

立法會
Legislative Council

LC Paper No. CB(2) 2765/01-02
(These minutes have been seen by
the Administration)

Ref : CB2/PL/FE

LegCo Panel on Food Safety and Environmental Hygiene

Minutes of meeting
held on Monday, 24 June 2002 at 8:30 am
in the Chamber of the Legislative Council Building

- Members Present** : Hon Fred LI Wah-ming, JP (Chairman)
Hon Tommy CHEUNG Yu-yan, JP (Deputy Chairman)
Hon James TO Kun-sun
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon Andrew CHENG Kar-foo
Hon Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi
- Members Absent** : Dr Hon David CHU Yu-lin, JP
Hon CHEUNG Man-kwong
Dr Hon YEUNG Sum
Hon CHOY So-yuk
- Public Officers Attending** : Items II to VI
Mrs Stella HUNG
Deputy Secretary for the Environment and Food (A)

Mr David LAU
Principal Assistant Secretary for the Environment and Food (A) 2

Mr W H CHEUK
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Mr K K LEE
Assistant Director (Operations) 2
Food and Environmental Hygiene Department

Item V only

Mrs Ingrid YEUNG
Principal Assistant Secretary for the Environment and Food (A) 1

Dr Y Y HO
Consultant (Community Medicine)
(Risk Assessment and Communication)
Food and Environmental Hygiene Department

Clerk in Attendance : Ms Joanne MAK
Senior Assistant Secretary (2)2

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I. Confirmation of minutes of meetings
(LC Paper Nos. CB(2)2295/01-02, CB(2)2275/01-02 and CB(2)2355/01-02)

The minutes of the special meetings on 1 and 8 February 2002 and the regular meeting on 27 May 2002 were confirmed.

II. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)2296/01-02(01) and (02))

2. Members agreed to discuss the following items at the next regular meeting scheduled for 15 July 2002 at 8:30 am -

- (a) Importation of chilled chickens from the Mainland;
- (b) Follow-up discussion of the Report of the Investigation Team for the 2002 Avian Influenza Incident;
- (c) Report on the enforcement of the fixed penalty system for minor public cleanliness offences; and
- (d) Regulatory control of unlicensed food establishments ("私房菜館").

The Chairman said that as some of these items might involve detailed discussion, members should be prepared that the next meeting would last for three hours.

(Post-meeting note : At the request of the Administration and with the Chairman's concurrence, discussion of item (a) was deferred to a later meeting.)

III. Information paper(s) issued since the last meeting
(LC Paper No. CB(2)2296/01-02(09))

Information paper on "Itinerant Hawker Licence" (Frozen Confectionery)

3. Members noted that the Administration had provided an information paper on other possible alternatives for small traders to sell frozen confections in tourist areas.
4. Mr LEUNG Fu-wah expressed dissatisfaction that ice-cream bikes were classified as Itinerant Hawker Licence (Frozen Confectionery) (IHL(FC)) and the Administration would not issue any new IHL(FC). He suggested that a new type of licence should be provided for ice-cream bikes and the Administration should allow new entrants to the trade. He said that ice-cream bikes offered a convenient source of frozen confections to tourists because there were no retail outlets for the sale of frozen confections at many tourist areas, such as the view compass at Tsing Ma Bridge. He added that the operation of these ice-cream bikes did not pose any environmental hygiene problems or nuisance to the public. He asked the Administration to consider his suggestion.
5. Mr WONG Yung-kan expressed support for Mr LEUNG's suggestion. Mr WONG considered that issuing a new licence for ice-cream bikes could provide employment opportunities in view of the economic downturn.
6. Deputy Director (Environmental Hygiene) (DD(EH)) responded that if the Administration agreed to Mr LEUNG's suggestion, similar arrangements would also have to be considered for the other kinds of IHLs. He pointed out that there were 1,873 small-size retail outlets issued with frozen confections permits, many of them were located in major tourist areas. The Administration was of the view that there was no lack of retail outlets for ice-cream and other frozen confections, and that problems associated with the creation of a new type of licence should also be considered, such as re-provisioning the licensees. DD(EH) said that as explained in paragraph 6 of the Administration's paper, more frozen confection permits could be issued to enable small traders to conduct retail business at suitable places. The annual fee was about \$500 in the urban area and about \$700 in the New Territories.

