure to follow guidelines

21. Under established guidelines, reinstatement works of Category A fixtures must be carried out by HD in order to ensure that the materials used and installation method meet established standards and criteria and to guarantee building safety. Nevertheless, according to HD's records, 61 of the 65 cases of reinstatement works completed involved unauthorised alterations to Category A fixtures, of which 28 cases were reinstated by the tenants themselves and not HD. Such practice violated established guidelines and can be a potential danger to building safety.

22. Meanwhile, for some long-standing cases of delay in reinstatement of housing units with unauthorised alterations, HD's attitude was too lax and it failed to exercise the Marking Scheme for Estate Management Enforcement in Public Housing Estates or exercise tenancy control to enhance deterrent effects.

(iii) Rashness in follow-up actions and laxity in enforcement

23. When following up individual cases, estate management offices had failed to request tenants to fully rectify all unauthorised alterations. They actually accepted the tenants' "promise" to reinstate the housing units when they return their units in future. They then closed the case without further follow-up actions, thus showing their rashness in follow-up actions and laxity in enforcement.

(iv) Ineffective monitoring

24. The problems as noted in (i) to (iii) above occurred when estate management offices were following up individual cases, showing ineffective monitoring on the part of HD's management of the problems of unauthorised alterations to fixtures, as well as the progress and quality of follow-up actions by its staff. They have simply allowed the problems to persist.

***Still Inadequacies under the New Mechanism; Need to Review Effectiveness for Further Improvement***

25. The new guidelines issued in August 2016 offer a set of standardised criteria for follow-up actions. This would help to avoid inconsistencies in practices among different estate management offices and even different officers. This is somehow a remedial measure adopted by HD.

26. However, under the new guidelines, some fixtures have been reclassified. For examples: the floor tiles in balcony/toilet/bathroom/kitchen, shower tray, shower cubicle, bath tub, water closet pan, cooking bench, branch pipe and fitting, etc. are reclassified from Category A to Category B (**para. 14(a)** above). We consider that this may be a potential hazard to tenants' living environment, such as causing water seepage or unstable structure. In fact, according to information from HD, of the 92 cases of unauthorised alterations mentioned in **para. 20** above, 33 cases (i.e. more than one-third) involved water seepage from ceiling. The causes of water seepage from ceiling were mostly due to unauthorised alterations to kitchen/toilet/bathroom installations and floor slab, such that the waterproof layer beneath the floor slab was damaged, resulting in water seepage. HD has reclassified alterations involving kitchen, toilet, bathroom installations and floor slab from Category A to Category B. It is questionable whether this would affect building structures over the long term and hence lead to more cases of water seepage from ceiling.

27. Moreover, although the new guidelines require that estate management offices conduct a site inspection within 90 calendar days of those units with approved alteration works, if the relevant works are still in progress, the guidelines do not require estate management offices to conduct another inspection to ensure that all the alterations meet stated requirements. On the other hand, where the works are completed, it is still unknown whether a site inspection can discern any hidden works/ materials like waterproofing works/ materials and meet required standards.

28. Anyhow, the new guidelines have been in operation for only a few months and the results are still to be assessed. HD should regularly review the effectiveness in implementing the New Mechanism and, where necessary, further improve the guidelines in order to properly follow up the problems of unauthorised alterations to fixtures by tenants.

## **Our Recommendations**

29. In the light of the above, The Ombudsman recommends that HD:

- (1) regularly review the effectiveness in implementing the New Mechanism to ensure that the expected results are achieved, prevent any recurrence of faults under the Old Mechanism, and, where necessary, enhance the working guidelines, which include formulating clearer provisions, stipulating that estate management offices should arrange inspections following completion of alteration works in order to ensure that all alterations are in line with the regulations on relevant categories of fixtures;
- (2) closely monitor the impacts after revising the categories of fixtures, with particular attention to whether the reclassification of those fixtures from Category A to Category B would affect building structures and lead to more cases of water seepage from ceiling and, where necessary, further revise the categories of fixtures;
- (3) step up monitoring to ensure that frontline officers follow the guidelines, including resolutely exercising the Marking Scheme for Estate Management Enforcement in Public Housing Estates and other punitive measures where necessary;
- (4) actively follow up those outstanding cases of unauthorised alterations, especially those cases that have been pending for more than six months;
- (5) review those cases with unauthorised alterations not fully rectified, and with Category A fixtures being reinstated by tenants. That is to ensure that appropriate follow-up action have been taken;
- (6) regularly hold training courses for frontline officers with a view to enhancing their abilities to handle unauthorised alteration cases , especially those difficult ones;
- (7) step up inspections and actively detect cases of violations;
- (8) step up publicity on the categories of fixtures and installations under the New Mechanism, and demonstrate the determinations to deal with cases of unauthorised alterations; and
- (9) consider imposing heavier penalties on tenants who refuse to reinstate unauthorised alterations to fixtures made in their units.

