

Home Affairs Bureau's arrangements for convening the NGO Forum on Community Development

Investigation Report

On 27 October 2020, the complainant lodged a complaint with us against the Home Affairs Bureau ("HAB"). On 22 December, he provided supplementary information.

The Complaint

2. The complainant claimed that HAB's Policy Statement on Community Development (the "Policy Statement") stipulated that the NGO Forum on Community Development (the "Forum") would be convened on a quarterly basis. As a platform for representatives of the social service sector (the "Sector") and the Bureau to discuss issues relating to community development, the Forum facilitates regular communication and consultations on matters relating to the overall planning and management of resources, development and direction of new services, rationalisation of existing services, community concerns and service needs. However, only three Forums were held over the past five years. The complainant considered HAB to have failed to adhere to the Policy Statement to convene the Forum on a quarterly basis and honour its promise to the Sector.

3. While HAB contended that it had been convening the Forum on a need basis, it had never disclosed the specific criteria for doing so, sought views from the Forum members on the "need" or invited them to discuss it. The complainant argued that HAB's decision to convene the Forum on a need basis was only unilateral. The complainant and the others in the Sector had never agreed.

4. Furthermore, HAB terminated the Neighbourhood Level Community Development Projects (the "NLCDPs") without first convening the Forum and called tenders again for the Neighbourhood Mutual Help Programme (the "NMHP"). The latter had new immigrants and ethnic minorities as the main service targets (the "target groups") and, therefore, contradicted the views of the Sector. The NMHP had also stipulated a 7:3 service recipient ratio ("7:3 ratio"), meaning that only a maximum of 30% of all service recipients should be people outside the target groups (the "non-target groups"). However, HAB decided not to hold the Forum because the non-target groups had never made up more than 30% of all service recipients. Such reversion of

causality was both misleading and confusing. The Sector had actually repeatedly objected to the 7:3 ratio in the past and demanded a revision. However, the opportunity never arose and the Sector simply did not have the platform to raise the issue/suggestion because HAB had not followed the Policy Statement to convene the Forum.

5. In sum, the complainant was dissatisfied that HAB had failed to convene the Forum on a quarterly basis as specified in the Policy Statement.

Our Findings

HAB's Response

On policy and services relating to community development

6. HAB indicated that community development services seek to mobilise community resources and encourage people to interact with one another through participation in various activities and networking groups. The services also aim at promoting self-help and mutual help in solving community problems and building up social support networks. The Policy Statement, drawn up in 2005, sets out the Government's policy on community development and the general direction of community development services.

7. While HAB is responsible for overseeing the policy on community development, the Social Welfare Department ("SWD") and the Home Affairs Department ("HAD") are responsible for day-to-day management of the resource provisions and performance of existing community development services. Existing community services overseen by SWD include 13 Community Centres, 17 NLCDPs and a Care and Support Networking Team ("CSNT"). Since 2007-08, HAD has also been administering community development projects under the NMHP.

On the Forum

8. HAB said that the Government treasures communication with different stakeholders by exchanging views on community development services, and would keep in contact with various NGOs via different channels, including the Forum, informal meetings, small group sessions and written correspondence, etc.

9. Paragraph 7.2 of the Policy Statement provides that the Forum is a platform for discussing issues relating to community development among service operators, SWD, HAB and related concern groups/interested individuals. HAB pointed out that albeit the Forum being neither a policy-making nor a consultative statutory body, the Bureau had been making use of this platform to gather views on related issues from relevant NGOs. When the Forum was held for the first time in 2004¹, HAB already pointed out that it was not a consultative body. Relevant parties would be invited to the Forum on a need basis and sit-ins were welcome. The Forum *per se* would in no way restrain or affect NGOs' expression of views to the Government through other means.

