



**Office of The Ombudsman
Hong Kong**



Direct Investigation Report

**Home Affairs Department's Management of
Booking and Use of Facilities of Community
Halls and Community Centres**

23 March 2016

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1

INTRODUCTION

BACKGROUND

1.1 This Office has received from time to time complaints against the Home Affairs Department (“HAD”) for mismanagement of the booking of facilities of its community halls/centres (“the Facilities”). Over the past five years, we have received 24 complaints concerning the management of community halls/centres. Of these, seven were related to booking procedures. In particular, there were allegations of people abusing the exemption of charges for the Facilities and circumventing the penalty system for breach of the terms and conditions of use of the Facilities.

1.2 As community halls/centres are primarily meant for the organisation of community-building activities, it is important to ensure that potential organisers of such activities have a fair chance to use the Facilities and that abuse and wastage should be prevented as far as possible. With this in mind, The Ombudsman initiated on 25 August 2015 a direct investigation into HAD’s management of the booking and use of the Facilities, with a view to identifying areas for improvement.

THE INVESTIGATION

1.3 We have studied the relevant papers and records of HAD. On 5 February 2016, we sent a draft investigation report to HAD for comments. This final report, with HAD’s comments taken into account, was issued on 21 March 2016.

2

MANAGEMENT OF THE BOOKING AND USE OF COMMUNITY HALLS / CENTRES

2.1 In 1985, HAD took over from the Social Welfare Department the responsibility of managing community halls/centres with a view to promoting use of the Facilities by district organisations for holding community-building activities.

2.2 Typically, the Facilities in a community hall/centre comprise a multi-purpose hall, a conference room, a meeting room and dressing rooms. They are open for booking by district organisations for community activities, including recreational and cultural activities, activities related to building management, meetings, carnivals and talks. Compared with a community hall, a community centre has premises that are leased out to non-government organisations (“NGOs”) for providing social welfare services to residents in the district.

2.3 At present, HAD manages 64 community halls and 39 community centres. With the exception of a few districts which do not have a community centre, most districts have both community halls and community centres.

INVOLVEMENT OF DISTRICT COUNCILS

2.4 With the strengthening of their role in district administration, District Councils (“DC”) have since 2008 taken part in the management of community halls/centres, through the District Facilities Management Committees (“DFMCs”) under the respective DCs. HAD’s District Offices (“DOs”) and the relevant DFMCs, with special reference to district needs, have worked out different sets of application procedures for booking the Facilities, the scheduled time slots available for booking, and the rules and requirements for applicants, etc. DOs manage the booking of the Facilities in accordance with the rules and requirements as well as the application procedures thus laid down.

REVIEW BY HAD WORKING GROUP

2.5 In view of the lack of uniformity of the application procedures and the rules and requirements adopted by DOs, a working group led by a Deputy Director of HAD (“the Working Group”) was established in 2011 to review the major operations regarding the management of community halls/centres, including the booking procedures, exemption of charges and a penalty system for breach of the terms and conditions of use of the Facilities. The Working Group made recommendations to put in place some major application rules and requirements, as well as good practices, for adoption by all districts.

2.6 The Working Group’s recommendations were then considered by the DFMCs of all districts and began to be implemented in 2012. On the Working Group’s recommendations, all districts adopted a more or less common set of standards in some important areas of the booking system for the Facilities. DOs then developed their own booking systems, taking into consideration the needs of district organisations and the views of the DFMCs of their respective districts. Hence, the booking systems for individual districts may differ in such aspects as the number of hours making up a session for booking, the priority given to different types of organisations, the maximum sessions an organisation is entitled to book within a specified period, and whether or not applications made by individuals (as opposed to organisations) are accepted.

THE BOOKING SYSTEM – SOME GUIDING PRINCIPLES

2.7 The Working Group has drawn up some guiding principles for some important areas of the booking system:

- (1) Eligibility for Booking and Exemption of Charges
 - (a) In principle, applications from commercial organisations are not accepted. However, DOs and DFMCs have discretion in approving such applications for organising activities for public interests and of concern to the district community (for example, public consultation meetings and briefings).
 - (b) Non-commercial organisations planning to hold an activity that is meaningful and contributive to community-building may submit applications even if the activity attracts a profit. Rental will be charged.
 - (c) Booking applications from individuals may be accepted if the activity to be organised is beneficial to the district concerned, provided that such applications are given a lower priority than applications from district organisations during balloting.
 - (d) Organisations like subvented welfare agencies, charitable institutions and non-profit making organisations can apply for exemption of charges for holding non-profit making activities in the Facilities. A full list of such organisations is at **Appendix I**.
- (2) Allocation of Booking Sessions
 - (a) Allocation is by ballot whenever there is more than one application received for a session.
 - (b) Different districts may accord different booking priorities to different types of organisations.