30. HD has accepted our recommendations and has started its follow-up actions. We thank the Department for its full cooperation during our investigation and we are

pleased to note that HD has accepted all our recommendations. We will continue to monitor the progress until our recommendations are fully implemented.

**Office of The Ombudsman**  
**March 2017**

# **ANNEXES**

**“Categorization of Landlord’s Fixtures” under Old Mechanism  
(An Extract from the Housing Department’s Guidelines)**

Building/Services Elements	Landlord’s Fixtures	Fixture Category		
		A	B	C
Structure	Beams, Columns, Floor Slabs, Walls, Flower Beds	A1		
Door, Frame and Ironmongery	Door, Frame and Ironmongery (Main Entrance and Kitchen)	A2		
	Overhead Door Closers (Main Entrance and Kitchen)	A3		
	Door, Frame and Hinges (Toilet, Bedrooms)		B1	
	Door, Frame and Hinges (Balcony)		B2	
	Door Locks, Pull / Push Handles, Knobs (Toilet, Balcony, Bedroom)			C1
Metal Gate & Lock	All block types		B3	
Window Frames & Ironmongery	External Windows, Corridor Ventilation Windows, Security Grills & Burglar Bars		B4	
	Oil Tray	A4		
	Pull Handles, Stays			C2
Glazing	Doors, Windows, Louvres			C3
Finishes	Floor Tiles (Balcony, Toilet, Bathroom, Kitchen)	A5		
	Floor Finishes (Living, Dining, Bedroom)			C4
	Internal Painted Surfaces			C5
	Wall Tiling (All except Harmony, Small Households Development, Housing for Senior Citizens, Concord, New Cruciform)		B5	
	Wall Tiling (Harmony, Small Households Development, Housing for Senior Citizens, Concord, New Cruciform)	A6		
Drainage	Vertical Soil & Waste Stacks, Vertical Rain Water Stacks, Floor Drain, Fire collars	A7		
	Branch Waste Pipes & Traps to Sanitary Fittings		B6	
Sanitary Fittings & Kitchen Fixtures	Shower Tray, Shower Cubicle, Bath-tub*, W.C. Pan	A8		
	Doors on Bath-tub Rim & Shower Cubicle			C6
	Wash Hand Basin, Sink, Cistern Casing		B7	
	Cooking Bench	A9		
	Finishes of Cooking Bench			C7
	Shower Head, Taps, Plug & Chain, W.C. Seat & Cover, W.C. Cistern Fittings			C8
	Kitchen Cupboards, Cabinets (for Wash Hand Basin, Sink, Cooking Bench)			C9
Pipe Duct Enclosure		A10		
Drying Rack			B8	
Fresh & Flush Water Installations	Pipes and Fittings	A11		
Electrical	Consumer Unit, Wiring & Accessories e.g. Switches, Power Sockets		B9	
	Sub-main Cable from Meter Room	A12		
CABD (Note 5)	TV Socket		B10	C10 (Notes 3)
Security System	Doorphone Handset		B11	
Gas Installation				C11 (Notes 3)
Telephone Installation				C12 (Notes 3)
Door Bell				C13
Letter box	Doors & Hinges	A13		
	Lock			C14
	Alterations at Tenant’s expense	Not Permitted (Notes 1, 4)	Permitted with prior H.D. approval (Notes 1, 2)	Permitted No H.D. approval is required (Notes 3)

**Notes**

- (1): Unauthorized alterations will be reinstated by H.D. at Tenant’s expense.
  - (2): For H.D. approved alterations, the fixture becomes Tenant’s responsibility for all future maintenance / replacement.
  - (3): Tenant to apply directly to utility companies for alteration to gas / telephone installation / CABD outlets.
  - (4): Application for adaptation works to Category A fixtures from Disabled Persons shall be considered.
  - (5) Category “C” CABD fixtures applicable for existing and ex-HK Cable TV subscribers, or Tenants in the new estates with CABD networks provided by the HK Cable TV Company Ltd.. Others shall be under Category “B”.
- (\*): Bath tubs are provided in some block types of PRH flats. To address the need of elderly tenants and tenants with special needs, HD will entertain their requests to convert the bath tub into bathing area with a handrail provided free of charge. The position of the handrail is to be agreed with the users. HMs/PSMs may approve these applications if they are satisfied that the request is genuine. Recommendations from medical practitioners of SWD are NOT required. All requests should be processed expeditiously.

