

**立法會**  
**Legislative Council**

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LC Paper No. CB(2) 3053/05-06  
(These minutes have been seen by  
the Administration)

**Panel on Food Safety and Environmental Hygiene**

**Minutes of Special Meeting**  
**held on Thursday, 6 April 2006 at 2:30 pm**  
**in the Chamber of the Legislative Council Building**

**Members present** : Hon Fred LI Wah-ming, JP (Chairman)  
Hon Bernard CHAN, JP  
Hon Andrew CHENG Kar-foo  
Hon TAM Yiu-chung, GBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Vincent FANG Kang, JP  
Dr Hon Joseph LEE Kok-long  
Hon Alan LEONG Kah-kit, SC  
Dr Hon KWOK Ka-ki

**Members attending** : Hon Frederick FUNG Kin-kee, JP  
Hon WONG Kwok-hing, MH

**Member absent** : Hon WONG Yung-kan, JP (Deputy Chairman)

**Public officers Attending** : Item I  
  
Mr Vincent LIU  
Principal Assistant Secretary (Food & Environmental Hygiene)  
Health, Welfare and Food Bureau  
  
Mr Gregory LEUNG  
Director of Food and Environmental Hygiene  
  
Ms Annette LEE  
Deputy Director (Environmental Hygiene)  
Food and Environmental Hygiene Department

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Mr LO Fu-wai  
Assistant Director (Operations)1  
Food and Environmental Hygiene Department

Item II

Mr Vincent LIU  
Principal Assistant Secretary (Food & Environmental Hygiene)2  
Health, Welfare and Food Bureau

Mr Gregory LEUNG  
Director of Food and Environmental Hygiene

Ms Annette LEE  
Deputy Director (Environmental Hygiene)  
Food and Environmental Hygiene Department

Mr YEUNG Shun-kui  
Assistant Director (Operations)2  
Food and Environmental Hygiene Department

**Attendance by :** Item I  
**invitation**

Hong Kong Catering Industry Association

Mr WOO Chu

The Association for Hong Kong Catering Services Management

Mr POON Kuen-fai  
President

Mr YEUNG Wai-sing  
Chairman

Association of Restaurant Managers Limited

Mr WOO Lun  
Vice Chairman

Hong Kong Federation of Restaurants & Related Trades

Mr CHAN Wing-on  
Chairman

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Mr NG Tak-leung  
President

Estate Restaurant (Hong Kong) Merchant Association

Mr CHAN Cheung-chor  
Chairman

Satay King (Holdings) Company Limited

Mr CHENG Chit-ming  
Chairman

Hong Kong Kowloon Vermicelli & Noodle Manufacturing  
Industry Merchants' General Association

Mr FUNG Chung-kai  
Chairman

Hong Kong Japanese Restaurant Association

Mr Frankie WU  
President

Mr Daniel WU  
Member

Federal Restaurants Group Limited

Mr TAM Siu-sing  
Managing Director

Tao Heung Holding Limited

Mr Sunny LAM  
General Manager, Business and Partnership Development

Ms Irene WONG  
Officer, Licensing Division

Garden Restaurant

Mr WEI Chi-lam  
Manager

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Dragon Palace Restaurant

Mr KWONG Wah-on  
Manager

Golden Shanghai Cuisine

Mr YIP Yon-bong  
Manager

King Parrot Group

Mr Alan LEE  
Quality Assurance Officer

California Red Limited

Mr Anthony LOCK  
Managing Director

Ms Jessica LI  
Secretary, Public Affairs

Kam Hing Noodle Factory

Mr FUNG Bing-hau  
Owner

**Clerk in Attendance** : Mrs Constance LI  
Chief Council Secretary (2)5

**Staff in Attendance** : Miss Josephine SO  
Council Secretary (2)1

Ms Anna CHEUNG  
Legislative Assistant (2)5

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**I Follow-up discussion on the proposed demerit points system for licensed food premises**

[LC Paper Nos. CB(2) 1672/05-06(01) and CB(2) 1335/05-06(04)]

The Chairman invited deputations to give their views on the Administration's proposals to revamp the demerit points system (DPS) for licensed food premises. The views of the deputations were summarised below.

