

## **Summary of Investigation Report**

### **Complaint about the Handling of an Application for Housing Transfer by Social Welfare Department and Housing Department**

#### **Foreword**

The Housing Department (“HD”) and the Social Welfare Department (“SWD”) have established between themselves an inter-departmental referral system for handling special cases relating to housing assistance (including applications for public housing transfer). Under the system, HD would first conduct eligibility checks and vetting on applications. For applications which would usually be rejected under the existing housing policy but which involve social or health factors worthy of consideration, or in which the clients have social welfare needs, HD, with the consent of the clients, would refer them to SWD or service units under SWD-approved non-governmental organisations (“NGOs”) for assessment and recommendation, or for provision of the services needed.

2. In this complaint case, the complainant’s family applied to HD for transfer on grounds of health of a family member. HD referred the case to SWD for assessment. Our investigation found no delay on the part of HD as it had processed the application in accordance with its existing housing policy and established procedures. Nevertheless, SWD and the integrated family service centre (“IFSC”) it subsidised had adhered too rigidly to the administrative procedures of the referral system, thereby causing delay in delivering the service that the complainant’s family needed.

#### **The Complaint**

3. The four-person family of the complainant (“Ms A”) originally lived in a public rental housing flat. One family member suddenly passed away in the flat. Another family member (“Ms B”) witnessed the incident, became emotionally disturbed calling for medical treatment and counselling, and did not want to stay any longer in the flat. Ms A and her family then applied to HD for internal transfer within the same estate. HD referred the case to an SWD-subsidised IFSC for assessment. Ms A’s family (now with only three persons) was recommended after assessment internal transfer to a flat with a layout different from that of their current flat.

4. Since no flat was allocated to her family, Ms A lodged a complaint with this Office against HD for delay in processing her application, and for its lack of proper communication with SWD such that the latter did not provide any assistance in her application for transfer.

## **Our Findings**

### ***Major Course of Events***

5. In November **2014**, HD received the application for internal transfer from Ms A's family. In December, the case was referred to the IFSC for assessment.
6. In February **2015**, the IFSC notified SWD that it would recommend that Ms A's family be transferred to a flat of a layout different from that of their current flat in the same estate, in order that the change in environment would help Ms B's recovery. SWD then notified HD of the assessment result.
7. In April, the IFSC confirmed with Ms A's family that they had no other service needs for the time being. The Centre thus closed their case.
8. In October, HD suggested that Ms A's family be transferred to a three-person flat in a different block in the same estate (the flat was smaller than their current one). They rejected the offer on the ground that its layout was the same as that of their current flat and this might arouse Ms B's anxiety.
9. In December, HD suggested that Ms A's family be transferred to another flat that, despite having the same size and layout as their current flat, faced a different direction and was on a different floor. It also indicated that it could invite a social worker to accompany Ms B to visit the flat in advance. Ms A rejected the idea because she was worried that the visit would cause emotional distress in Ms B and because she could not understand the reasons behind HD's arrangement.
10. In January **2016**, HD wrote to SWD to explain that according to flat allocation policy, it could not allocate a flat of different layout and a size well above the prescribed standard to Ms A's family unless on very special social grounds. HD suggested that SWD arrange for a social worker to accompany Ms A's family to visit the aforementioned flat in order to assess whether it could meet their needs.
11. Upon receipt of SWD's referral, the IFSC telephoned HD to clarify the purpose of the referral. After some exchanges, the IFSC asked HD to discuss with Ms A's family first and obtain their consent to the visit before it would handle the referral and related arrangements.
12. In March, HD received the written consent of Ms A and Ms B. It then again referred their case to the IFSC for assistance. In the end, however, the IFSC still did not contact Ms A's family and take follow-up action.
13. In September, Ms A lodged her complaint with this Office against HD and SWD because the application for transfer was still outstanding.

### *HD's Response*

14. HD explained that under the existing housing policy, if an application for transfer is approved, the applicant would usually only be allocated a flat **of the same type** as his/her current flat (i.e. a flat of a size commensurate with the family size). Unless there are very special grounds, HD would not easily deploy extra housing resources to allocate a flat bigger than the standard prescribed for the applicant's family size.

15. With regard to this case, HD considered that it would have followed SWD's recommendation for transfer to "a flat of different layout" if it allocated to Ms A's family a flat that was different in direction, floor level and view from their current flat, coupled with a layout of their own construct (they were free to refurbish the interior layout except for the bathroom, kitchen and balcony, which were fixed spaces). HD had already allocated flats to Ms A's family twice but both offers were not accepted. Besides, HD staff had repeatedly telephoned the IFSC and SWD between January and July 2016 to request their assistance in the case, including arranging for a social worker to accompany the family to visit one of the flats. Nevertheless, HD received no positive feedback.

### *Response of SWD and IFSC*

16. In response, SWD and the IFSC indicated that the latter has handled cases referred by HD according to the cooperation agreement drawn up at regular meetings between SWD, HD and representatives of relevant NGOs. The agreement requires HD to state clearly the purpose of referrals and to obtain the written consent of the clients, lest the tenants/applicants would have unrealistic expectations.

