

立法會
Legislative Council

LC Paper No. CB(4)566/13-14(02)

Ref : CB4/PS/2/12

Panel on Food Safety and Environmental Hygiene

Subcommittee on Hawker Policy

Meeting on 15 April 2014

Background brief on issues relating to hawker policy

Purpose

This paper provides a brief account of past discussions of the Panel on Food Safety and Environmental Hygiene ("the Panel") on issues relating to hawker policy.

Background

2. Street hawking has a long history in Hong Kong. Since the early 1970s, the two former municipal councils had ceased issuing new hawker licences with a view to controlling the number of hawker licences, while succession to and transfer of hawker licences already issued were subject to stringent restrictions. Following the dissolution of the two former municipal councils in 2000, the Food and Environmental Hygiene Department ("FEHD") has taken up the responsibility of hawker control.

3. According to the Administration, its current hawker policy is to strike a proper balance between allowing legal hawking activities on the one hand and maintaining environmental hygiene and protecting the public from undesirable nuisance on the other. As at 1 January 2014, there are a total of 6 547 hawker licences, including 6 092 fixed-pitch hawker licences and 455 itinerant hawker licences.

Voluntary surrender scheme for hawker licences in 2002

4. In 2002, the Administration extended the voluntary surrender scheme for itinerant hawker licences introduced in March 1993 for cooked food stall hawkers (commonly known as "Dai Pai Tong") and all itinerant hawkers. Under the scheme, licensees may surrender their licences in exchange for a one-off ex-gratia payment ("EGP"), rental of a vacant stall in public markets/cooked food centres under concessionary terms, or becoming a fixed-pitch (non-cooked food) hawker. The scheme applicable to cooked food stall hawker licensees ended on 30 November 2007 with a total of 37 licences surrendered.

5. However, when the Panel discussed the expiry of the voluntary surrender scheme for itinerant hawker licences at its meeting in November 2010, members raised concern about the livelihood of elderly holders of itinerant hawker licences. In response to members' concern, the Administration decided to extend the options of EGP and priority selection of a vacant fixed-pitch for itinerant hawker licensees by two years until 31 December 2012, while the option of renting a vacant public market stall expired on 31 December 2010 as scheduled. A total of 514 itinerant hawker licences were surrendered.

Review of hawker licensing policy in 2008 - 2009

6. The Administration reviewed the hawker licensing policy in 2008 - 2009. The scope of the review covered examination of the feasibility of re-issuing new hawker licences, relaxation of the requirements for succession and transfer of hawker licences, and ways to strengthen the role of District Councils ("DCs") in hawker licensing and management. When the Administration consulted the Panel on the review at its meetings in 2009, the Panel members and deputations expressed strong views that the hawking trade should be preserved and revitalized. Members were of the view that fixed-pitch licences should be allowed to be transferred to or succeeded by registered assistants, and the succession and transfer of itinerant hawker licences should be in line with that of fixed-pitch hawker licences.

7. In response to members' views, the Administration provided the Panel an information paper in February 2010 regarding the Administration's decision to give priority to existing registered assistants with experience in the hawking trade to apply for 70% of the vacant fixed hawker pitches (LC Paper No. CB(2)905/09-10(01)). Subsequent to the review of hawker licensing policy, the Administration implemented a number of measures including (a) merging over 600 back-row vacant pitches with front-row pitches to provide a larger trading areas for licensees; (b) issuing new fixed-pitch licences to over 200 persons to trade in vacant pitches; and (c) issuing 61 new itinerant (frozen

confectionery) hawkers (commonly known as "small ice-cream vendors") licences.

Public consultations on management of fixed-pitch hawkers in 2011 and 2012

8. Following two major fires which broke out at the hawker stalls at Fa Yuen Street, Mongkok in December 2010 and November 2011, the Administration conducted two public consultations on the mechanism for cancellation of hawker licences and the improvement of the management of fixed-pitch hawker areas in 2011 and 2012 respectively. However, the original proposal of licence cancellation mechanism met with strong opposition from the Panel, most of DCs and hawker associations. The Administration had subsequently modified the original proposal of licence cancellation mechanism and consulted the Panel on a new mechanism for suspension of hawker licences against repeated non-compliances in April 2012.