**“Categorization of Landlord’s Fixtures” under New Mechanism  
(An Extract from the Housing Department’s Guidelines)**

Building/Services Elements	Fixtures	Category		
		A	B	C
<b>Wall, floor, and Structural elements</b>	Beam, column, floor slab, structural wall, flower bed, AC hood, dry wall, wall enclosing kitchen / toilet / bathroom	A1		
	Addition of sliding window behind non-structural protective barrier at balcony		B1	
	Alterations to existing non-structural internal wall (other than kitchen/toilet/bathroom)		B2	
	Addition of block/brick wall or floor screeding		B3	
<b>Door, frame and ironmongery</b>	Fire rated door, frame and ironmongery (main entrance and kitchen)	A2		
	Overhead door closer (main entrance and kitchen)	A3		
	Non-fire rated door, frame and hinge (toilet/ bedroom/ bathroom)		B4	
	Non-fire rated door, frame and hinge (balcony)		B5	
	Door lock, pull/push handle, knob (toilet/ balcony/ bedroom)			C1
<b>Metal gate &amp; lock</b>	All block types		B6	
<b>Window, frame &amp; ironmongery</b>	External window, corridor ventilation window, security grille & burglar bar		B7	
	Acoustic window (including acoustic panel)	A4		
	Oil tray	A5		
	Pull handle, stay			C2
<b>Acoustic balcony</b>	Separating wall/window between balcony and living room, parapet wall, balcony door, vertical /inclined panel and gutter, acoustic panel	A6		
<b>Glazing</b>	Door, window, louver			C3
<b>Finish</b>	Floor tile (balcony/toilet/bathroom/kitchen)		B8	
	Floor finish (living/dining/bedroom)			C4
	Internal painted surface			C5
	Wall tile (balcony/toilet/bathroom/kitchen)		B9	
<b>Drainage</b>	Vertical soil & waste stack, vertical rain water stack, floor drain, fire collar	A7		
	Branch waste pipe & trap to sanitary fitting		B10	
<b>Sanitary fitting &amp; kitchen fixture</b>	Shower tray, shower cubicle, bath-tub*, w.c. pan		B11	
	Door on bath-tub rim & shower cubicle			C6
	Wash hand basin, sink, cistern casing		B12	
	Cooking bench		B13	
	Finish to cooking bench			C7
	Shower head, tap, plug & chain, w.c. seat & cover, w.c. cistern fitting			C8
	Kitchen cupboard, cabinet (for wash hand basin, sink, cooking bench)			C9
<b>Pipe duct enclosure</b>		A8		
<b>Laundry rack/rod</b>			B14	
<b>Fresh &amp; flush water installation</b>	Main pipe	A9		
	Branch pipe and fitting		B15	
<b>Electrical</b>	Consumer unit, wiring & accessories e.g. switch, power socket		B16	
	Sub-main cable from meter room	A10		
<b>CABD (Note 5)</b>	TV socket		B17	C10 (Notes 3)
<b>Security system</b>	Doorphone handset		B18	
<b>Gas installation</b>				C11 (Notes 3)
<b>Telephone installation</b>				C12 (Notes 3)
<b>Door bell</b>				C13
<b>Letter box</b>	Door & hinge	A11		
	Lock			C14
<b>Flat number plate</b>		A12		
	<b>Alterations at Tenant’s expense</b>	<b>Not permitted (Notes 1, 4)</b>	<b>Permitted with prior HA approval (Notes 2)</b>	<b>Permitted; No HA approval is required (Notes 3)</b>

**Notes**

- (1) Unauthorized alterations will be reinstated by HD at tenant’s expense.
- (2) Unauthorized alterations will be reinstated by tenant or by HD at tenant’s expense. For HA approved alterations, the fixture becomes tenant’s responsibility for all future maintenance/replacement.
- (3) Tenant shall apply directly to utility companies for alterations to gas/telephone installation/CABD outlets.
- (4) Application for modification works to Category A fixtures from Disabled Persons shall be considered.
- (5) Category “C” CABD fixtures applicable for existing and ex-HK Cable TV subscribers, or tenants in the new estates with CABD networks provided by the HK Cable TV Company Ltd. Others shall be under Category “B”.
- (\*) Bath tubs are provided in some block types of PRH flats. To address the need of elderly tenants and tenants with special needs, HD will entertain their requests to convert the bath tub into bathing area with a handrail provided free of charge. The position of the handrail is to be agreed with the users. HMs/PSMs may approve these applications if they are satisfied that the request is genuine. Recommendations from medical practitioners/Social Welfare Department are NOT required.