

## **Housing Department issued Flat Selection Notification twice under different schemes**

### **Investigation Report**

#### **The Complaint**

The complainant claimed that he had applied for the Sale of Home Ownership Scheme (“HOS”) Flats 2018 (“HOS 2018”) and subsequently the Sale of Green Form Subsidised Home Ownership Scheme (“GSH”) Flats 2018 (“GSH 2018”). On 12 April 2019, he was notified by the Housing Department (“HD”) of flat selection under HOS 2018 on 17 April. As all the flats in Cheung Sha Wan and Kai Tak which he originally intended to buy had already been sold out, he purchased a flat in Tung Chung instead.

2. On 16 May, the complainant received another notification from HD, inviting him to flat selection under GSH 2018 on 24 May. Flats in another housing court in Cheung Sha Wan which he liked were available for selection. Yet on 24 May, HD wrote to him again, telling him that his application for GSH 2018 had been cancelled because the applicant/family member had already received other subsidised housing benefits.

3. The complainant accused HD of maladministration for issuing two flat selection notifications to him within a short time.

4. Upon initial assessment and having contacted HD for information, we decided to conduct an inquiry into the case and asked HD to respond. After examining HD’s response, we decided to conduct a full investigation.

#### **Our Findings**

##### ***Current Policies on Purchase of Subsidised Housing***

5. Under the prevailing policy, applicant is allowed to submit applications for more than one subsidised housing scheme, say, HOS and GSH, at the same time. HOS and GSH are two different schemes. An applicant accepted by both will receive an Application Number notification and a flat selection notification separately under the two schemes.

6. To prevent applicants from enjoying double housing benefits, when an applicant successfully purchases a flat under one subsidised housing scheme, his/her other application(s) under other subsidised housing scheme(s) will be cancelled.

### ***Relevant Clauses about Double Housing Benefits in Application Documents***

7. Paragraph 5.1 of the “Application Guide” for HOS 2018 and GSH 2018 stated that “should the applicant and/or other family member(s) listed in the application form also apply for other subsidised housing schemes and more than one applications are successful, they can only opt for one of the schemes and all other application(s) has/have to be cancelled.”

8. An “Important Notice” leaflet was attached to the flat selection notification of GSH 2018, reminding applicants that their applications for GSH 2018 would be cancelled if they successfully purchased a flat under HOS 2018. Their eligibility for GSH 2018 would not resume even if they completed the cancellation of the purchase of the HOS 2018 flat.

9. The Hong Kong Housing Authority (“HKHA”) introduced for the first time the streamlined application arrangements for HOS 2018 green form applicants (“streamlined procedures”). Valid green form HOS 2018 applicants could give consent to carry over their HOS 2018 applications to GSH 2018, provided that they meet the eligibility criteria for GSH 2018. In its written notification to the valid green form HOS 2018 applicants about the streamlined procedures, HD stated clearly that if an applicant under the carry-over arrangement has successfully acquired a flat under HOS 2018, his/her application for GSH 2018 will be cancelled, and vice versa.

### ***Vetting by HD to Prevent Double Housing Subsidy***

10. HD will conduct several rounds of vetting for all green form HOS and GSH applicants to confirm that they continue to meet all eligibility criteria, including whether they have previously enjoyed any housing subsidy.

- (a) First vetting: staff of Estate Office would conduct initial eligibility vetting upon receipt of application from a green form applicant. The application would be rejected if the applicant and his/her family member are found to have enjoyed housing subsidy.

- (b) Second vetting: after the ballots are drawn, the Sales Units of HOS and GSH would conduct detailed eligibility vetting for those applicants of higher priority to confirm that they still meet the eligibility criteria (including that they have never enjoyed housing subsidy) before flat selection notification is issued. As mentioned in paragraph 13.1 of the Application Guide, HA may, having considered the actual sales situation, arrange applicants to undergo the second eligibility vetting on their appointed day of flat selection.
- (c) Final vetting: on the day of flat selection and before signing the Agreement for Sale and Purchase, staff of the Sales Unit will conduct the eligibility vetting again to verify that the applicant continues to meet all eligibility criteria, including whether he/she has previously enjoyed housing subsidy. The Agreement would not be signed and the application would be cancelled if the applicant is found to be ineligible.

### ***Partial Overlap of Flat Selection Periods of HOS 2018 and GSH 2018***

11. HKHA's original plans were that HOS 2018 would start accepting applications in March 2018, ballots would be drawn in June, and flat selection would be arranged between August and November 2018; while for GSH 2018, the same procedures were scheduled for December 2018, February 2019, and between March and June 2019 respectively.

12. Subsequently on 29 June 2018, the Chief Executive announced the new pricing policy for subsidised sale flats. Having decided that the new pricing policy would be applicable to the HOS 2018 flats, HKHA reopened the application for HOS 2018 in October 2018. Consequently, balloting and flat selection for HOS 2018 were postponed to November 2018 and between February and May 2019 respectively.

13. The above development resulted in a partial overlap of flat selection periods of HOS 2018 and GSH 2018, which had never happened in previous HOS or GSH exercises.