9. The mechanism for suspension of hawker licences commenced operation in November 2012. Under this mechanism, if a licensed hawker is convicted for six times within three months for breaching any fire risk-related provisions under the Hawker Regulation (Cap. 132AI), the Director of Food and Environmental Hygiene ("DFEH") may consider suspending the hawker's licence. If the licensed hawker is subsequently convicted again for six times within three months for breaching any related hawker regulations, the number of licence suspension days will increase. DFEH may also consider immediate cancellation of the hawker licence if the licensee has committed any of the three serious offences, namely stall subletting, illegal connection of electricity and making false declaration to obtain a hawker licence. If the licensee is dissatisfied with the decision of DFEH, he/she may appeal to the Licensing Appeal Board under Section 125(9) of the Public Health and Municipal Services Ordinance (Cap. 132).

Assistance scheme for hawkers in fixed-pitch hawker areas

10. To improve the fire resistance capability and design of hawker stalls, the Administration consulted the Panel in January 2013 on a five-year assistance scheme for 4 300 licensed hawkers operating in 43 fixed-pitch hawker areas in the territory ("the Assistance Scheme"). Under the Assistance Scheme, financial assistance would be given to the hawkers for stall reconstruction and relocation, and a one-off EGP would be offered to hawkers for surrendering their licences. The funding proposal of \$230 million for launching the Assistance Scheme was subsequently approved by the Finance Committee on 15 March 2013.

The Subcommittee on Hawker Policy

11. Issues relating to hawkers and hawking, in particular, the lack of a long-term hawker policy, were of grave concern to the Panel. Members were generally of the view that hawking activities could foster district economic development, and hawker areas were places where the grassroots could make their living and consumers could buy inexpensive merchandises. In members' views, the hawker policy should keep abreast of the times and the Administration should conduct a comprehensive review on the hawker policy.

12. At the Panel meeting on 9 July 2013, members agreed to form a subcommittee under the Panel to study and review hawker policy with the objectives of facilitating the long-term development of the hawking trade and improvement of the management and operating environment of the hawker areas and make timely recommendations. Members noted that the Subcommittee on Hawker Policy ("the Subcommittee") was placed on the waiting list as the number of subcommittees on policy issues in operation had reached the maximum number of eight.

13. At its meeting on 15 November 2013, the House Committee agreed that the Subcommittee could be activated when a vacant slot arose in March 2014.

Deliberations of the Panel

14. The Panel discussed issues relating to hawker policy at a number of meetings between 2008 and 2013, and received views of deputations at six meetings. A joint meeting with the Panel on Manpower was held on 29 June 2011 to discuss the creation of employment opportunity under the hawker policy. The main concerns of members are summarized in the ensuing paragraphs.

Hawker policy

15. Members repeatedly expressed disappointment at the Administration's failure to formulate a comprehensive policy to promote and develop the hawking trade. They considered that the hawking trade was a street culture in Hong Kong, provided job opportunities for the grassroots and offered an economical source of goods for the public at large.

16. At the Panel meeting on 21 June 2013, members urged the Administration to map out a long-term hawker policy to facilitate the development of the hawking trade. However, in the Administration's view, frequent policy reviews would cause great uncertainty to hawkers and the best way to preserve the tradition relating to hawking was to maintain a flexible and low cost

environment. The Administration also advised that a comprehensive review on the hawking licensing policy was conducted in 2008 - 2009 and major changes in the regulatory mechanism were made after the fire in Fa Yuen Street in 2010.

17. Some members questioned whether the current policy could enable vibrant development of the hawker areas. These members urged the Administration to preserve and promote hawker bazaars during the process of urban redevelopment, and identify suitable sites for setting up hawker areas or bazaars. They generally considered that the establishment of open-air bazaars could boost the development of economic activities and create employment opportunities in local communities.

18. The Administration advised that it kept an open mind on the idea of establishing open-air bazaars at suitable sites in various districts. However, in view of public concerns about the potential environmental hygiene problems and other nuisance caused by street hawking, the Administration considered that proposals for open-air bazaars should originate from local communities, with general support from local residents and relevant DCs. Relevant bureaux and departments would provide assistance to proponents of open-air bazaars, if there were local support for suitable sites that also met the requirements on food safety and environmental hygiene.

