

Decision to Terminate the Mutual Aid Committee Scheme by the Former Home Affairs Bureau Investigation Report

On 18 October 2022, the complainant lodged a complaint with this Office against the Government for impropriety in unilaterally deciding to terminate the Mutual Aid Committee (“MAC”) Scheme without prior consultation.

The Complaint

2. The complainant was an MAC Chairman of a building in a public housing estate (“PHE”). In January 2022, the Sham Shui Po District Office wrote to the MAC of the building indicating that there were views in society that MACs were playing a diminishing role; the then Home Affairs Bureau (“HAB”), therefore, decided to terminate the MAC Scheme and MACs had to be dissolved by a specified date. The complainant alleged that MACs had all along been a channel of communication between the Government and local communities, helping public rental housing (“PRH”) residents to reflect the problems relating to PHE facilities to the Housing Department (“HD”) and management companies and assisting in resolving them, as well as connecting residents within the same estate via various community activities. The Government, however, wishfully considered that the MACs were “playing a diminishing role” without conducting any consultation, thereby violating the Government’s principle of being open and transparent. The complainant further considered that dissolving the MACs amounted to abolishing the residents’ power to monitor estate affairs and cutting off the bridge of communication between the Government and residents. The former HAB had failed to replace MACs with other mechanisms or platforms such that estate affairs were left neglected.

3. In sum, the complainant was dissatisfied that the former HAB had decided to terminate the MAC Scheme without proper consideration or consultation.

The Investigation

4. Having examined relevant information, The Ombudsman decided to launch a full investigation into the case in October 2022 pursuant to The Ombudsman Ordinance.

Since the case involved a decision by the former HAB before the Government's restructuring on 1 July 2022, this Office requested the Home and Youth Affairs Bureau ("HYAB") to respond to our full investigation. Upon considering all relevant information, we completed this investigation in April 2023. Our findings are as follows.

Our Findings

The Policy-making Process

5. Generally speaking, unless statutory requirements/regulations are involved, the Government has not laid down any hard and fast rules regarding the steps and procedures of its policy formulation or decision-making process. Rather, the Government would determine whether consultation is warranted for a certain policy depending on the background of the policy and on a need basis. This applies to the MAC Scheme policy.

Background of the MAC Scheme

6. In the early 1970s, multi-storey residential buildings began to spring up in Hong Kong; however, only a handful had set up residents' organisations or engaged professional property management companies to manage the buildings. As a result, security and hygiene problems became prevalent. The Government, therefore, launched the MAC Scheme in 1973 with a view to improving order and security as well as the living environment and management of buildings, fostering neighbourliness and providing a channel of communication with the residents. Initially, MACs were set up mainly in private multi-storey buildings, then in PHEs as well. Functions of MACs included organising community security patrol teams, collecting management fees, installing iron gates and anti-theft alarms for flats in the building, cleansing the common parts of the building and assisting in refurbishment works therein, and so on.

7. Under the MAC Scheme, MACs were set up via election by and among the residents of each building and exempted from the regulation of the Societies Ordinance¹. Normally, the exemption had to be renewed every three years. The approval notification stated clearly that the exemption could be revoked by the Government

¹ Section 11 of the Schedule to the Societies Ordinance stipulates that the Ordinance does not apply to any association of owners or occupiers of premises which is approved for the purposes of this Ordinance by the Secretary for Home and Youth Affairs by notice in writing.

anytime without any explanation. Since April 2014, new MACs established under the MAC Scheme were given a one-off grant capped at \$6,000 as subsidy for setting up an office, then a quarterly grant capped at \$2,000 in the form of reimbursement of actual expenses to cover such basic operational costs as rates and Government rent, electricity charges, telephone bills, office equipment and stationery.

Policy Review on the MAC Scheme

8. The past few decades had seen societal development as well as changes in the mode of building management and neighbourhood relations, which in turn impacted on the roles and functions of MACs. Some people had expressed concern over the continued effectiveness of the MAC Scheme. The Government, therefore, conducted a review on the MAC Scheme policy, with the following result.