10. As a matter of fact, some NGOs walked out of the 18th Forum held in 2016 due to dissatisfaction over the Government's refusal to accede to their request to adjust the target groups of the NMHP. The meeting was thus discontinued. Later on, HAB had written to the Hong Kong Council of Social Service, members of the Forum and other relevant NGOs to explain in detail the policy on community development, the related services and the Government's stance on the matter, and lay out the schedule of open tenders for a new round of NMHP. HAB also said that it would continue to convene the Forum on a need basis. Evidently, the Forum was not the only or the most effective channel of communication.

11. On the day-to-day policy implementation and management of community development services, the Government has been in close touch with the stakeholders, NGOs and society at large in order to understand and address people's needs and ensure that Government work keeps up with the times. HAB and SWD are actually maintaining regular communication with those NGOs which run community development services. With such close communication being part of the Government's daily work, various policy bureaux/departments (including HAB and HAD) would receive from time to time written submissions of views or requests for interviews with Government representatives from NGOs or other stakeholders. The Government has formulated clear internal guidelines and set up a mechanism in respect of replying to letters from the public. Clearly, the routes of communication between the Government, the stakeholders and the public have never been severed. All NGOs can make use of the means of communication they see fit to express their views or make interview requests.

¹ HAB established the Forum in December 2004 and drew up the Policy statement in June 2005 upon consensus reached after multiple rounds of discussion.

12. In the past, members of the Legislative Council (“LegCo”) and NGOs had expressed to HAB their concern over the dates of convening the Forum. While paragraph 7.3 of the Policy Statement provides that the Forum would meet on a quarterly basis, the Government has all along been convening the Forum on a need basis, a principle elucidated to NGOs by HAB on different occasions. Although some NGOs had raised objection to this “need basis” principle in convening the Forum, HAB had in the past ten years or so responded and explained that the Forum would continue to be convened as and when necessary. Actually, it would be more effective and direct for HAB to choose a means of communication based on actual needs, as opposed to relying solely on the Forum as the communication platform with NGOs.

13. Between 2015 and 2020, HAB had held three Forum, the last of which was convened in late September 2018. The Bureau would continue to convene the Forum on a need basis.

On NLCDPs and NMHP

14. HAB pointed out that NLCDPs were introduced in the 1970s to serve the deprived and transient communities where the provision of welfare services and community facilities was inadequate or non-existent and hence needed to be redressed at the early stage of community development. As such, the target areas included temporary housing areas, squatter areas, boat squatters, cottage areas, etc. Hong Kong had experienced significant overall improvement in public housing planning, social welfare services and community building facilities since the 1970s. More resources had been deployed and the coverage, service targets and types of services also notably expanded. Furthermore, the original transient communities served by NLCDPs had largely been replaced by public housing estates, while social welfare services had seen basic improvement. The Government, therefore, decided against introducing new NLCDPs.

15. In addition, the context in which the need for NLCDPs was envisaged had changed markedly, as observed in the Director of Audit’s Report No. 29 issued in October 1997. As a corollary, the Government reviewed the service needs. Between 1997 and 2001, NLCDPs with serving population falling below 3,000 were either terminated or downsized. With the development of housing and transport networks and the changing formation, structures and needs of communities, formulation and implementation of public policies as well as the means of communication with stakeholders have to evolve as well. Between 2004 and 2010 a number of NLCDPs

were terminated. HAB stressed that termination or downsizing of NLCDPs did not mean scaled-down services. The Government had been sparing no efforts in allocating resources to enhance social welfare, which had seen continual improvement over the years. The 2021-2022 Budget even marked the first time since the establishment of the HKSAR that the recurrent public expenditure for social welfare became the policy area being allocated the most funds by the Government. The relevant budget stood at \$105.69 billion, taking up 20.4% of the overall recurrent public expenditure.