Views of deputations

*Hong Kong Catering Industry Association*

[LC Paper No. CB(2) 1655/05-06(01)]

2. Mr WOO Chu presented the views of Hong Kong Catering Industry Association as detailed in its submission. Mr WOO said that the Administration's proposals to extend the licence suspension period from seven to 21 days upon accumulating 15 demerit points within a period of 12 months, and to cancel the licence upon the accumulation of another 15 demerits points within 12 months from the date of the offence leading to the licence suspension, were too stringent. The proposed DPS would severely affect the operators in the food business.

*The Association for Hong Kong Catering Services Management*

[LC Paper No. CB(2) 1672/05-06(02)]

3. Mr POON Kuen-fai and Mr YEUNG Wai-sing presented the views of the Association for Hong Kong Catering Services Management as detailed in its submission which was tabled at the meeting. They considered the proposed DPS too harsh, as it would adversely affect the operation of food business and discourage investment in the catering industries.

4. Mr POON said that the catering trade preferred education to penalty. Mr YEUNG emphasized that there should be an appeals mechanism, and a system to require re-training in lieu of the demerit points.

*Association of Restaurant Managers Limited*

[LC Paper No. CB(2) 1655/05-06(02)]

5. Mr WOO Lun presented the views of Association of Restaurant Managers Limited as detailed in its submission. The Association objected to the proposed DPS which would stifle the development of the catering industry. Mr WOO commented that some items under the DPS were out-dated and unreasonable.

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*Hong Kong Federation of Restaurants & Related Trades*

6. Mr NG Tak-leung and Mr CHAN Wing-on expressed strong opposition to the proposed DPS. They considered it too harsh to extend the licence suspension period from seven to 21 days on accumulating 15 demerit points, considering that the operator would still need to pay the rental and operating expenses during the suspension period. In some cases, the owner might terminate the tenancies because of the suspension of business. Mr NG and Mr CHAN were of the view that some offences included in the DPS were outdated, for example, the offence of failing to maintain spittle receptacles in the proper manner and to display no spitting notices. Regarding the offences of allowing the presence of rats and insects on the premises and to employ persons likely to spread disease, Mr NG and Mr CHAN pointed out that the problem of rats or insects often originated from outside the building/premises. It was also difficult to ascertain whether the employees were likely to spread diseases. They urged the Administration to take the opportunity to review all the offences in the DPS and the legislation to bring them up to date.

*Estate Restaurant (Hong Kong) Merchant Association*

7. Mr CHAN Cheung-chor said that some provisions under the DPS were outdated. He commented that those restaurants operated in small houses in the New Territories and those food premises close to public markets were particularly vulnerable to having rats and insects coming from outside. It was unfair to put the responsibility on the food business operators as they had no control over the problem of rats and insects outside their premises.

*Satay King (Holdings) Company Limited*

8. Mr CHENG Chit-ming said that there were often false allegations of food poisoning from patrons of food premises for the purpose of obtaining compensations. He urged the authorities to thoroughly investigate such allegations to avoid wrongly accusing the food operators for breaching the food safety or hygiene regulations. He considered that food operators should only be held responsible for cases where deteriorated food was sold to consumers.

*Hong Kong Kowloon Vermicelli & Noodle Manufacturing Industry Merchants' General Association*

9. Mr FUNG Chung-kai said that the Association strongly opposed the proposal of extending the suspension period from seven to 21 days when 15 demerit points were accumulated. Mr FUNG pointed out that many food businesses were small and medium enterprises, but they provided employment to more than 200 000 persons, many of them were low-skilled. He hoped the Administration would review the proposed DPS to allow more room for the survival of the food business industry. He suggested that the Administration should enhance its educational efforts to encourage food business operators to improve their food safety and hygiene standards.

