

The Buildings Department's Internal Guidelines on Prioritisation of "Actionable" Unauthorised Building Works A Summary

Purpose

This document sets out the general guidelines for determining the enforcement priority of actionable unauthorised building works (UBWs) under the new enforcement policy that has come into effect since 1 April 2011.

Issue

2. The UBWs enforcement policy has been revised with effect from 1 April 2011 whereby the scope of "actionable" UBWs will be extended to include all unauthorised structures on rooftops, flat roofs as well as those in yards and lanes of buildings (the New Commitments), irrespective of their level of risk to public safety or whether they are newly constructed.

3. The Buildings Department (the Department) is committed to actively respond to complaints and issue statutory orders requiring owners to conduct rectification works immediately if there are confirmed actionable UBWs after inspection.¹ Furthermore, based on past statistics and the Department's available resources, a performance indicator of issuing 20 000 removal orders against "actionable" UBWs has been set for 2011. While it is not possible for us to generate an accurate estimate of the number of "actionable" UBWs to be reported to us, a total of 30 000 UBW reports from members of the public are expected for the same period (compared with about 28 600 reports received in the full year of 2010).

4. In other words, the number of "actionable" UBWs reported may potentially exceed the Department's capacity for issuing removal orders. In addition, large scale operations will be conducted and statutory orders will have to be issued accordingly. While the Department will make all necessary arrangements to facilitate the issuance of statutory removal orders against all

¹ Paragraph 12 of the Appendix to the paper on 'Measures to Enhance Building Safety in Hong Kong' submitted to the Subcommittee on Building Safety and Related Issues under the Panel on Development of the LegCo for discussion on 13.1.2011 (CB(1)681/10-11(01))

reported “actionable” UBWs within a reasonable period of time, there is a need for the Department to lay down some internal guidelines on how to prioritise our enforcement work against those UBWs under the newly extended scope.

Criteria for Prioritisation

5. Staff members are reminded that while the majority of removal orders will be issued under the various large scale operations, most of the UBWs enforced against were first reported to the Department through reports submitted by the public or by our patrol teams. Based on past statistics, reports on the New Commitments amount to around 7 000 each year and constitute as many as 30% of all the reports on UBWs received over the past three years. It is therefore anticipated that a majority of the reports received, as well as the UBWs handled in the coming years, will be related to these New Commitments.

6. Although the receipt of a complaint/report can be a triggering point for the Department’s enforcement action, setting up a set of objective criteria for prioritising our work can be highly beneficial, as the Department will then be able to first work on those “actionable” UBWs with the highest level of risk.

7. The problem of UBWs is highly complex and extensive. To facilitate the prioritisation process, staff members are advised to consider the following factors –

- The earliest date the concerned UBWs was known to the Department –
The earlier ones should be accorded priority ahead of others. In general, when considering the dates, staff members should take into account warning notices issued and registered with the Land Registry since 2005; or where no warning notices have been issued, the dates of inspection by the Department since 2005.
- Surrounding area of the building –
The risk imposed by UBWs is heavily influenced by the surrounding area of the building they are in. One of the factors to be considered

is the height of a building. In general, UBWs in high-rise buildings have a higher risk level than those in low-rise single family houses as they can cause more severe injuries to the pedestrians. By the same token, rooftop structures and flat roof structures should be prioritised ahead of yard/lane structures. Another important element lies in the population and traffic density of the area. UBWs in a densely populated urban area pose a higher risk as a larger group of pedestrians can be injured. Accordingly, priority should be given to such UBWs.

Mode of Operation

8. The Department has ceased issuing warning notices to the New Commitments with effect from 1 April 2011, as they will instead be served with removal orders under the new enforcement policy.

9. Under normal circumstances, the New Commitments located in buildings in each district section should be grouped into the following three Groups taking into account the criteria set out in paragraph 7 above:

- Group 1 – all rooftop structures/flat roof structures within the same building;
- Group 2 – all yard/lane structures within the same building; and
- Group 3 – any New Commitments in low-rise single family houses.

10. Should a long list of outstanding reports awaiting issue of orders result, the Department would consider measures to address public expectation for a response to their reports within a reasonable timeframe. As such, all outstanding reports at the end of the first year should be prioritised ahead of fresh reports received in the following year. Reports received within the same year should follow the same prioritisation approach as abovementioned.

Points to Note

11. It is expected that about 10% of the removal orders arising from this new commitment would involve co-owners (in common areas and not registered with warning notices), and for these a longer compliance period should be allowed for this type of orders where appropriate.

12. It is anticipated that the enforcement action against the New Commitments may affect the occupants of the concerned buildings and the businesses operating in G/F shops. A longer compliance period should be allowed for the removal of the New Commitments in such cases as appropriate. Assistance from other departments, such as Housing Department and Home Affairs Department, may be required. Staff members are advised to consult their supervisors on these issues where necessary.

13. While these guidelines have laid down the general framework and decision criteria for the determination of enforcement priorities, staff members should bear in mind that the UBWs problem is extensive and complex in nature. The above guidelines should only be followed under normal circumstances. If other special circumstances are involved and other factors should be considered, staff members are advised to report the situation and consult their supervisors as appropriate.

Buildings Department
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