16. According to the Policy Statement, upon termination of NLCDPs, resources released would be redeployed to finance other community projects having regard to community needs. Such projects (including the NMHP administered by HAD) are under HAB's policy programme on "District and Community Relations", with community development as the policy objective. No NLCDPs had been terminated since 2011, hence no resources needed be redeployed. Existing NLCDPs, community centres and CSNTs continue to operate in accordance with the subvention and service agreements signed between the service operators and SWD, which supervises the operators and is engaged in day-to-day communication with them. With regard to the above services, the NGOs involved and the Government have been communicating effectively under the current mechanism. For the time being, HAB saw no need to discuss matters relating to these services or collect views from other Forum members by way of a Forum.

17. The NMHP, implemented by HAD since 2007/08 using resources released from three terminated NLCDPs, was under HAB's policy programme on "District and Community Relations" while meeting the policy objectives of community development. Although NMHP projects serve mainly the target groups, operators can simultaneously provide services to target groups and non-target groups. Nevertheless, the latter should not take up more than 30% of all service recipients (i.e. the 7:3 ratio), given that the target groups are HAB's main service targets. The NMHP helps the Bureau to concentrate its already limited resources on the service targets, while the 7:3 ratio allows service operators the flexibility in allocating resources to serve non-target groups not exceeding 30% of all service recipients.

18. In addition to community development services, SWD has been rendering assistance to the general public and support to the disadvantaged with a wide range of social welfare services. HAB held that social welfare services and community development services provided by the Government should be complementary and non-overlapping to ensure optimal use of resources. Such services should also be

diversified and provided in more than one single mode, with the modes of provision determined by the actual circumstances and needs of individual projects. As such, the Government would continue to finance the existing district-based community development services (including 13 Community Centres and 17 NLCDPs), and concentrate the resources under the NMHP on target groups.

19. Information showed that for the seven NMHP projects approved in 2018/19, less than 30% of the service recipients came from non-target groups, reflecting no pressing need to adjust upwards the relevant ratio for the moment. Upon review and consideration, HAB found that the last round of the NMHP, which ended at the end of January 2021, had been implemented smoothly. The 7:3 ratio had been effective and the inclusion of new arrivals and ethnic minorities as the target group appropriate, conducive to achieving the policy objectives of community development. The Government had decided to adopt the same *modus operandi* for the new round of the NMHP.

HAB's overall comments

20. HAB pointed out that it had found collection of views unnecessary before rolling out the new round of the NMHP. It had also examined other relevant factors, e.g. there had been no community development services terminated or new resources awaiting re-deployment. It, therefore, concluded that there was no need to convene the Forum.

21. The Bureau stated that it always treasures communication with different stakeholders and keeps in contact with NGOs via different channels including but not limited to the Forum. Whether the Forum was convened or not would in no way restrain or affect NGOs' expression of views to the Government by other means. NGOs could write to HAB any time to express their views or request an interview should they see a need to do so, and HAB would issue replies having regard to the content of the letters. In fact, the complainant had written to HAB in May 2016 to express his views and the Bureau had subsequently elaborated its community development policy and services, and its stance on related issues, as well as responding in detail to his views. At the 2018 Forum, HAB again explained to the NGOs the arrangements for the new round of the NMHP. So, the complainant should have understood from the Bureau's reply and the 2018 Forum the Government's considerations in resource allocation regarding the NMHP and in determining the target groups.

22. HAB continued to explain that the Policy Statement was a general policy document outlining the overall direction of community development policy. Convening the Forum is an administrative arrangement. That the Forum was convened on a need basis would not result in significant changes in the community development policy. Furthermore, HAB had stated time and again on different occasions over the past ten years or so that the Forum would be held as and when necessary. The NGOs, therefore, should not be unfamiliar with the arrangement. While HAB could understand the complainant's grievances, it did not see adjustments to the administrative arrangement as contradictory to the principle of the policy direction laid down in the Policy Statement. In the light of the above, HAB saw no apparent need to revise the Policy Statement or amend the criteria for convening the Forum.