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*Hong Kong Japanese Restaurant Association*  
[LC Paper No. CB(2) 1634/05-06(02) – (Chinese version only)]

10. Mr Frankie WU presented the views of the Association as detailed in its submission. Mr WU said that the existing procedures for food licence applications were cumbersome. The proposed DPS mechanism, if implemented, would aggravate the burden on the catering industry. Mr WU called for a review of the DPS, and suggested that the Administration should discuss with the food trade to see whether any item should be removed from the DPS.

*Federal Restaurants Group Limited*

11. Mr TAM Siu-sing expressed strong opposition to the proposed DPS. He considered it stringent to impose a 21-day suspension period when 15 demerit points were accumulated for the first time. Mr TAM said that a 21-day suspension would mean closing down the food premises concerned as the reputation of the food premises had been ruined. Mr TAM also expressed reservations about awarding demerit points for employing persons likely to spread disease, as such employees might not show any symptoms and it was difficult for the operators to detect. It was also not possible to dismiss an employee on health grounds as it might violate the labour protection laws.

*Tao Heung Holding Limited*  
[LC Paper No. CB(2) 1634/05-06(03)]

12. Mr Sunny LAM presented the views of Tao Heung Holding Limited as detailed in its submission. Mr LAM said that sometimes food problems were caused by contamination at source rather than mishandling by food operators. He considered a seven-day suspension could provide sufficient deterrence against breaches of food safety and hygiene requirements. If there were repeated breaches, the authorities should identify the causes of the problems, and help the premises concerned to improve. He urged the Administration to take preventive measures, such as education and publicity, instead of increasing the penalty.

*Garden Restaurant*

13. Mr WEI Chi-lam said that the food trade attached great importance to food safety and public health, and the majority of operators exercised self-discipline to comply with the requirements under the Public Health and Municipal Services Ordinance (Cap. 132). He strongly opposed to the proposed 21-day suspension of licence upon accumulation of 15 demerit points for the first time.

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*Dragon Palace Restaurant*

14. Mr KWONG Wah-on shared the view that food problems were sometimes caused by contamination at source, and it was unfair to hold only the operator of food businesses responsible for food poisoning cases. He suggested that the Government should refine the food safety monitoring system, by carrying out inspections at places of manufacture. Mr KWONG considered the Administration's proposal to increase the deterrence of the DPS unreasonable.

*Golden Shanghai Cuisine*

15. Mr YIP Yon-bong considered that the existing DPS already had sufficient deterrent effect. While he agreed that higher demerit points would be accorded to offences that carried high food safety/public hygiene risks, he considered that offences with low food safety/public hygiene risks (e.g. unauthorised minor alteration to the approved layout plan) should be awarded lower demerit points or a fine instead. He also considered it too harsh to impose a 21-day suspension of licence on accumulation of 15 demerit points for the first time.

*King Parrot Group*

16. Mr Alan LEE considered it stringent to impose a 21-day suspension of license on accumulating 15 demerits points for the first time. He shared the view that apart from enforcing the demerit points system to deter food business operators from breaching food safety and environmental hygiene requirements, the Administration should also step up publicity and education efforts to encourage the operators to improve their hygiene standards.

*California Red Limited*

[LC Paper No. CB(2) 1655/05-06(03)]

17. Mr Anthony LOCK presented the views of California Red Limited as detailed in its submission. He said that the Administration should consult the trade in revamping the DPS to ensure that the proposed measures were reasonable and practicable. He commented that some of the provisions which would attract demerits points were already outdated.

*Kam Hing Noodle Factory*

18. Mr FUNG Bing-hau said that food businesses were already operating with great difficulties under the existing DPS. He pointed out that in the event of a licence suspension, the factory owner would suffer great financial losses, as it would have to compensate its clients for failure to deliver the goods as previously agreed. He also urged the Government to review the DPS to minimise the damage caused to food businesses.