IV. Obstruction and nuisances caused by on-street promotional stands
(LC Paper Nos. CB(2) 2296/01-02(03) and (04))

7. Mr Andrew CHENG said that the issue had been raised at the meeting between Members and Sha Tin District Council members on 29 November 2001, and the latter expressed concern about the obstruction and safety risks posed by the promotional activities conducted at the exits of the Sha Tin KCR Station. Mr CHENG agreed to the factors of consideration as described in paragraph 6 of the Administration's paper in dealing with problems arising from on-street commercial promotional activities. He considered that the Administration should take enforcement against these activities if they posed problems to public safety, for example, if pedestrians were forced to walk outside of pavements due to obstructions caused by the promotional activities.

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He said that the operators/promoters should be instructed to remove their stands if these caused obstruction to pedestrians. He asked the Administration to pay attention to certain black spots such as Mongkok, Tsim Sha Shui and entrances/exits of MTR/KCR stations.

8. DD(EH) responded that the Administration had stepped up enforcement at the entrances/exits of MTR/KCR stations and busy districts. He said that in 2001, ten prosecutions had been instituted against obstruction caused by on-street commercial promotional stands, most of which took place in busy areas such as exits of the Mongkok MTR station. He explained that if the promotional activities caused serious obstruction and posed problems to public safety, prosecution would be taken against the operators/promoters without prior warning.

9. Mr Andrew CHENG considered that most commercial promotional activities conducted at pedestrian bridges did not pose serious problems of obstruction, and it would be more appropriate to give verbal warning to the operators/promoters concerned before taking further action.

10. Mr Michael MAK was of the view that on-street commercial promotional activities definitely caused nuisance to pedestrians. He said that he had received many complaints on the promotional activities in front of the "F" exit of Causeway Bay MTR station and the "E2" exit of Mongkok MTR station. He requested the Administration to step up enforcement in these areas. He considered that the Administration had not taken sufficient enforcement actions in this respect, and the fine level in the conviction cases was too low to achieve deterrent effect.

11. DD(EH) explained that the Administration's approach in dealing with problems arising from on-street commercial promotional activities was to give verbal warnings first before taking prosecutions. He said that in 2001, FEHD had given a few hundreds of verbal warnings and in the first four months of 2002, a total of six prosecutions had been instituted. He further said that among the ten prosecutions instituted in 2001, three took place at the "F" exit of Causeway Bay MTR station, and five at the "E2" exit of Mongkok MTR station and Sai Yeung Choi Street.

12. Mr Michael MAK suggested that the Administration should step up communication with the companies concerned on the potential risks posed to pedestrians by their on-street promotional activities. The Administration noted the suggestion.

13. Referring to paragraph 5 of the Administration's paper, Mr Michael MAK queried why the enrolment of customers at on-street promotional stands set up by, for example, fitness centres, was not regarded as a form of "actual sale of goods or merchandise". DD(EH) explained that the legal advice obtained was that the transaction process was not regarded as completed at the stage of completing an enrolment form by a customer, as there was no monetary transaction. Thus, the enforcement staff could not take action under Section 83B(1) of the Public Health and Municipal Services Ordinance (Cap. 132). Assistant Director (Operations) 2 (AD(Op)2) added that if the promotional activities involved actual sale of goods, for

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example, where there was cash transaction during on-street sale of SIM Cards or where the operator was found selling goods to a customer, these would fall within the definition of "hawking".

14. Mr Michael MAK further asked whether the definition of "hawking" applied to on-street traders of used electrical appliance. AD(Op)2 explained that as the traders were not selling but buying goods from people, they were not regarded as hawkers.

15. Mr LEUNG Fu-wah asked whether persons who sold used electrical appliance to these dealers would be regarded as hawkers. AD(Op)2 replied that ordinary citizens selling only one or two pieces of used electrical appliance to on-street traders would not be regarded as hawkers. He said that the enforcement officers would have regard to the circumstantial evidence in deciding whether to take actions. Mr LEUNG Fu-wah considered that the legislation should be improved if ordinary citizens, but not the traders, would be caught as "hawkers" in these cases. The Chairman suggested that the Administration should monitor the situation and assess the extent of obstruction caused by these on-street trading activities. If necessary, the Administration should consider tightening the control in this respect.