Roles and Functions

9. Regarding the mode of building management, there had been fundamental changes from the old times when there were no residents' organisations or professional property management companies other than MACs. As far as private buildings are concerned, owners can set up an Owners' Corporation ("OC") pursuant to the Building Management Ordinance. OCs are body corporates with statutory power to manage the common parts of buildings on behalf of all the owners, as well as handle such matters as hygiene, safety or other management issues of the building. Furthermore, about 70% of all private buildings in Hong Kong (whether with or without an OC) have already engaged property management companies to provide professional building management services. With respect to PHEs, in which the majority of MACs were set up, the Hong Kong Housing Authority ("HKHA")/HD or their appointed property management agencies would take care of estate management responsibilities such as cleaning, security and repairs.

10. As for communication with residents, MACs used to disseminate public information to residents through neighbourhood networks, thereby enhancing communication between the Government and the residents. Nevertheless, advancement in information technology nowadays has enabled the Government to disseminate information and communicate directly with the general public via more effective and efficient channels (see **paras. 14 to 17**).

Number of MACs

11. The diminishing roles and functions of MACs can be reflected in the dwindling number of MACs. In 2003, there were about 3,100 MACs in Hong Kong; by the end of 2019, the number had fallen to just about 1,600. Of these, 75% were set up in PHEs and about 25% in private buildings. On average, more than 100 MACs are disbanded each year, with fewer than 30 new ones established.

Terminating the MAC Scheme

12. Upon a review, the Government decided to terminate the MAC Scheme. In other words, exemption from the regulation of the Societies Ordinance granted to MACs was revoked and subsidies to them were stopped.

13. The Home Affairs Department (“HAD”) wrote to all MACs in January 2022 to announce the termination of the MAC Scheme in two phases and reminded them of the points to note when terminating the committee’s operation. Having listened to the views of different stakeholders (including MACs) and upon further examination, HAD announced in March 2022 the termination of all MACs as of 1 January 2023 and a one-off non-accountable allowance to subsidise MACs of the extra costs incurred by termination of business. HAD and the District Offices also kept in touch with MACs so as to provide assistance in the dissolution process, such as helping MACs to contact their telecommunications services providers to handle contract termination, etc.

Channels of Communication between Government and Residents

14. The Government opined that termination of the MAC Scheme would not affect the communication between government departments and residents. In fact, there are a number of methods for the Government to communicate with residents. Besides traditional ways of communication (such as face-to-face interviews or via the telephone and the 1823 hotline) and information dissemination (such as TV and radio), the Government is also harnessing information technologies (such as email, the Internet and social media platforms) to keep in touch with members of the public. It would also help owners to establish OCs and strengthen liaison with the local communities via different community organisations (such as Area Committees).

15. With respect to PHEs, HD’s information showed that over the years, HKHA had been using various ways to promote the work of HKHA/HD and communicate with PRH tenants, including putting up notices/posters, publishing Estate Newsletters,

placing “suggestion boxes” at estate offices, and making use of social media platforms (including Facebook, Instagram and YouTube). PRH tenants can also visit, email or telephone the estate offices, or call 1823 if they wish to exchange views with HD staff on estate management issues. HKHA would also widen the communication channels with residents and make good use of information technology to gather more tenants’ views directly via traditional and electronic means. These include placing suggestion boxes at the ground floor lobbies of PHE blocks, displaying QR codes and hyperlinks on notices, as well as widening the scope of the use of the “iHousing” mobile application, such that it would be easier for tenants to directly express to HD their views on estate management (e.g. the use of funds allotted to PHEs on minor repair works, or the themes of estate activities and community building programmes, etc).