Other submission received



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19. The Chairman informed members that the Federation of Hong Kong Hotel Owners Limited had provided a written submission [LC Paper No. CB(2) 1634/05-06(01)], but did not send representative to the meeting.

Discussion

20. The Chairman said that the Administration had provided supplementary information on the DPS, including statistics on suspension of food business licences between 2003 and 2005 and a comparison of the existing and proposed demerit points for individual offences.

*(Post-meeting note : The supplementary information provided by the Administration was issued to members vide LC Paper Nos. CB(2)1672/05-06(01) on 7 April 2006.)*

21. Director of Food and Environmental Hygiene (DFEH) gave the following response to views expressed by the deputations –

- (a) the current review of the DPS was conducted in view of the Team Clean's recommendation and the increasing food poisoning incidents in recent years, some of them involved well-established food premises and large numbers of patrons. The Administration considered it necessary to improve the existing DPS and enlist the cooperation of the food business industry, to ensure food safety and maintain the reputation of Hong Kong as a food paradise;
- (b) under the DPS, demerit points were awarded only after conviction of the offences in court;
- (c) prosecution against the offence relating to employment of persons who would likely spread disease would be taken subject to sufficient evidence that the employer knowingly employed such persons;
- (d) a licensee aggrieved by the decision of the demerit points awarded could appeal to the Licensing Appeals Board and the Municipal Services Appeals Board; and
- (e) the Administration would be happy to discuss with the food business industry the proposed revisions to the DPS, and a task force had been formed for this purpose.

22. Principal Assistant Secretary (Food and Environmental Hygiene)2

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(PAS(FEH)2) explained that the revamping of DPS aimed to enhance food safety and the protection of public health, given the increase of food poisoning cases involving food premises. The classification under the DPS would be streamlined to better reflect the nature and degree of the food safety or hygiene risks. While higher demerit points would be awarded to offences which posed higher risks, offences with lower risks would attract lower demerit points. Among the 120 offences included in DPS, no change in demerit points would be made to 62 of them, while a reduction in demerit points would be made to some others.

23. PAS(FEH)2 added that to simplify the system, repeated offences would no longer result in doubling or trebling of demerit points. Regarding the concern about the offence on employment of persons who would likely spread disease, PAS(FEH)2 explained that the demerit point would only be awarded after conviction by court. He added that section 24 of the Food Business Regulation (Cap. 132, Sub. Leg. X) stipulated that no person engaged in any food business who was suffering from a discharging wound or sore on any exposed part of the body should take part in handling of open food. Moreover, section 5(3) of the Regulation stipulated that no person engaged in any food business should knowingly suffer or permit in any food premises the presence of rats, mice or insects.

24. Mr Tommy CHEUNG expressed concern about the increase of food poisoning cases in recent years. He asked about the number of successful and unsuccessful prosecutions which the Food and Environmental Hygiene Department (FEHD) had taken in the past five years against licensed food premises and the penalty awarded in these cases. He also requested the Administration to provide a comparison of the extent of problem with that in Asian countries and USA.

25. DFEH said that the number of food poisoning cases increased from 821 in 2004 to 975 in 2005, and some recent cases involved large food establishments and large numbers of patrons. He would provide the number of prosecution cases after the meeting.

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26. Referring to the concerns raised by deputations, Mr Tommy CHEUNG sought a response from the Administration on the following –

- (a) whether the changes in legislation in past years, e.g. the Preservatives in Food Regulations (Cap. 132, Sub. Leg. BD), had been reflected in the proposed DPS;
- (b) it was unfair to hold the operators of food businesses responsible for the presence of rats, mice or insects in their food premises as such rats or insects might originate from the nearby public markets managed by FEHD; and
- (c) the suspension of licence would have impact on the tenancy agreement

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signed with the landlord.

