

**For discussion
on 25 February 2004**

LegCo Panel on Food Safety and Environmental Hygiene

**Outcome of Public Consultation on
Proposed New Penalties for Repeat Cleanliness Offenders**

PURPOSE

This paper briefs Members on the results of the public consultation exercise conducted between October and December 2003 on the proposed new penalties for repeat cleanliness offenders and seeks Members' views on the way forward.

BACKGROUND

2. Since the fixed penalty on cleanliness offences was increased from \$600 to \$1,500 in June 2003, enforcement departments issued over 15,000 fixed penalty notices as at end January 2004. There were 143 repeat offenders, of which 125 committed offences twice and 18 committed thrice or more.

3. In its report published in August 2003, Team Clean recommended, as part of the wide-ranging measures to enhance the environmental hygiene in Hong Kong, that the penalties for repeat cleanliness offenders be stiffened by the introduction of a new prosecution scheme as follows –

- (a) a first-time offender of any of the four cleanliness offences (namely littering, spitting, dog-fouling and unauthorized posting of bills and posters) under the fixed penalty regime would be issued a fixed penalty notice of \$1,500;
- (b) if the offender commits a second offence within a period of 24 months, the enforcement department will withdraw the

fixed penalty notice issued to the offender and replace it with a summons and, at the Court hearing, apply to the Court for a penalty higher than \$1,500 and the award of a community service order. The level and form of penalties will be left to the discretion of the Court; and

- (c) the four cleanliness offences will be counted as one type of offence under the scheme. In other words, a person who has committed a spitting offence and a dog-fouling offence will be treated as a repeat offender for the purpose of the scheme.

4. At the meeting held on 28 October 2003, Members were informed that the Administration had launched on 23 October 2003 a public consultation exercise to gauge views from the public on whether additional penalties should be imposed on repeat cleanliness offenders. Members requested the Administration to report back on the results of the consultation exercise in early 2004.

VIEWS GATHERED DURING THE CONSULTATION EXERCISE

5. During the two-month public consultation, we received close to 1,500 submissions from members of the public. About 63.3% of these submissions agreed that the Administration should withdraw the fixed penalty notice and apply to the Court for a penalty higher than \$1,500 for repeat cleanliness offences committed within 24 months while 75.6% of them agreed that the Administration should apply to the Court for a community service order in addition to a penalty higher than \$1,500.

6. Separately, we commissioned the following two opinion surveys to gauge the views of the public on the proposal and the results are quite similar to views collected during the public consultation exercise -

- (a) In a telephone survey on Team Clean proposals conducted in early November 2003, 76.8% of the 1,210 respondents either supported or strongly supported the proposal to increase the

penalty for repeat cleanliness offenders to more than \$1,500. 81.9% of them also either supported or strongly supported the imposition of community service orders in addition to a fixed penalty against repeat cleanliness offenders to enhance deterrence and serve probation purpose.

- (b) In an on-street survey conducted in mid-November 2003, 79.3% of the 2,010 respondents supported applying to the Court for a penalty higher than \$1,500 for repeat cleanliness offences committed within 24 months whereas 72% of the respondents supported applying to the Court for a community service order in addition to a penalty higher than \$1,500.

WAY FORWARD

7. In the light of the majority public support for the proposal of imposing a community service order and a penalty higher than \$1,500 for repeat cleanliness offences committed within 24 months, we will proceed to draw up detailed legislative proposals with a view to effecting the implementation of the new prosecution scheme as described in paragraph 2 in 2004-05 tentatively.

ADVICE SOUGHT

8. Members are invited to note the results of the public consultation and comment on the way forward.

Health, Welfare and Food Bureau
Food and Environmental Hygiene Department
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