### ***Sequence of Major Events in This Case***

14. In October 2018, the complainant submitted his HOS 2018 application.

15. On 18 December, HD sent the notification on streamlined procedures to the complainant. On 28 December, the complainant gave consent to carry over his HOS 2018 application to GSH 2018 in accordance with the streamlined procedures.

16. On 9 April 2019, HD issued the HOS 2018 flat selection notification to the complainant. On 17 April, the complainant successfully selected a flat in Yu Tai Court under HOS 2018. While undergoing the purchase formalities, he signed a declaration to relinquish his GSH 2018 application.

17. On 16 May, HD issued the GSH 2018 flat selection notification to the complainant, inviting him to flat selection on 24 May. On 21 May, the complainant asked HD to cancel his purchase of the HOS 2018 flat as he would like to buy a GSH flat instead. HD staff explained to him the relevant policy (see **paras. 5-9**).

18. On 24 May, HD issued a letter to the complainant, stating that his flat selection for GSH 2018 was cancelled on the grounds that the applicant/family members had obtained other subsidised housing benefits.

### ***HD's Explanations***

19. According to the established application vetting procedures, the final vetting would be conducted on the day of flat selection, while vetting midway through the application before issuing the flat selection notification is not a must (see **paras. 10(b)-(c)**). This is meant to be an optimal use of HKHA resources while ensuring that nobody can enjoy double housing subsidy. Upon receipt of the GSH 2018 flat selection notification, even if the complainant had not proactively notified HD that he had already purchased a flat under HOS 2018, there was no way he could have passed the final vetting.

20. As the flats for sale and the pre-sale preparation work of HOS 2018 and GSH 2018 were different, the implementation timetables of the two schemes were different. Furthermore, there were differences in the eligibility criteria, ballot arrangements as well as the priority for flat selection between the two schemes. Thus, flat selection notifications were issued to applicants separately under individual scheme in accordance with its flat selection progress and selection priority of applicants.

21. Nevertheless, partial overlap in the flat selection periods of HOS 2018 and GSH 2018 meant that HD would inevitably send to the same applicant two flat selection notifications, one under each scheme. If HD had not sent a flat selection notification to a GSH 2018 applicant while that applicant did not successfully purchase a flat under HOS 2018, it would be unfair to the applicant and result in complaints.

22. On the other hand, when the complainant decided to purchase an HOS 2018 flat, he should have been aware that upon successful purchase, his GSH 2018 application would be cancelled. Different HD documents, such as the HOS 2018 Application Guide (see **para. 7**), HD's notification about streamlined procedures (see **para. 9**), the "Important Notice" leaflet attached to the GSH 2018 flat selection notification (see **para. 8**), and the declaration mentioned in **paragraph 16 above** had reminded him of this.

### ***Future Arrangements***

23. HD emphasised that in handling the flat selection procedures for HOS 2018 and GSH 2018, and the complainant's case, it had tried its best to strike a balance between protecting the applicants' rights and ensuring the optimal use of HKHA resources.

24. That said, to minimise unnecessary misunderstanding of and inconvenience caused to applicants in the event of overlap of flat selection periods of HOS and GSH in future, HD would enhance its computer systems such that green form HOS applicants who have successfully acquired an HOS flat would not be issued a GSH flat selection notification, and vice versa. Whenever HOS flats are sold, the computer system would immediately generate a list of applicants who have acquired an HOS flat, based on which HD would, on the following working day, cancel the GSH applications of those on the list, and vice versa.

### **Our Comments**

25. We considered that the complainant's rights had not been affected by the fact that HD had issued two flat selection notifications to him. The crux of the matter was that when the complainant successfully purchased an HOS flat, he was already fully aware, and signed a declaration to confirm, that his GSH application would be cancelled. Therefore, his receipt of two flat selection notifications would not change the fact that his eligibility for GSH 2018 had been cancelled. As such, the incident did not constitute unfairness to him.

26. Nevertheless, if the complainant, as HD pointed out, should have known that he was no longer qualified for GSH flat selection or that his GSH 2018 application would be cancelled; by the same token, HD should also have been aware that the complainant's GSH 2018 application would be cancelled. The fact that HD continued to issue the GSH flat selection notification under the above circumstances would indeed create confusion and misunderstanding to the complainant.

27. We noticed that HD had reminded applicants of such cancellation arrangement via different documents. The complainant, however, must have felt baffled at the receipt of the GSH flat selection notification one month after he had purchased an HOS flat. Or, he might simply think that he was given a second chance to choose a flat, rather than that HD had wrongly sent him the notification. We consider it HD's duty to ensure accuracy of its information as far as possible.

28. HD explained that response for HOS 2018 and GSH 2018 applications was overwhelming. Where warranted, the second eligibility vetting might be conducted on the day of flat selection, while the final vetting would definitely be scheduled for the day of flat selection. Vetting midway through the application before issuing the flat selection notification is not a must. We consider such arrangements not unreasonable under the principle of efficient use of resources and for the prevention of double benefit by applicants. However, from the perspective of customer service and information dissemination, such arrangement would only bring unnecessary misunderstanding and complaints, especially when one month had lapsed between the complainant's purchase of an HOS 2018 flat and HD's issuance of the GSH 2018 flat selection notification. HD should have had more than enough time to cancel the complainant's GSH 2018 application.