27. DFEH gave the following response –

- (a) the Preservatives in Food Regulations were updated from time to time to keep in line with the international standards on permitted preservatives;
- (b) regarding the offence of “knowingly suffered or permitted” the presence of rats or insects on the premises, it would be a defence if the licensee had taken measures to prevent, so far as was reasonably practicable, infestation by rats, mice and insects on the premises; and
- (c) the terms of tenancy agreement were matters for the two parties to consider. The Government would not interfere with commercial contracts signed between private parties.

28. Mr Tommy CHEUNG asked whether FEHD had issued guidelines to health inspectors on what constituted a defence that the licensee had taken measures to prevent the presence of rats, mice and insects on the premises.

29. DFEH said that the Department of Justice’s (DoJ’s) advice would be sought as necessary and the health inspectors concerned would provide all relevant information on the offence to DoJ for consideration of whether there was sufficient evidence to institute prosecution. It would be for the court to rule whether the measures taken by a defendant constituted a defence under the relevant legislation.

30. Mr TAM Yiu-chung said that he was in support of enhancing food safety and safeguarding public health. He noted that while there was an increase of food poisoning cases in recent years, the percentage increase might not be too alarming if compared to the increase in the number of food establishments and number of people dining out. In view of the strong opposition from the food business trade, he suggested that the Administration should give careful consideration to the proposed DPS and explore other options such as stepping up education and publicity on food safety.

31. DFEH responded that the Administration attached much importance to education and publicity work on food safety. FEHD would consider organising education programmes for food business trade on hygienic food handling practices. DFEH said that in view of the concerns of the food business over the proposed DPS, the special task force would review, in collaboration with the trade, the proposed schedule of demerit points assigned to individual offences and the other proposals related to the DPS.

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32. Mr TAM Yiu-chung suggested that the frontline staff in the catering industry should also be trained on hygienic food handling practices. DFEH noted the suggestion.

33. Mr Vincent FANG queried the need for imposing a 21-day licence suspension period as the existing seven-day suspension period already had sufficient deterrence effect. He pointed out that many food poisoning cases in recent years were related to improper handling of raw seafood served at buffet meals. He considered that FEHD should conduct more inspections to food premises selling high-risk food.

34. Mr Vincent FANG expressed concern that many offences listed in the DPS schedule were unclear, e.g. failing to provide sufficient number of dustbins, or failing to comply with a notice to keep surroundings clean. Mr FANG also asked whether the food incidents occurred in a food premises of a hotel would affect the other food premises in the same hotel.

35. DFEH said that the proposed extension of the suspension period from seven to 21 days was based on Team Clean's recommendation. The special task force would further discuss with the food business industry the proposed revisions to the DPS, including the offences listed in the DPS schedule and the demerit points accorded to each offence. DFEH reiterated that it was the Administration's intention to simplify the existing DPS and to better reflect the nature and severity of the offences committed. DFEH further said that FEHD would conduct inspections to all licensed food premises in accordance with a risk-based inspection system. He said that at present, inspections to food premises serving high-risk food were already more frequent.

36. DFEH also advised that penalty points upon conviction of relevant offences against food premises operating in a hotel would be accorded to the licensee of the licence concerned.

37. Dr KWOK Ka-ki said that he supported the Administration's proposal to accord more demerit points to offences that carried high food safety or public hygiene risks. However, he shared the trade's concerns that some individual offences listed in the schedule of the DPS were outdated, and that it was too stringent to impose a 21-day suspension of licence on accumulating 15 demerit points for the first time. Dr KWOK asked whether the Administration would consider other alternatives, such as providing incentives to encourage food business operators to improve the hygiene conditions of their food premises. Dr KWOK also asked whether the Administration would continue providing training courses for the Hygiene Managers and Hygiene Supervisors of food premises.

38. DFEH said that the Administration would consider Dr KWOK's suggestion of providing incentives to food business operators for complying with the relevant

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hygienic requirements/conditions. He advised that the Administration was considering implementing a categorisation scheme for food premises with reference to the classification system adopted by Singapore. DFEH added that FEHD would continue to organise food training courses for Hygiene Managers and Hygiene Supervisors.