23. Upon promulgation of the Policy Statement, the Government had been in touch with the Sector. On the 8th and 9th Forum, the Government had invited views from NGOs on reviewing the Policy Statement², but none of them submitted views or indicated a need to conduct a review. Although the Policy Statement provides that the Forum would be convened on a quarterly basis, the practice at that time (i.e. 2010) had already been altered to convene the Forum on a need basis. In view of the absence of discernible changes to the community development policy and NGOs' silence on related matters, the Government decided after internal discussions that amendments to the Policy Statement were unnecessary. Notwithstanding this, HAB would welcome NGOs' views regarding the Policy Statement.

24. Overall, HAB did not agree to the complainant's view that there were no opportunities or platforms for the Sector to voice its opinions.

Our Comments

25. Determining the target groups and ratio between service recipients was HAB's judgement upon assessment of community needs and resource utilisation rather than an administrative matter. As such, this Office would not intervene. The focus of our investigation was HAB's alleged failure to convene the Forum on a quarterly basis as stipulated in the Policy Statement.

26. HAB defended its stance of convening the Forum on a need basis by citing the following factors: the Forum was neither a policy-making nor a consultative statutory

² Paragraph 8.1 of the Policy Statement stipulates that the Policy Statement will be reviewed once every 5 years or on a need basis in consultation with members of the NGO Forum on Community Development.

body; the Government had all along been convening the Forum on a need rather than quarterly basis; it had explained to the Sector time and again over the past ten years or so about this arrangement and those in the Sector were not unfamiliar with it; the arrangement had not led to significant changes in the community development policy; HAB saw no need for the time being to discuss matters relating to or collect views from Forum members in respect of existing community development services by way of a Forum; the NGOs and the Government had been in close contact with each other via other channels; and, the Forum was not the only or the most effective channel of communication (see **paras. 9, 10, 11, 12, 16, 20 and 21**). In sum, HAB did not consider it inappropriate to convene the Forum on a need basis.

27. HAB also considered amendments to the Policy Statement unnecessary because, despite the Government's invitation of views from NGOs on reviewing the Policy Statement at the two Forums held in 2010, the NGOs had kept silent and did not indicate a need to conduct a review. Besides, the practice at that time had been altered to convene the Forum on a need basis and there were no discernible changes to the community development policy (see **para. 23**). At the present stage, the NGOs should not be unfamiliar with the Bureau's arrangement to convene the Forum on a need basis and the current administrative arrangement for convening the Forum would not contradict the principle of the policy direction laid down in the Policy Statement. In light of the above, HAB saw no apparent need to revise the Policy Statement in respect of the criteria for convening the Forum (see **para. 22**).

28. This Office considered HAB's explanation and arguments above inadequate and weak and, therefore, could not agree to them.

29. First of all, with respect to communication with the Sector, paragraph 7.2 of the Policy Statement stipulates that the Forum is a platform for discussing issues relating to community development among service operators, SWD, HAB and concern groups/interested individuals. It facilitates regular communication and consultations on matters relating to the overall planning and management of resources, development and direction of new services, rationalisation of existing services, community concerns and service needs. Obviously, the Forum is where the Sector and the relevant Government departments meet to discuss issues across a broad spectrum, rather than matters of a certain aspect or individual services. Being a platform for the parties to draw on collective wisdom, the Forum is obviously different from other modes of communication by which individual groups/persons express their opinions to individual Government departments on the day-to-day operations of certain services.

30. Secondly, the NGOs had been asking HAB repeatedly for more than ten years to convene the Forum on a quarterly basis as stipulated in the Policy Statement, despite there being other channels of communication with the Government. This reflected that HAB's stance that the other communication channels should suffice was only wishful thinking, that the Forum was to be convened on a need basis probably not a shared view. HAB had used some NGOs' walk-out from the 18th Forum held in 2016 to illustrate that the Forum was not the most effective channel of communication (see **para. 10**). This Office was of the view that the Forum had been convened a number of times since its inception. HAB was just over-generalising when it elaborated, and nullified, the Forum's value and function based on one single incident. It had also failed to make good use of the Forum as a framework for communication and exchange of views between the Government and the NGOs. Actually, after the 2016 incident, the Forum still continued and HAB had never warned the Sector that the walk-out incident would impact on the frequency of the Forum.