### ***HD's Further Response***

29. HD added that HOS and GSH are two separate sales schemes using two independent computer systems. Applicants' information would not be automatically shared. Unless there is inevitably an overlap of the flat selection periods of the two schemes, immediate communication between the two computer systems is not necessary. Automatic sharing of information would call for a major overhaul of the computer systems. Flat selection for HOS 2018 and even GSH 2018 would be delayed, causing significant inconvenience to applicants and inviting complaints.

30. Without automatic information sharing between the HOS and GSH computer systems, HD would have had to put in considerable time and manpower to manually check the information repeatedly every day if it wanted to ensure that flat selection notifications for GSH 2018 would not be sent to applicants who had acquired a flat under HOS 2018. The process is elaborated below.

31. If the checking is conducted at the issuance of GSH 2018 flat selection notifications, then before issuing the notification each day, the GSH Sales Unit would have to check one by one manually every application to be invited to flat selection. The applicant himself/herself and every one whose name was on the application form would have to be cross-checked in order to ascertain if any one, some or all of the applicants were the same persons who had purchased a flat under HOS 2018.

32. If the checking is conducted at the sale of a HOS 2018 flat, then upon the sale of each flat, the HOS Sales Unit would have to check manually whether the purchaser and every one whose name was on the application form had applied for GSH 2018 in tandem. If he/she had, staff of the HOS Sales Unit would have to notify the GSH Sales Unit to cancel the application.

33. HD stressed that 4,431 flats had been put up for sale under HOS 2018 and the flat selection period lasted for ten weeks. Flat selection was arranged every day and information kept changing. Manual checking of information was simply impracticable.

34. On the other hand, HD had already anticipated that HOS 2018 and GSH 2018 applicants might receive flat selection notification for both schemes. Since the computer systems were yet to enhance and manual checking of information was impracticable, the Department had used various means to remind and inform applicants. Issuing the “Important Notice” leaflet to GSH 2018 applicants (see **para. 8**), in particular, was a new and effective measure HD introduced for ensuring the accuracy of information and avoiding misunderstanding. In this light, HD did not agree to our comments as set out in **paragraph 27 above**, nor that this complaint should be substantiated.

### **Our Concluding Remarks**

35. The timing of flat selection under HOS 2018 and GSH 2018 became partly overlapped due to a change in Government policy. Some applicants who had purchased a flat under HOS 2018 might also have been successful in the ballot drawing

for GSH 2018. We agreed that HD had already tried to inform and remind applicants through different means to avoid misunderstanding. Besides, applicants did have a responsibility to understand their own eligibility, as well as the operation of HOS 2018 and GSH 2018.

36. However, we were of the opinion that misunderstanding arose in this case because the complainant still received a GSH 2018 flat selection notification one month after he had purchased an HOS flat. Had he not been reminded by HD staff not to cancel his purchase of the HOS 2018 flat, the consequence would be grave. In this light, we considered that HD, rather than relying on notifications and reminders, should have proactively avoided such incidents instead.

37. We were fully aware that manual checking of information (see **paras. 31 and 32**) was infeasible, and that the two sales schemes were separate and independent. On the other hand, we would not conclude outright that computer systems enhancement such as one mentioned in **paragraph 24 above** would bring about such significant negative impact to HOS 2018 and GSH 2018 as described in **paragraph 29** above. However, when a policy change had resulted in HOS 2018 accepting extra applications, the modifications and procedural alterations thus entailed must have been as complicated as computer systems enhancement. We noticed that when the HKHA Subsidised Housing Committee passed the sales arrangements for HOS 2018 on 17 July 2018 owing to policy change, HD should have anticipated a possible overlap of flat selection periods of HOS 2018 and GSH 2018 (scheduled for late 2018). On 16 November 2018 when the Committee passed the sales arrangement for GSH 2018, the overlap was just sure to happen. That was months before flat selection for HOS 2018 and GSH 2018 started in February and March 2019 respectively. If HD had made proper preparations at the very beginning, there should have been enough time for computer systems enhancement. Implementation progress of the schemes would not have been affected simply because of the enhancement work.

38. In the light of the above, this Office was of the view that HD should have commenced computer systems enhancement much earlier to proactively avoid the confusion that an applicant who had already purchased a flat under one scheme would receive the flat selection notification under another scheme. Sole reliance on information leaflets and reminders to applicants would still lead to misunderstanding. Even if the rights of the complainant in this case had not been affected, such practice was undesirable from an administration perspective.

39. In view of the above, this Office considered this complaint **substantiated**.

40. This Office was glad to learn that HD had proactively undertaken to enhance its computer systems (see **para. 24**), which was expected to complete before flat selection for GSH 2019, to avoid the loophole as shown in this complaint case.

**Office of The Ombudsman**

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