16. On the monitoring and evaluation of the performance of estate service contractors (including property services agents, works contractors, cleansing and security services contractors), HD has already put in place a rigorous appraisal system which includes assessments by PHE staff and regular Survey on Performance of Services Contractor and Routine Maintenance Contractors (“Survey”) to collect tenants’ views. HD will increase the sample size and the frequency of conducting the Survey to directly gather more PRH tenants’ views on the performance of service contractors, with a view to lifting the standard of estate management services.

17. Furthermore, HD would maintain close liaison with PRH tenants and designate staff to attend meetings of the District Councils and Area Committees regularly to discuss with them and collect their views on estate and community affairs and HKHA’s policies. PRH tenants interested in participating in estate management would be invited by HKHA to act as ambassadors to help promote estate activities and community building programmes. For instance, there are now 700 environmental protection ambassadors, who are mainly former MAC members. HKHA/HD would continue to adopt a “people-based” approach with the objective of providing a harmonious and inclusive living environment for PRH tenants.

Overall Response by HYAB/HAD

18. In the process of policy formulation and decision-making, the Government would consider all relevant factors, including determining whether prior public consultation is warranted after taking into account the background and needs of individual policies. For this case, although the authorities did not conduct public consultation in advance, termination of the MAC Scheme was a policy decision made

prudently by the Government after a review, which included analysing objective data and re-examining the functions of MACs.

Our Comments

19. Whether to terminate the MAC Scheme, the factors of consideration involved and the relative weighting thereof are policy matters and decisions of the former HAB/HYAB. As they are not administrative matters subject to our scrutiny, we would not intervene or comment on the decision. The focus of this investigation is to examine from an administrative perspective whether the former HAB's failure to conduct a public consultation had violated the Government's established policies and procedures, and whether the Bureau had allegedly terminated the MAC Scheme without due consideration during the process.

20. Considering this case as it stands, the former HAB did decide to terminate the MAC Scheme before conducting any prior public consultation. However, we have found in the public domain information that the Government had on different occasions indicated that its policy objective is to ensure openness, transparency and accountability in public administration. To fulfil this commitment, the Government must respond to public demands in a timely manner and consider public opinion in making policy decisions.

21. In the updated Government General Circular of June 2021, it was stated that "A careful assessment of public opinion, obtained through consultation and analysis, should help the Government understand the likely reaction of the community to any proposed course of action or change in policy. Public debate assists both in achieving consensus on the direction of public policy and in securing acceptance of unpopular but unavoidable measures. Where measures proposed are known to be unpopular, it is particularly important that the Government consults in a timely and thorough way and is seen to have done so. A good public airing of the issues in advance is more likely to gain understanding and acceptance of the measures eventually adopted than secrecy and surprise." In addition, as the former HAB/HYAB has pledged to continue the mission of fostering Government-public communication, we believe the Bureau would agree that maintaining good communication with the community is one of its important duties.

22. Although the number of MACs had dwindled significantly in recent years, there were still 1,600 MACs by the end of 2019. This was not a small number and

numerous stakeholders were involved. Deducing from **paragraph 11** above, about 1,200 MACs had been set up in PHEs. HKHA data showed that as at December 2022, there were some 819,000 PRH units in Hong Kong, with more than 800,000 households and authorised residents of 2.1 million. Given that the MAC Scheme had been in operation for decades, its termination would have direct and profound implications on such residents' organisations and the residents they represented. It was, therefore, reasonable for the stakeholders to expect that the Government would consult them before arriving at any policy decisions that would affect them in accordance with the established practice.