- (c) Different districts may determine according to district needs the duration of each booking session, the maximum number of sessions an organisation is allowed to book during a specified period (e.g. on a quarterly basis), and also the duration of block-booking an organisation is allowed to book (e.g. the same time slot every Tuesday).

(3) The Penalty System

- (a) A Penalty System has been established in all districts for breach of the terms and conditions of use of the Facilities. Any case of contravention would result in the award of demerit points to the organisation/individual concerned: 3 demerit points for a minor breach, 5 demerit points for a serious breach and 10 demerit points for a very serious breach. Details are at **Appendix II**.
- (b) An organisation/individual that has been awarded cumulatively 10 demerit points within a 12-month period will be prohibited from booking any of the Facilities in the district concerned in the next two quarters.
- (c) An organisation/individual that has been awarded demerit points will be issued a warning letter stating details of the contravention, the demerit points and the validity period. The Penalty System is run on a computer in each district.

2.8 Based on the guiding principles drawn up by the Working Group, HAD has revised the sample Guidelines and Conditions on the Use of Facilities for districts to review and, in consultation with their DFMCs, to revise their own district guidelines having regard to their district needs.

3

OUR OBSERVATIONS

BOOKING

3.1 Having examined HAD’s management of the booking and use of the Facilities, we note some aspects particularly worthy of attention.

Applications from Individuals

3.2 Most DOs do not accept booking applications from individuals. HAD has explained that this is because the Facilities are meant for use by district organisations holding activities for the districts (**para. 2.1**). Only two DOs accept booking applications from individuals, and two other DOs would consider such applications on their merits on a case-by-case basis.

3.3 Those exceptions are acceptable under HAD’s relevant guiding principle which has laid down certain prerequisites for applications from individuals (**para. 2.7(1)(c)**). We consider it reasonable that in districts where certain Facilities are under-utilised, applications from individuals should be accepted to promote better usage of the Facilities.

Scheme on the Lease of Community Halls and Centres with Management Responsibilities to Non-Government Organisations

3.4 In 1991, HAD launched a Scheme on the Lease of Community Halls and Centres with Management Responsibilities to Non-Government Organisations (“the Scheme”), under which part of the management of community halls/centres is delegated to NGOs. The purpose of the Scheme is

to promote the usage of community halls/centres and to encourage NGOs to organise different kinds of activities. Among the 11 NGOs which have participated in the Scheme, six were given priority in booking the Facilities in their districts for specified time slots.

3.5 In 2011-12, the Working Group reviewed the Scheme and concluded that given the heavy demand for the Facilities and that the overall utilization rates of the multi-purpose halls had been on a steady increase, DOs should consider freezing the Scheme and ceasing to accord NGOs priority of booking. In 2013, two DOs responded positively to the Working Group's recommendation. However, there was one other DO which, on the advice of the DFMC, continued to give the privilege of priority booking to two NGOs so that the two NGOs could continue their efforts in promoting culture and sports in the district in the absence of other suitable venues.

EXEMPTION OF CHARGES

3.6 Certain designated organisations ("designated organisations") are granted exemption of charges for use of the Facilities (**para. 2.7(1)(d)**), subject to the following conditions:

- (1) They are required to submit a statement of account on the activity organized, within one month from the completion of the activity.
- (2) Failure to submit a statement of account within that time-frame will attract 5 demerit points.
- (3) If the activity attracts an admission fee, the statement of account should list all items of income and expenditure. If a profit has been made, the organisation will be required to pay back the charges for use of the Facilities.
- (4) The receipts on income and expenditure for the activity should be kept for 2 years for spot-checking by HAD. However, non-compliance will not attract any demerit points. The non-complying organisation may or may not be required to pay back the charges for use of the Facilities.