17. Since witnessing for HD an applicant's refusal of a housing offer was not part of social workers' duties, while HD had not obtained the consent of Ms A's family on the arrangements of referral and flat visit in January 2016, the social worker, therefore, suggested that HD first clarify with the family the purpose of this referral and obtain their consent. Only then would the social worker contact them and take follow-up action.

18. Subsequently, HD referred the case again in March 2016 and attached the written consent of Ms A and Ms B, but it still did not state what kind of service was required from the IFSC. After enquiries with HD, the IFSC realised that HD's intention in making this referral was for the IFSC to assess the social needs of Ms A's family in respect of their application for transfer to a **different type** of flat within the same estate. Considering that the assessment and recommendation made in February 2015 (see **para. 6**) had already served the same purpose, the IFSC found no justification to repeat its recommendation.

19. Besides, the IFSC had closed the case of Ms A's family earlier on, and had not directly received from them any request for assistance. Therefore, unless there was

clarification for HD's intention in this renewed referral and confirmation of the family's written consent, the IFSC would not contact the family and follow up.

20. SWD and the IFSC refuted HD's account of the event in **para. 15** above, noting that between January and July 2016 HD had never made any telephone call to SWD or the IFSC to discuss the case of Ms A's family.

21. On the whole, SWD considers the IFSC to have handled this case in accordance with the agreed referral system.

## **Our Comments**

22. HD has the responsibility to allocate housing resources in a prudent and fair manner according to the established housing policy. Hence, HD must first ascertain that Ms A's family could not accept any flat of the same type before approving their transfer to a different type of flat, as that would involve extra housing resources. From the perspective of administration, we consider that HD has not delayed in handling this application for transfer when following up the case.

23. As regards SWD, its responsibility is to monitor and ensure that the IFSC under its subvention has followed up the case of Ms A's family in a proper and timely manner to facilitate their earliest possible transfer to a flat that meets their needs, especially one that would help Ms B's recovery. However, we have identified certain problems in SWD's current views on how the IFSC should handle the cases referred by HD.

24. According to the agreement drawn up at the regular meetings, HD is required to state clearly the purpose of referrals and obtain the written consent of the clients. The objective is to avoid fostering any unrealistic expectation among tenants/applicants about the service. Notwithstanding this, the agreement has not stipulated that "for the same client on the same subject" (such as the application for transfer by Ms A's family in this case), HD must obtain written consent from the clients again and state the reason for each referral. We consider that where there is no sign of unrealistic expectations or even abuse of service by the clients, and the referrals made by HD at different stages are related to the same subject, SWD should put the applicants' well-being first and proactively follow up their cases, rather than insisting that each referral must rigidly follow all the procedural requirements.

25. Regarding this case, Ms A's family never asked SWD for assistance, and it did not appear that they might have unrealistic expectations about the service. Judging from HD's memoranda for the two referrals made in 2016, we consider that the IFSC should be able to fully understand the purpose of HD's referrals and its request for a social worker to accompany Ms A's family on a visit to the proposed flat. HD was seeking the social worker's assistance in assessing whether the family (especially Ms B) would still feel unacceptable a flat of basically similar layout despite having a different direction and view. If so, HD would need to exercise discretion and allocate a type of

flat different from their current one. We can hardly see why the IFSC found it necessary to request HD to clarify the reason of referral and obtain consent from Ms A's family again. In fact, there are no such stringent requirements in the agreement (see **para. 24**).

26. We consider that Ms A's family would not have needed to wait until April 2017 before being recommended for transfer again if the IFSC had not stubbornly adhered to procedural requirements of the referral system time and again and, rather, had paid more attention to the family's needs and difficulties and actively contacted them to understand better whether Ms B was indeed unable to accept any flat of the same type and notify HD of the result. That would have helped HD to consider other feasible options.

### **Conclusion and Recommendations**

27. In the light of the above analysis, we consider Ms A's complaint against HD unsubstantiated, and her complaint against SWD partially substantiated.

28. Moreover, regarding whether there was any telephone communications between HD and SWD/the IFSC, the two sides gave different accounts of the event, which bordered on pointing the finger at each other. It is worrying whether HD and SWD/the IFSC can maintain mutual trust and cooperation in future. We urge all three parties to review this case with candour and rebuild their cooperative relations.

29. The Ombudsman has made the following recommendations to HD and SWD:

#### **HD and SWD**

- (1) To review the communication problems revealed in this case with candour and mend their cooperative relations.
- (2) To jointly review the existing cooperation agreement regarding the referral system to clarify in what circumstances, when making repeated referrals for the same case, HD is required to obtain written consent from clients and state the purpose of referral again. The basic premise is to minimise any duplicate administrative procedures as far as possible.
- (3) To consider holding face-to-face discussions promptly in future to clarify issues regarding how to handle those cases on which no consensus can be reached between the two departments, so as to avoid affecting case progress.

#### **SWD**

- (4) before completion of the abovementioned review, to remind all the IFSCs to proactively assist their clients and properly handle the

requirements about written consent according to actual circumstances of each case, and also to state the reason of referral, so as to prevent delay in providing the necessary services to clients due to overly rigid adherence to procedural requirements.

**Office of The Ombudsman**  
**November 2017**