23. As far as this case is concerned, before deciding to terminate the MAC Scheme, the Government should have predicted that the decision would not be welcomed by, or would even be met with strong objection from the MACs and/or the residents they represented. We notice that when the former HAB conducted a review on the MAC Scheme policy and eventually decided to terminate the Scheme, the epidemic situation was very serious. We could not ascertain whether the epidemic situation had affected the communication between the former HAB and the stakeholders (including the various MACs) with respect to the termination of the Scheme (including whether a public consultation on the policy decision was warranted), and whether and how the Bureau had considered the above objections to the decision. The information available to us showed that while the former HAB had already considered the relevant factors in deciding to terminate the Scheme (see **paras. 8 to 17**), it did not conduct any open consultation to proactively invite views from the stakeholders, especially the MACs, which would bear the brunt. Rather, the Bureau wrote to all MACs in the territory giving a post factum explanation of the decision, its justification and the relevant arrangements. This might have fallen short of the expectation of some who anticipated that the Government would consult stakeholders before introducing any significant policy changes or making important decisions.

24. We consider that the former HAB could have handled the matter in a better manner. It would have been more satisfactory if the Government had communicated with various MACs and stakeholders thoroughly before making the decision in question. This would have helped win public understanding of and support for the decision, tied in with the Government's aforementioned policy objective of being open, transparent and responsive to public opinion, and fulfilled the mission of the former HAB/HYAB in fostering Government-public communication.

25. As to whether prior consultation is mandatory at the policy level, HYAB/HAD

had clarified in **paragraph 5** that there are no hard and fast rules regarding the steps and procedures of the Government's policy formulation or decision-making process. Having scrutinised a number of Government documents, including Guidelines on Public Consultation (Reference: LC Paper No. CB(2)337/03-04(02)), Government General Circular No. 7/2008 and the Government's replies to members of the Legislative Council, we found that the Government had only drawn up the principles in undertaking public consultation and listed the key points to note, it never mentioned that public consultation is a mandatory step in the process of making a policy decision. In other words, public consultation is not a prerequisite for making policy decisions by the Government. From the administrative perspective, the former HAB's decision to terminate the MAC Scheme after taking into account relevant objective factors without conducting a public consultation could hardly be deemed procedurally inappropriate.

26. On the other hand, HYAB/HAD had explained the background of launching the MAC Scheme decades ago, the Government's review on the Scheme, and the factors of consideration involved in the decision to terminate the Scheme. They had also cited HD's view that there are currently various channels for PRH tenants to communicate with HD, and to follow up on and monitor community affairs and estate management matters.

27. We understand that the complainant considered that terminating the MAC Scheme would sever the channel of communication between PRH residents and government departments and abolish the residents' role in jointly monitoring estate affairs. Nevertheless, times have changed and the application of information technologies has widened. The modes of Government-public communication have also diversified as a result and the two parties can now contact and communicate with each other directly via an array of channels. The role of MACs as the bridge between the parties has inevitably changed. With respect to PHEs, HKHA/HD now employs different methods to disseminate information, collect tenants' views and strengthen their engagement in estate management (see **paras. 14 to 17** for details). Although we cannot compare the pros and cons of the new modes of consultation and communication with those of MACs, we do not find the explanations of HYAB/HAD unreasonable.



28. In sum, it is not in dispute that the former HAB had not conducted public consultation before it decided to terminate the MAC Scheme; however, public consultation is not mandatory in the policy decision-making process of bureaux/departments under the Government's prevailing policy. The former HAB had examined and holistically considered various information/factors before making the

decision. That it had terminated the MAC Scheme without proper consideration of the relevant factors was out of the question. We appreciate that the complainant, as an MAC Chairman, expected to be consulted before the former HAB decided to terminate the MAC Scheme. Yet, unless the decision-making process had violated established procedures and guidelines, whether to conduct public consultation and the price to pay for not doing so, is a judgement made by the Government upon considering all relevant factors. That said, we have to point out that complying with the procedures of policy-making/policy-decision is only a basic requirement. It is more important to maintain transparency in information, accountability to the public and to ensure that the public understand and support the Government’s policies and decisions.

29. In light of the analysis set out in **paragraphs 19 to 28**, The Ombudsman considers the complaint against the former HAB/HYAB **unsubstantiated**.

Office of The Ombudsman
April 2023

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