39. Dr KWOK Ka-ki suggested that consideration could be given to awarding a fine instead of suspension of licence on accumulation of 15 demerit points, if these demerit points were awarded for minor offences which did not pose health hazards. DFEH responded that demerit points accumulated could be written off after 12 months, if the food premises concerned made improvement and was not convicted of repeated offences in a period of 12 months.

40. Dr Joseph LEE queried the need for imposing a 21-day licence suspension period on accumulation of 15 demerit points for the first time. Dr LEE doubted the effectiveness of increasing the penalty in reducing the number of food poisoning cases. He asked whether the Administration had set any performance indicators for reducing food poisoning cases.

41. DFEH said that Team Clean's "Report on Measures to Improve Environmental Hygiene in Hong Kong" published in August 2003 had recommended that FEHD should critically review the existing DPS, both in terms of its overall mechanism and the number of demerit points assigned to individual offences. The Report proposed that the existing DPS should be revamped to provide for a 21-day suspension of licence on accumulating the requisite number of points for the first time, and cancellation of licence for the second time. To his understanding, there were views from the community that the existing DPS was too lax. DFEH further said that the Government was committed to enhancing food safety and environmental hygiene. However, it was not practicable to set performance indicators regarding the number of food poisoning outbreaks.

42. Referring to the concerns raised in Hong Kong Catering Industry Association's submission that some individual offences as listed in the schedule of DPS were outdated, the Chairman requested the Association to provide a list of such items for consideration and discussion by the Administration. The Chairman said that the Administration should take the opportunity to update the list of offences and delete the obsolete ones from the schedule of DPS, and even from the Regulation. He cited some examples such as failure in maintaining spittle receptacles in the proper manner and displaying no spitting notices, and failure to provide a sufficient number of dustbins.

*(Post-meeting note : The Hong Kong Catering Industry Association had provided a list of offences which were considered outdated and unreasonable. The information was circulated to members vide LC Paper No. CB(2)1884/05-06 on 28 April 2006.)*

43. Assistant Director (Operations)1 said that the provision of spittle receptacle at

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food premises was considered necessary at the time the Regulation was introduced. This was no longer included as a licensing condition. However, if receptacles were provided in food premises, these should be cleaned and disinfected regularly.

44. Noting that operating unlicensed food business was an offence under group B in the schedule of DPS which would attract 10 demerit points, the Chairman asked how demerit points could be awarded to an unlicensed food premises.

45. DFEH explained that the offence referred to those licensed food premises which had not obtained the requisite permission or endorsement for selling particular kinds of food or carrying out particular kinds of food business. For example, a licensed food factory was not permitted to serve food for consumption at the premises.

46. Regarding public education on food safety, Mr NG Tak-leung of Hong Kong Federation of Restaurants & Related Trades stressed that employees in the food business trade were well aware of the proper food handling requirements, for example, cooked and uncooked food should not be placed together. However, patrons to food establishments had little knowledge about food handling and they were to be blamed for causing food poisoning incidents in many cases especially those involving buffet meals. He said that food incidents had adversely affected the reputation and business of the catering establishment.

47. Mr CHAN Cheung-chor of Estate Restaurant (Hong Kong) Merchant Association shared Mr NG's view. He pointed out that "Poon Choi" required thorough reheating if it was not consumed immediately after it was cooked. He said that the Administration should step up education and publicity to promote food safety. Mr Frankie WU of Hong Kong Japanese Restaurant Association suggested that there should also be more exchanges of experience on proper handling of sushi.

48. Mr Tommy CHEUNG said that the food business trade was not in favour of a classification system for food premises. It would be more effective for the health inspectors to provide advice and training to food operators during inspections. Mr CHEUNG also urged the Administration to modernise the regulatory framework and improve the business environment for food businesses.

49. The Chairman requested the Administration to further discuss with the trade the proposed revamping of the DPS. The Chairman thanked the deputations for attending the meeting.