16. Mr LEUNG Fu-wah said that he generally supported the Administration's approach in dealing with on-street commercial promotional activities as set out in the paper. He asked about the Administration's approach in dealing with promotional activities for the sale of flats. DD(EH) responded that as such promotional activities in general only took place in the vicinity of the housing project site concerned, the nuisances caused to the public should not be serious. He said that depending on the extent of nuisances caused, the enforcement officers might ask the promoters to restrict their promotional activities. If necessary, the Administration would also liaise directly with the companies concerned.

Adm

17. In response to Mr LEUNG Fu-wah's request, DD(EH) undertook to see if the Department could provide the number of complaints received from shop operators about obstruction caused to their shops by promotional activities conducted at their shop front.

18. Mr WONG Yung-kan considered that on-street commercial promotional activities, including those of used electrical appliance traders, were on the increase. In particular, he expressed concern about the environmental hygiene problems caused by illegal extension of cooked food shops. DD(EH) responded that since the implementation of the fixed penalty system for minor public cleanliness offences, the situation had improved as many of these food shops had provided small containers for their customers to put the bamboo sticks after use.

19. Referring to paragraph 6(c) of the Administration's paper, Mr Tommy CHEUNG considered that if any promotional activities affected the business of other shops by obstructing their shop fronts, the Administration should not "adopt a flexible approach" and took no action against such activities on the grounds that they "provided a source of employment". Mr CHEUNG queried the standard of enforcement as only ten prosecutions had been instituted in 2001 against on-street

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commercial promotional activities, while some 11 000 prosecutions were taken against illegal extensions of shops and food premises in the same year.

20. DD(EH) responded that the Administration had adopted the same approach in dealing with on-street commercial promotional activities and illegal shop extensions. Generally speaking, the operators causing the obstruction would be required to make improvements or take remedial actions. If there was no improvement, the operators concerned would be given warning, and prosecution would be taken if the problem was serious and the warning was ignored.

21. Mr Tommy CHEUNG asked about the approach to deal with obstruction caused by promoters distributing leaflets to pedestrians at the fronts of other shops. DD(EH) replied that immediate actions would be taken against promotional activities which caused obstruction to shops or entrances/exits of shopping malls, buildings and KCR/MTR stations, etc. The shop operators could seek the assistance of FEHD frontline staff or the police to deal with such obstructions.

22. In view of the limited manpower of FEHD, Mr WONG Sing-chi asked whether the department would adopt a targeted approach and identify certain busy districts for enforcement actions. DD(EH) explained that the adoption of a flexible enforcement strategy was not because of manpower constraint of FEHD, but to reflect the objectives of enforcement as described in paragraph 6 of the Administration's paper. DD(EH) further said that enforcement was targetted at those promotional activities which caused serious obstruction problems and posed a risk to public safety. He said that up to 31 May 2000, FEHD and the Police had undertaken three joint enforcement operations against these activities.

23. In conclusion, the Chairman said that members in general supported the Administration's approach in dealing with problems arising from on-street commercial promotional activities. He further said that members considered that the Administration should step up enforcement actions against those activities which caused serious obstruction where pedestrians were forced to walk outside of pavements. He requested the Administration to take note of some members' concern that the number of prosecutions instituted against these activities was relatively small.

V. The new Food Research Laboratory of the Food and Environmental Hygiene Department
(LC Paper No. CB(2)2296/01-02(05))

24. At the Chairman's invitation, Consultant (Community Medicine) (C(CM)) of FEHD briefed members on the functions and scope of service of the new Food Research Laboratory (FRL) of FEHD. He said that the Panel was cordially invited to visit the FRL sometime in July 2002.

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25. Mr LEUNG Fu-wah requested the Administration to provide information on the staff establishment of the FRL and the three other laboratories providing laboratory services for FEHD, as well as their division of work. He was concerned that there might be a duplication of functions resulting in waste of resources and lack of coordination.

