

LegCo Panel on Food Safety and Environmental Hygiene

Hawker Control Policy and Operations

PURPOSE

This paper informs Members of the existing policy and enforcement strategies of the Food and Environmental Hygiene Department (FEHD) in tackling street hawking activities and sets out some initial ideas on improvement measures to be taken.

BACKGROUND

2. Street hawking in Hong Kong has a long history. Members of the public generally regard that hawking provides a means of making a living for some people and a cheap supply of goods to customers. At the same time, it also gives rise to health, noise, sanitation and street obstruction problems. There are, furthermore, complaints that street hawking poses unfair competition to shopkeepers, retailers and market stall lessees who pay full rent for their trading premises/stalls.

3. With a view to reducing the number of on-street hawkers, the former Municipal Councils have stopped issuing hawker licences since 1970. As the operation of cooked food stall hawkers and itinerant hawkers tended to cause more environmental nuisances and hygiene problems, in 2002, the LegCo Panel on Food Safety and Environmental Hygiene supported the FEHD's proposal to offer a one-off ex-gratia payment (EGP) of \$60,000 for cooked food stall hawkers and \$30,000 for itinerant hawkers upon voluntary surrender of their licences. The EGP for cooked food stall hawkers is valid for application from 1.12.2002 to 30.11.2007 and for itinerant hawkers from 1.1.2003 to 31.12.2007. As at 31.5.2006, there remained 706 licensed itinerant hawkers.

EXISTING STRATEGIES AND PROCEDURES

4. FEHD has a duty to keep main thoroughfares, areas of high pedestrian flow and the vicinities of markets/hawker bazaars as free as possible of illegal hawkers. In view of the then economic situation, FEHD has since late 2001 relaxed the enforcement action against hawking activities provided that food and environmental hygiene would not be compromised. Nevertheless, FEHD adheres to the following enforcement baselines –

- (a) Sale of prohibited/restricted or cooked foods be strictly forbidden and subject to stringent enforcement action; and
- (b) Maintaining hawker-free situation in major thoroughfares, areas of high pedestrian flow such as pedestrian precincts, Mass Transit Railway/Kowloon Canton Railway entrances/exits, bus termini and ferry concourse, heavily used footbridges, overseas workers rendezvous, tourist spots etc, and places under substantiated and repeated complaints of hawking activities.

5. If hawking activities (both licensed and unlicensed) do not fall within the scope mentioned in paragraph 4(a) and (b) above, they would be accorded a lower priority for enforcement. Generally speaking, the hawkers would be verbally warned to disperse and if the verbal warning is unheeded, prosecution action would follow. Details of verbal warning issued would be recorded in the notebooks of the HCT staff.

6. In the course of hawker control duties, HCT would not normally take action against holders of itinerant hawker licences (IHL) unless these hawkers are observed to be causing serious obstruction in public places. Under such circumstances, HCT staff would first warn the hawkers to disperse and summons them only if they ignore the warning. Details of verbal warning issued would be recorded in the notebooks of the HCT staff. Should obstruction still exist after summons action, normal course of arrest action would follow.

7. HCT staff adopt the operational strategies of mobile patrol and/or raiding to deter illegal hawking. In mobile patrol, the HCTs are normally in uniform and deploy the tactics of constantly disrupting the target hawkers from trading at their favourite spots in order to prevent them from taking root. If the hawkers persist in trading and do not disperse, or return and carry on hawking after they have been dispersed, arrest action would follow.

8. HCT staff also mount raiding operations at target blackspots to arrest hawkers and seize hawker paraphernalia to increase the deterrent effect. Before the operation, the HCT staff would observe the ground situation to collect sufficient evidence for a charge against illegal hawking. This is sometimes done in 'plain clothes'. Once a target is identified, the HCT staff will approach and arrest the hawker suspected of committing illegal hawking offence and bring the offender together with all the seized goods to the nearest police station for charging. The arrest action is done in uniform.

9. For reasons of identification, protection from injury for staff and other people, and avoidance of confrontation and misunderstanding, all HCT staff are provided with uniform and are required to wear them while on duty. However, in the light that it is common practice that illegal hawkers employ ‘sentry posts’ in the vicinity of their trading locations to give forewarnings in order to evade arrest, FEHD permits HCT staff to wear ‘plain clothes’, e.g. a civilian jacket on top of their uniform, when they conduct prior observations or when they are in the vicinity of their target locations, with the prior approval of their senior officers at the rank of Chief Health Inspector and above. However, the HCT staff would carry out the enforcement action in uniform for reasons as stated in this paragraph.

10. Safety of hawkers and passers-by as well as HCT staff is of primary importance in HCT operations. This principle is emphasized in the department’s guidelines. The guidelines also clearly state that HCT staff should exercise their powers reasonably having regard to the circumstances of the hawking activities. FEHD has recently issued a reminder to all HCT staff drawing their attention to the need to ensure the safety of hawkers, passers-by and themselves while carrying out hawker control duties. HCT staff attending in-house training courses are also reminded regularly about the importance of safety concerns. As regards how to deal with need for medical treatment from a hawker under arrest or any other person who claims to have sustained injury arising from a hawker raiding operation, our guidelines state that departmental staff are not qualified to determine when, whether or what medical treatment is required and that they should call for medical assistance as soon as possible. While HCT staff have some basic first aid knowledge, we do not regard it is appropriate for them to handle any injured person as they do not have the professional qualification and training.

IMPROVEMENT MEASURES UNDER CONSIDERATION

11. To render anti-hawking operations more effective, FEHD is considering a number of improvement measures as set out in paragraphs 12 to 15 below.

Hawking Blackspots

12. To avoid arguments that hawkers may not know which locations are classified as blackspots at which no prior warning would be given before taking enforcement action against hawking offences, we plan to provide the District Councils (DCs) with a list of such areas in their respective districts and keep them updated at regular intervals. DC members will be welcome to comment on the list and make recommendations.

Record of Prior Warnings

13. Concerns have been expressed by some holders of the IHL that adequate prior warnings were not issued before taking out prosecution against them for causing obstruction in a public place. At present, the HCT staff are required to record details of verbal warnings issued in their notebooks. To avoid any misunderstanding of and dispute over the warning administered, FEHD will consider ways to strengthen the system. Initial ideas include providing a standard statement for use by HCT staff and requiring HCT staff to report the issue of verbal warnings to the District Control Centre for record through portable radios on site in addition to making records in the notebooks.

Enhanced Training on Crisis Handling

14. FEHD plans to further enhance the skills of HCT staff in handling crises/incidents by organizing a focused training course. Attendance will be made mandatory for all HCT staff and it is anticipated that the first class will commence in mid August 2006.

'Plain-Clothes' Operations

15. FEHD continues to see the need for some HCT staff to be in 'plain clothes' in discharging their duties. We will discuss with the staff the practical problems related to the wearing of plain-clothes and further improve the operational guidelines in this matter.

ADVICE SOUGHT

16. Members are invited to take note of the improvement measures under consideration as set out in paragraphs 12 to 15 to render enforcement actions against street hawking activities more effective. FEHD has kept in close liaison with the relevant staff unions on hawker control strategies and procedures. The department will meet with their representatives shortly to exchange views on the proposals under consideration.

**Health, Welfare and Food Bureau
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