Enforcement actions

19. During discussion on the proposed mechanism for cancellation/suspension of hawker licences at the Panel meetings in 2011 and 2012, concerns were raised about the standard of enforcement against non-compliant activities of fixed-pitch hawkers. According to the Administration, FEHD had regularly communicated with trade associations and advised hawkers during its daily inspections on its law enforcement criteria. The establishment of the Hawker Management Consultative Committee for each hawker area would also strengthen communication between FEHD staff and stall hawkers. In response to members' concern, the Administration issued a letter in March 2012 to all licensees stating the enforcement priorities of FEHD and the requirements of a licensed hawker stall.

Re-issuing of hawker licences

20. When discussing the Assistance Scheme, some members considered that the Administration should re-issue the surrendered licences to the affected hawker assistants. There was also a view that all surrendered licences under the Assistance Scheme should be re-issued so as to maintain the same number of hawkers operating in the hawker areas, and priority should be accorded to hawker assistants. However, there was another view that vacant hawker stalls

should be reserved for the relocation exercise, and hawker licences should be issued to the hawker assistants only when the number of vacant stalls resulting from the voluntary licence surrender arrangement exceeded the number of stalls to be relocated.

21. The Administration advised that the voluntary licence surrender arrangement was introduced to expedite the release of vacant stalls with a view to relocating around 500 hawker stalls with higher fire risks. The Administration would examine members' suggestion of re-issuing new hawker licences after the Assistance Scheme had been implemented for a certain period, taking into account the business environment, fire safety and environmental hygiene of the hawker areas as well as the views of DCs and neighbouring residents.

22. While some members expressed support for the Assistance Scheme to provide financial assistance to hawkers in the 43 hawker areas for stall reconstruction and relocation, some other members opined that the real purpose of the Assistance Scheme was to reduce the number of hawkers and "phase out" the hawking trade. The Administration responded that it did not have any policy to "phase out" the hawking trade or reduce the number of hawkers. The Administration stressed that the aim of the voluntary licence surrender arrangement was to help expedite the release of vacant stall for the relocation of stalls with higher fire risks.

23. Some members held the view that the voluntary licence surrender arrangement should be made available to all hawkers in addition to those operating in the 43 fixed-pitch hawker areas. There was also suggestion that the amount of EGP should be raised because hawkers who surrendered their licences would lose their means of livelihood. There was also concern that some hawker assistants would become unemployed when the licensees surrendered their hawker licences.

24. The Administration advised that hawker stalls in the hawker markets and itinerant hawkers were not covered in the Assistance Scheme as they did not pose the same fire risks as those fixed-pitch hawker stalls. It had consulted the trade on the level of EGP, and it was up to eligible hawkers whether or not to surrender their licences in exchange for EGP. In line with other voluntary licence surrender schemes of similar nature launched earlier, no grants would be offered to affected hawker assistants, and licensees would have to make their own arrangements with their assistants. The Administration had encouraged hawker associations to refer job opportunities to the affected hawker assistants.

Motion passed by the Panel

25. The Panel passed a motion at the meeting on 21 June 2013 urging the Government to (a) issue the same number of hawker licences as those returned, with priority accorded to applications from registered assistants of the same district, with the remaining licences open to applications from members of the public; and (b) undertake to preserve and conserve existing bazaars.

Latest development

26. According to the policy briefing given by the Secretary for Food and Health on the Chief Executive's 2014 Policy Address at the Panel's special meeting on 17 January 2014, since the launching of the Assistance Scheme in 2013, FEHD had held over 100 meetings with representatives and stallholders from various hawker areas to listen to their views on the stall relocation proposal and explore feasible options for relocating their stalls on the same street or at the same section. As at December 2013, over 150 hawkers from different hawker areas who needed to have their stalls relocated had reached consensus with FEHD on the relocation arrangements.

27. The Administration will brief the Subcommittee on its hawker policy at the meeting on 15 April 2014.

Relevant papers

28. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Relevant papers on hawker policy

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	18.12.2008 (Item I)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	10.2.2009 (Item IV)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	10.3.2009 (Item VI)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	14.4.2009 (Item VII)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	14.7.2009 (Item II)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	12.1.2010 (Item V)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	9.11.2010 (Item VI)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	14.12.2010 (Item VI)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	28.6.2011 (Item II)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	13.12.2011 (Item V)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	14.2.2012 (Item IV)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	11.4.2012 (Item I)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	12.6.2012 (Item V)	Agenda Minutes

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	5.2.2013 (Item III)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	21.6.2013 (Item I)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	17.1.2014 (Item I)	Agenda

Council Business Division 4
Legislative Council Secretariat
14 April 2014