26. C(CM) said that the FRL had an establishment of a senior chemist, three chemists and about ten laboratory technicians. The senior chemist was seconded from the Government Laboratory. Principal Assistant Secretary for the Environment and Food (A) 1 (PAS(EF)(A)1) said that there was no duplication of functions between the FRL and the other three laboratories. She explained that the service provided by the Government Laboratory for FEHD was to conduct tests on food samples for law enforcement purpose. The Man Kam To Food Laboratory was mainly devoted for testing of samples collected from fresh foodstuffs and live poultry/livestock imports at the control point. The Institute of Pathology of the Department of Health (DH) performed microbiological examinations of food for FEHD. She said that there was clear division of work amongst these laboratories.

27. Mr LEUNG Fu-wah asked whether it was possible to merge these laboratories and place them under the purview of one policy bureau for better utilisation of resources. PAS(EF)(A)1 responded that the Government Laboratory conducted laboratory tests for all government departments and not only for FEHD, while the Institute of Pathology was mainly to support the work of DH. At the request of Mr LEUNG, PAS(EF)(A)1 agreed to provide information on the staff establishment of each of these laboratories.

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28. Mr Tommy CHEUNG commented that the Administration's paper did not explain the policy on the scope of tests conducted for food products by the FRL. In this connection, he asked whether the FRL would also conduct the following tests on food samples -

- (a) testing of contaminants, additives and nutrients ;
- (b) testing of presence of mercury in seafood; and
- (c) testing of calories.

29. Mr Tommy CHEUNG requested information on the target number of food samples to be tested by the FRL each year and how the FRL would disseminate information to the public on the findings of its studies. He also enquired about the priorities of work of the FRL, for example, whether the priority was determined on the basis of risk assessment.

30. Mr Michael MAK asked whether the primary concern of the FRL's work was to provide information on food hygiene, nutrient or safety assessment. He also asked whether prepackaged food or fresh food would be accorded higher priority for testing by the FRL.

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31. C(CM) responded that the FRL's functions were different from the other three laboratories which supported the work of FEHD in enforcing the statutory food safety standards. He said that the FRL would conduct studies and researches for the purpose of risk assessment and food standard setting. It would also support studies on dietary exposure to contaminants, additives and nutrients. For example, wonton noodles would be tested for their nutrients, and seafood which had a higher risk of contamination would be tested for contaminants. He explained that different food would be tested for different kinds of substances.

32. In response to the Chairman, C(CM) advised that the Government Laboratory, but not the FRL, was responsible for testing of genetically modified food.

33. Mr WONG Yung-kan welcomed the establishment of the FRL to strengthen food safety control. He suggested that the FRL might conduct studies on nutrients of chilled chickens and frozen chickens. Mr WONG also asked whether the various studies to be considered by the FRL would enable quicker detection of the presence of any banned additives in food products.

34. The Chairman requested the Administration to explain the selection and priority of survey projects to be conducted by the FRL.

35. C(CM) responded that there were several considerations in determining what survey projects needed to be carried out. For example, the Codex Alimentarius Commission in developing international food standards invite its member states to provide information and data to support its work, such as levels of 3-MCPD in soya sauces. Hong Kong could contribute by providing these data. In addition, certain survey projects, such as that on caffeine, were conducted to generate information and data for the public educational programmes of FEHD. At the request of the Chairman, the Administration agreed to provide further information on the survey projects conducted by the FRL and the time frame for these studies.

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36. Members agreed to visit the FRL on 10 July 2002 at 9:30 am. The Clerk would make the necessary arrangements.

Clerk

(Post-meeting note : The Administration had provided the information requested which was issued to members vide LC Paper No. CB(2) 2540/01-02 dated 9 July 2002.)

VI. Review of the Cooked Food Hawker Licence Policy

(LC Paper Nos. CB(2)2296/01-02(06) and (07))

37. The Chairman said that the Complaints Division had received complaints from cooked food stall (CFS) operators at Tai Lin Pai Road Cooked Food Hawker Bazaar that ex-gratia payment (EGP) was not offered to CFS licensees in the New Territories upon surrender of their licences. The Administration had been requested to review whether the policy on CFS hawker licence should be aligned for the urban area and the New Territories.