50. The Chairman suspended the meeting for five minutes before proceeding to discussion of agenda item II.

[The meeting resumed at 4:35 pm.]

**II Enforcement actions against street hawking activities**  
[LC Paper No. CB(2) 1655/05-06(04)]

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51. At the request of the Chairman, DFEH gave an account of the incident where a hawker was allegedly hit by a car while avoiding arrest during a hawker raiding operation conducted on 29 March 2006. DFEH also briefed members on FEHD's existing policy and enforcement strategies in tackling street hawking activities, as set out in the Administration's paper.

52. DFEH advised that the incident was under police investigation and a report would be available upon completion of the investigation. As regards the arrest of a female hawker, DoJ was currently examining the evidence of the case. DFEH further advised that FEHD was gathering information on details of the hawker raiding operation on 29 March 2006. FEHD would ascertain whether the operation was carried out in accordance with the departmental guidelines and the procedures for performing hawker control duties. An Assistant Director in the Administration Division of FEHD was assigned to conduct the inquiry.

53. Regarding the concern on whether hawker control officers should be in uniform or plain clothes when carrying out operations, DFEH explained that hawker control officers were advised to be in uniform when making arrests.

54. DFEH said that as the case was under investigation, it was not appropriate for him to elaborate the case in detail. However, in general, hawker control operations would be carried out in the following manner –

- (a) for conducting hawker raids at blackspots, hawker control officers with windbreakers outside their uniform would get off their vehicles a few blocks from the target place, to avoid alerting the illegal hawkers; and
- (b) before conducting the raid, a staff member in plain clothes would arrive at the target location to carry out surveillance. If the illegal hawking activities caused serious obstruction and the situation on the ground was suitable for carrying out enforcement work, the plain-clothed staff would establish the targets and report to his supervisor for making arrest.

55. DFEH said that in view of the public concern about the enforcement strategies against street hawking activities, the Administration would review the internal guidelines, including the carrying out of hawker control work in plain clothes.

56. Mr WONG Kwok-hing expressed dissatisfaction that FEHD had been indifferent to the accident and had not consoled the person who was seriously injured. He urged the Government to meet with the family of the injured to see whether they were in need of help. Mr WONG said that FEHD should also obtain information from all affected parties, in order to obtain a better understanding of the incident. Mr WONG further said that the Government should review its policies on hawker control, including the issuance of itinerant hawker licences (IHL) and hawker

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management, as such policies were formulated more than 30 years ago.

57. DFEH responded that nobody would want to see accidents during hawker operations. However, as investigation was still in progress, it was not appropriate for the Government to meet with the family of the injured for the time being. Nevertheless, parties concerned were welcomed to put their views and information in writing so that the information could also be provided to investigating bodies including the Police, DoJ and the Assistant Director in charge of the inquiry. DFEH said that when the police investigation findings were available, arrangements could be made for meeting with the family of the injured person. DFEH further said that the Administration would consider reviewing the policies on hawker control.

58. PAS(FEH)2 added that the policies on IHL and hawker control would involve issues such as land use and traffic, and the Government would consider whether it was necessary to conduct an overall review of the policies.

59. Referring to the incident on 29 March 2006, Mr Frederick FUNG doubted whether the hawker control officers had given verbal warnings to disperse the illegal hawkers before making arrests. Mr FUNG suggested that FEHD should require hawker control officers to report back to the headquarters through mobile telephones on the actions (including warnings) taken before making arrests. To better manage hawking activities, he further suggested that the Administration should designate "hawker permitted areas" in urban areas. Referring to paragraph 5(b) in the Administration's paper, Mr FUNG was of the view that there should be a clear definition of "areas of high pedestrian flow" to facilitate enforcement.