PENALTY SYSTEM

3.7 Under the Penalty System, an organisation/individual that has been awarded cumulatively 10 demerit points within a 12-month period will be prohibited from booking the Facilities in the district concerned in the next two quarters (**para. 2.7(3)(b)**). To prevent the non-complying organisation/individual from evading the penalty by booking the Facilities in the name of a co-organiser/sponsoring body of an activity, DO(Sha Tin) has stated in its booking guidelines that such a practice is prohibited. However, this prohibition has not been clearly stated in the guidelines of other districts. In the course of our investigation, HAD confirmed that organisations which are debarred from booking the Facilities would also be prohibited from using the Facilities as co-organisers/sponsoring bodies during the suspension period. HAD has agreed to spell out the prohibition in the sample guidelines in its overall review of the penalty system.

3.8 More importantly, the current demerit points system is run on a district basis only (**para. 2.7(3)(c)**). An organisation/individual that has been prohibited from booking the Facilities in a district is actually allowed to apply for the use of the Facilities in another district during the 6-month prohibition period, which to some extent defeats HAD's intention to penalise organisations/individuals for breach of the relevant terms and conditions for use of the Facilities. In response to our query, HAD stated that different DOs have different terms and conditions for use of the Facilities and hence the terms and conditions would have to be standardised before the demerit points system can be operated on a cross-district basis.

SUPERVISION

3.9 As regards supervision over the use of the Facilities, the on-site staff of DOs are required to carry out regular inspections and fill in a report for every activity. This is to record the activity conducted and to verify that the Facility has not been used to hold an activity different from what was stated in the booking application form, and that no irregularity has been detected. The organisation/individual concerned will be awarded demerit points when acts of

non-compliance are detected through this checking system. Moreover, supervisory staff of DOs are tasked to conduct surprise checks on the activities held. We have asked for the supervisory inspection records of some DOs. When submitting such records to us, HAD admitted that some DOs had not kept proper inspection records after conducting surprise inspections.

4

COMMENTS AND RECOMMENDATIONS

GENERAL

4.1 We note that the Working Group has drawn up a set of guiding principles for managing the booking and use of the Facilities for DOs' reference in working out their own guidelines in consultation with their respective DFMCs and having regard to their district needs (**paras. 2.4-2.6**). We understand that such a “decentralised” approach is in line with the Government’s policy of district involvement. However, we consider that HAD should tighten up certain pivotal principles in its control mechanism with a view to making the booking system better administered along the principle of fairness, and the Facilities available for use by more people.

OUR COMMENTS

Applications from Individuals

4.2 Currently, most DOs do not accept booking applications from individuals (**para. 3.2**). It may be true that, compared with individuals, district organisations tend to have more synergy and their activities often enjoy higher participation, and hence more people would be benefited. However, we find it a better use of resources, especially in districts where the Facilities are under-booked, for the Facilities to be made available for booking by

individuals as well, so long as individuals' booking applications are given a lower priority than those from organisations during balloting and the activities to be organised are beneficial to the community (**para. 3.3**). Such conditions are in fact already stipulated in the guiding principles (**para. 2.7(1)(c)**).

The Scheme

4.3 According to the findings of the review conducted by the Working Group in 2011-12, the objective of the Scheme had already been achieved, and it no longer seems justified to let certain NGOs have priority of booking under the Scheme. The one and only DO's continuation of giving two NGOs such booking privilege (**para. 3.5**) may, therefore, be subject to challenge. To avoid accusations of favoritism, HAD should consider discontinuing that practice altogether. Alternatively, if the Department is convinced that giving booking privilege to meritorious NGOs is in the interests of development of culture and/or sports in their districts, it may consider devising a system with clear and equitable criteria applicable to all districts for rationalising the practice.

Exemption of Charges

4.4 We note that those designated organisations given the privilege of exemption of charges for the Facilities have to satisfy:

Requirement (1) submit a statement of account on the activity organised within one month from the completion of the activity (**para. 3.6(1)**); and

Requirement (2) keep the relevant receipts on income and expenditure in support of the statement of account for two years for HAD's spot checks (**para. 3.6(4)**).

Both requirements are, of course, crucial for ensuring that the exemption of charges is granted to genuine non-profit making activities only. However, in practice, while non-compliance with Requirement (1) attracts 5 demerit points, HAD does not award any demerit points for non-compliance with Requirement (2). More worryingly, the non-complying organisation may not be asked to

pay back the charges for use of the Facilities. These irregularities should be rectified.