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38. In response to the Chairman, DD(EH) said that the Administration proposed to align the policy on CFS hawker licence for the urban area and the New Territories, and to implement the alignment policy two months later. It was proposed that both CFS licensees in the urban area and the New Territories could opt for the EGP option within a five-year eligibility period.

39. Mr WONG Yung-kan asked if it was possible to increase the amount of the EGP. DD(EH) explained that the amount was set having regard to the following -

- (a) As 683 CFS licensees in the urban area had already surrendered their licences for the EGP, the Administration considered that the current EGP of \$60,000 was attractive.
- (b) The current level of EGP offered by the Housing Department (HD) for the surrender of the pavilion type cooked food stalls was equivalent to 10 months' rental, while the amount of \$60,000 for the surrender of CFS hawker licence by FEHD was equivalent to 30 months' rental of the stalls concerned.
- (c) The purpose of the EGP was only to provide an incentive for the CFS licensees to surrender their licences. About 66% of the existing CFS licensees were already over 65 years of age and might wish to retire.

DD(EH) said that given the budgetary constraint and that some CFS licences were still in operation, the Administration considered the current level of EGP appropriate.

40. Mr Michael MAK requested the Administration to explain the mechanism for determining the level of EGP. DD(EH) explained that the EGP scheme was introduced by the former Urban Council (UC) in 1983 to encourage the voluntary surrender of on-street CFS hawker licences. It was subsequently extended to cooked food bazaars in 1987 and the amount was increased from \$30,000 to \$60,000 in 1990. DD(EH) said that details regarding the setting of the level of EGP were not available as the relevant records of UC could not be found.

41. Mr Michael MAK asked about the number of CFS licensees in the New Territories who still relied on their CFSs to make a living, and the number of those which were not in active operation. DD(EH) replied that although some of the 59 CFSs in the New Territories were not in active operation, not many of them had completely ceased operation. It was not known at the present stage how many of them would surrender their licences for the EGP under the alignment policy.

42. The Chairman asked what arrangements FEHD would make for a cooked food bazaar if some of the CFSs therein closed after the surrender of licences. DD(EH) responded that one possible option was to merge the cooked food bazaar with another one nearby. He said that another possible option was to encourage the remaining CFSs to take up vacant stalls in the cooked food centres in public markets by giving them concessions. He added that some of these cooked food centres were situated at convenient locations in the urban area.

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43. The Chairman suggested that another possible option was to allow the remaining CFSs to expand and take up the space vacated by those which had closed. DD(EH) explained that such an option was not effective in the use of land resources, as the existing cooked food bazaars were quite large.

44. Mr Tommy CHEUNG said that he was not in favour of the option of moving the remaining CFSs to existing cooked food centres in the FEHD markets as there would be too many CFSs at a centre. He asked whether the Administration knew about the reasons for the CFS licensees not surrendering their licences for the EGP.

45. DD(EH) responded that the CFSs which still remained in operation in the urban area were those situated at convenient locations and had better business. He added that it was possible that a CFS licensees had still not surrendered their licences because there was no time limit for taking the option of EGP under the current policy. As the EGP had not been made available to CFSs in the New Territories before, he envisaged that many of them would surrender their licences when the alignment policy was introduced. He added that the five-year time limit for the offer of EGP would allow sufficient time for the licensees to make the necessary arrangements for the surrender of their licences if they so chose.

46. In response to Mr Tommy CHEUNG, DD(EH) explained that under the proposed policy, the CFS licensees who did not opt to surrender their licences for the EGP could continue their business after expiry of the five-year time limit. They would only have their eligibility for EGP forfeited after the time limit. He added that the proposed time limit was in line with that provided under the surrender of Itinerant Hawker Licences.

47. The Chairman concluded that the Panel supported the proposed alignment policy.

VII. Any other business

(LC Paper Nos. CB(2)2296/01-02(08) and CB(2)2399/01-02(01))

Draft report of the Panel for submission to the Legislative Council on 3 July 2002

48. The Chairman said that on behalf of the Panel, he would make a report to the Council on 3 July 2002 on the work of the Panel in the current session. Members endorsed the draft report.

49. There being no other business, the meeting ended at 10:15 am.