60. DFEH gave the following response –

- (a) in view of the downturn of the economy in 2001, FEHD had relaxed the enforcement action against hawking activities provided that food and environmental hygiene would not be compromised. As a general rule, in places not considered as blackspots, the hawkers would be verbally warned to disperse and if the verbal warning was unheeded, prosecution action would follow. However, if the hawking activities fell within the scope given in paragraphs 5(a) and (b) of the Administration's paper, FEHD would take stringent enforcement action and no warning would be given before making arrests;
- (b) FEHD would consider Mr FUNG's suggestions to institute a reporting system and provide a clear definition of the term "areas of high pedestrian flow"; and
- (c) the suggestion of designating "hawker permitted areas" would have to be discussed with District Councils.

61. Mr Vincent FANG asked whether the operation conducted on 29 March 2006



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was carried out strictly in accordance with FEHD's guidelines. Mr FANG queried why an officer would need to take off his windbreaker after the car accident, if the procedures were strictly adhered to. Mr FANG supported the suggestion that the Administration should review the policy on hawker control. As regards the suggestion of designating "hawker permitted areas" in urban areas, Mr FANG requested the Administration to give careful consideration to the locations to avoid causing environmental hygiene problems.

62. DFEH responded that the inquiry headed by the Administration Division of FEHD would investigate whether the operation was carried out in accordance with FEHD's guidelines.

63. The Chairman urged that FEHD's inquiry into the incident should be conducted in a proper and impartial manner.

64. Mr WONG Kwok-hing criticised that the Government was bureaucratic in asking the family of the injured to write to provide information. He also criticised the Government for refusing to visit the injured or his family. He considered that the Government had not shown adequate concern and support to the unfortunate.

65. DFEH responded that the Administration was not unsympathetic or bureaucratic. He explained that to avoid misunderstanding and to facilitate the referral and investigation process, it would be better if the family of the injured could put their requests or grievances in writing.

66. Mr WONG Kwok-hing urged the Administration to provide a timetable for the review of the hawker control policy.

67. PAS(FEH)2 replied that the review would involve complicated issues including land use and traffic, and it would also have impact on other policies such as provision of public markets and voluntary surrender of IHLs. In considering the request for the review of the hawker control policy, the Government would take into account the outcome of the voluntary surrender of IHL Scheme which would end on 31 December 2007. The Chairman advised that the matter would be put on the list of outstanding items for further discussion.

68. Mr Tommy CHEUNG said that while it was understandable that more people would choose to hawk in streets at times of economic difficulties, such hawking activities had greatly affected the business of the shops in the vicinity. The Administration should balance the interests of all stakeholders, including operators of on-street shops and market stall lessees. As regards enforcement, Mr CHEUNG considered that FEHD should review whether hawker control officers should carry out operations in plain clothes or in uniform.

69. DFEH responded that FEHD would review the enforcement strategies in respect of street hawking activities, including the guidelines for hawker control officers to carry out enforcement in uniform or plain clothes. The Administration

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Admin would provide members with the review findings.

70. Mr Tommy CHEUNG urged the Administration to revert to the Panel in July 2006.

71. Mr Frederick FUNG asked about the criteria for classifying a place as hawker blackspot. He was of the opinion that the term “high pedestrian flow” was not clear, and repeated complaints from the public should not be the sole consideration in making such classification. Mr FUNG said that if FEHD staff would not give verbal warnings to disperse the illegal hawkers before making arrests at hawker blackspots, signsboards should be posted at hawker blackspots to warn hawkers from trading in these places. DFEH noted the suggestions.

72. Mr WONG Kwok-hing said that according to an article in a magazine, hawker control staff were required to meet the quota of making arrests of illegal hawkers, and these were adopted by FEHD for assessing the performance of these staff. Mr WONG asked the Administration to clarify whether such a quota system existed.

73. DFEH clarified that hawker control staff were not required to meet any quota in term of arrests.

Admin 74. In concluding the discussion, the Chairman said that members had requested the Administration to carry out a review of the hawker control policies and to consider the suggestion of designating “hawker permitted places”. The Chairman also requested the Administration to provide the investigation report on the incident on 29 March 2006 and the review findings on performing of hawker control duties in uniform or in plain clothes.

75. The meeting ended at 5:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
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