31. Regarding the objective facts of the case, according to the information provided by HAB and its document No. CB(2)1997/04-05(01) submitted to the LegCo's Panel on Home Affairs, the Policy Statement was only drawn up upon consensus reached after multiple rounds of discussions at the Forum spanning several months. Its contents, including the administrative arrangements, were finalised after discussions between the Sector and the Government and should, therefore, be respected by all stakeholders. Since paragraph 7.3 of the Policy Statement clearly provides that the Forum would be convened on a quarterly basis, it follows that both parties must have agreed that it would be an appropriate arrangement. Once this consensus was reached, the Government should realise that the Forum was neither a policy-making nor a consultative statutory body. Citing this as an argument for not holding the Forum on a quarterly basis, HAB had actually unilaterally nullified the consensus it and the stakeholders had reached. We found this rather puzzling.

32. HAB claimed that the Policy Statement only outlined the overall direction of the community development policy. Convening the Forum is an administrative arrangement. That the Forum was convened on a need basis would not lead to significant changes in the community development policy. While we did not disagree that convening the Forum is an administrative arrangement, we consider it reasonable for the Sector to expect the Government's adherence to the Policy Statement in making related arrangements (including administrative arrangements stated therein). In

considering the administrative arrangements, HAB should not have ignored the promise it had made in the Policy Statement and the Sector's legitimate expectation.

33. Finally, HAB indicated that amendments to the Policy Statement were unnecessary. Our view was that the NGOs' silence on reviewing the Policy Statement or on the need to conduct a review should only be construed as their indication that the contents of the Policy Statement needed no amendments, rather than their consent to any alterations to the arrangements for convening the Forum by the Government. Even though the Policy Statement was just an outline of the policy for and the overall direction of community development services, it was a document promulgated by HAB. If it was stated therein that the Forum would be convened on a quarterly basis, then HAB should make arrangements accordingly. If HAB considered that the Forum should be convened on a need basis instead, then it should either amend the Policy Statement or add relevant remarks to it. Nevertheless, HAB on one hand considered it unnecessary to adhere to the Policy Statement to convene the Forum on a quarterly basis, and on the other hand deemed amendments to the document superfluous. This had resulted in significant deviation from the principle stated in the Policy Statement in respect of the actual operation of the Forum, and a discrepancy between the two. While the Sector might not be unfamiliar with the arrangement, a legitimate public expectation was frustrated.

Conclusion

34. In light of the analysis in **paragraphs 25 to 33**, The Ombudsman considered the complaint against HAB **substantiated**.

Recommendations

35. The Ombudsman **recommended** that HAB either revisit the current arrangements for convening the Forum in order to comply with the Policy Statement, or re-examine the contents of the Policy Statement relating to convening the Forum and make appropriate amendments or additional remarks.

HAB's Response to Our Comments and Recommendations

36. HAB accepted in principle our recommendations made in the previous paragraph. It agreed that it should explain to related organisations more lucidly the modes of communication so as to eliminate misunderstanding. It further pointed out

that social circumstances had completely changed since the NLCDPs were first implemented half a century ago. Social welfare services nowadays are more diversified, meticulous and specific. It is high time that the Bureau changed its modes of communication with its NGO partners by adopting more diversified channels of communication having regard to the nature of services or the target groups. The Bureau is now studying the possible impacts of housing planning and developments in demographic distribution in recent years and the near future on the implementation of the policy for "District and Community Relations". It would then determine how the relevant services should be adjusted. Amendments to the elaboration of the relevant policies would be included in the study.

Concluding Remark

37. We were glad to note that HAB had accepted our recommendations, and would follow up with the Bureau on their implementation.

Office of The Ombudsman

April 2021