The Penalty System

4.5 As stated in paragraph 3.8 above, there appears to be a loophole in the current district-based Penalty System: organisations/individuals can evade the penalty by switching to booking the Facilities of another district. This loophole can be plugged by setting up a central database for the records of demerit points in respect of all DOs so that any penalty meted out to an organisation/individual would cover the booking of the Facilities of all districts. On top, the relevant terms and conditions of use of the Facilities of different DOs may require some standardisation.

Supervision

4.6 Supervisory staff of DOs are tasked to conduct unannounced supervisory checks on the use of Facilities under their charge and to record inspection findings. When reviewing the supervisory inspection records, we noted that some DOs had not kept proper records after conducting unannounced inspections (**para. 3.9**). As supervisory inspection records are an important monitoring tool for ensuring that inspections have been made and any irregularities observed have been duly attended to, HAD should have strictly required DOs to keep such records.

RECOMMENDATIONS

4.7 Based on the analysis above, The Ombudsman urges HAD to:

- (1) consider opening up the booking of the Facilities of all DOs to individuals (**para. 4.2**);
- (2) consider discontinuing, or rationalising, the practice of giving booking privilege selectively to NGOs (**para. 4.3**);
- (3) award demerit points under the Penalty System to designated organisations for failure to keep receipts on

income and expenditure for two years, and require the non-complying organisations to pay back the charges for use of the Facilities (**para. 4.4**);

- (4) explore the feasibility of operating the demerit points system on a cross-district basis with the introduction of a central database (**para. 4.5**); and
- (5) instruct DOs to tighten up their supervision over the use of the Facilities, in particular by keeping proper records on all supervisory inspections conducted (**para. 4.6**).

FINAL REMARKS

4.8 The Ombudsman thanks HAD for its cooperation in this investigation.

Office of The Ombudsman

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Appendix I
(para 2.7(1)(d))

Charges are waived for the following designated organisations using the facilities of HAD's community halls/centres for non-profit making activities:

- (1) Subvented welfare agencies
- (2) Subvented educational institutions, subvented schools and non-profit making schools
- (3) Offices of Legislative Councillors and District Councillors
- (4) Charitable institutions or trust of a public character which are exempted from tax under section 88 of the Inland Revenue Ordinance (Cap. 112)
- (5) Non-profit making organisations which are registered under the Societies Ordinance (Cap. 151); or incorporated under the Companies Ordinance (Cap. 622); and their Constitutions or Memoranda of Association specifically provide that members do not take any share of the profits or any share of the assets upon dissolution
- (6) Local committees/organisations recognised by Government, such as District Youth Programme Committees, District Fight Crime Committees, Mutual Aid Committees, Rural Committees, Kaifong Welfare Associations, Owners' Corporations, Owners' Committees, etc

The Penalty System

| Item | Breach of Terms and Conditions of Use of Facilities | Seriousness | Demerit Points |
|------|--|--------------|---|
| 1. | Number of participants below the minimum requirement. | Minor | 3 |
| 2. | Being late for 15 minutes or more. | | |
| 3. | Minor breach on the use of the Facility such as sprinkling of powder on the floor, failure to clean and restore the venue, etc. | | |
| 4. | Minor misconduct, such as causing nuisance, hanging banner, putting up poster or slogans, eating at the venue without prior approval of District Office. | | |
| 5. | Cancellation of allocated timeslot with less than 7/14* working days' advance notice before the date of the activity. | | |
| 6. | Failure to submit an application for approval for alteration of the nature of activity 7/14* working days or more before the date of the activity. | | |
| 7. | Failure to produce the approval letter for use of the Facility. | | |
| 8. | Failure to vacate the venue on time. | | |
| 9. | Number of participants exceeding the maximum capacity of the venue. | Serious | 5 |
| 10. | Failure to provide a post-activity statement of accounts within one month of completion of a fee-charging activity which has been exempted from charges. | | |
| 11. | Failure to turn up. | | |
| 12. | Alteration of the nature of activity without prior approval of District Office. | | |
| 13. | Permanent damage of the Facility, such as PA system, hardware that needs replacement. The organisation/individual is also subject to payment for the replacement of equipment. | Very Serious | 10 (or approval for use of the Facility revoked immediately if applicable) |
| 14. | Serious misconduct, breach, such as smoking, cooking and playing fireworks. | | |
| 15. | Transfer of the allocated timeslot to another organisation/individual. | | |
| 16. | Holding of fee-charging activities against the original claim of non-fee charging. | | |

*District Officers have the discretion to adopt 7 or 14 working days, taking account of the existing practice of the district.