

For information

**Legislative Council**  
**Panel on Food Safety and Environmental Hygiene**  
**Subcommittee on Hawker Policy**

**Information on the Studies, Policy Decision and Recommendations**  
**Conducted and Made by the Former Municipal Councils**  
**on Hawkers and Hawking**

**PURPOSE**

At the meeting of the Subcommittee held on 15 April 2014, Members requested the Administration to provide information on the studies, policy decisions and recommendations conducted and made by the former Municipal Councils on hawkers and hawking, in particular the Markets and Street Traders Select Committee of the former Provisional Urban Council. This paper sets out the requested information for Members' information, covering fixed-pitch hawkers generally, itinerant hawkers and tobacco hawkers or retailers. For the sake of completeness, we also set out relevant policies adopted by the Food and Environmental Hygiene Department (FEHD) which took over hawker control and licensing in 2000 upon dissolution of the former Municipal Councils.

**HAWKER CONTROL AND LICENSING POLICIES GENERALLY**

**Former UC Policy**

2. The hawker control policies adopted by the former Urban Council (UC) and Provisional UC were as follows –
  - (a) to dissociate welfare considerations from hawker licensing and hawking activities;

- (b) to reduce on-street licensed hawking activities by re-siting or re-ordering licensed hawkers;
- (c) to reduce illegal hawking activities by taking stringent enforcement actions at major hawker blackspots. To keep main thoroughfares and busy areas like MTR station exits and bus termini as free as possible of illegal hawkers;
- (d) the enforcement priorities for the Hawker Control Teams were that illegal hawking has a higher priority over licensed hawkers. As health risks posed by those who sell food items are greater than those who sell non-food items, more stringent action should be taken against illegal hawkers who sell food items than those who sell non-food items;
- (e) to protect public market stall operators against unfair competition from illegal hawkers; and
- (f) to educate the public not to patronize illegal on-street hawkers.

3. The hawker licensing policies adopted by the former UC and Provisional UC were as follows -

- (a) stopped issuing new hawker licences under normal circumstances since the early 1970s; and
- (b) succession and transfer of hawker licences already issued were -
  - restricted to "immediate family member" of the licensee (i.e. parent, spouse, son or daughter) for General Fixed-Pitch Hawker licence;
  - restricted to the licensee's spouse for "Dai Pai Tong" licences (i.e. fixed-pitch hawker licences for selling cooked food); and
  - not allowed for itinerant hawker licence (IHL).

## **Former RC Policy**

4. The former Regional Council (RC) and Provisional RC adopted similar hawker control and licensing policies as UC, except that the criteria for succession and transfer of hawker licences were more stringent and restrictive than UC as detailed below -

- (a) transfer was not allowed for all types of hawker licences; and
- (b) succession was only allowed to the licensee's spouse for fixed-pitch hawker licences but not for IHL.

## **Decision of the Markets and Street Traders Select Committee of the former Provisional UC**

5. Given the economic downturn prevailing at that time, members of the Markets and Street Traders Select Committee of the former Provisional UC were asked, at its meeting held in May 1999, to give views on whether -

- (a) the hawker policy should be revised and how;
- (b) a consultation document should be prepared to formally consult the Provisional District Councils (DCs) on how residents in different districts would like the Council to control hawkers; and
- (c) a consultancy or local university should be commissioned to collect views of residents on the hawking places that were close to their homes, in addition to consulting the Provisional DCs.

6. Members of the Markets and Street Traders Select Committee of the former Provisional UC were of the view that -

- (a) unlicensed hawkers created environmental nuisances and even posed health hazards by selling unhygienic food;
- (b) hawkers deprived the business of shops and would worsen the unemployment problem when shops were closed down;
- (c) in fact, many shops sold similar commodities with similar price as hawkers; and
- (d) relaxing the control of unlicensed hawkers would bring complaints against Hawker Control Teams for covering up certain unlicensed hawkers or discrimination.

7. The meeting agreed that -

- (a) the then prevailing hawker control policies (namely, taking stringent action to combat illegal hawking and control licensed hawkers) should be maintained; and
- (b) there was no need to seek the views of groups in districts since there was no change to the hawker control policies.

### **FEHD's hawker policy**

8. Upon establishment in 2000, FEHD has continued to pursue the above policies on hawker control and licensing. Over the years, the following reviews and measures had been conducted and implemented -

- (a) Revised Enforcement Strategies in 2001
  - Having considered the economic downturn and difficult employment situation at that time, FEHD decided to adopt a more lenient enforcement strategy provided that food and environmental hygiene would not be compromised;
  - Hawker Control Teams would issue verbal warning to licensed hawkers or unlicensed hawkers (selling non-food

dry goods) if and when they cause obstruction or are the subject of complaint. If the verbal warning is unheeded, Hawker Control Teams would then take the normal course of enforcement and seizure action; and

- for food safety reason, enforcement action is taken without warning against hawkers who sell prohibited or restricted food.

(b) Voluntary Surrender Schemes for Hawker Licence in 2002

- A five-year voluntary surrender scheme for hawker licences was introduced in 2002 to encourage "Dai Pai Tong" licensees and itinerant hawkers to surrender their licences voluntarily in exchange for a one-off ex-gratia payment, rental of a vacant stall in public markets/cooked food centres under concessionary terms, or becoming a (non-cooked food) fixed-pitch hawker; and
- the voluntary surrender scheme applicable to "Dai Pai Tongs" ended on 30 November 2007 while the scheme applicable to itinerant hawkers had been further extended to 31 December 2012.

(c) Hawker Licensing Policy Review in 2008

- There were views in 2008 that the hawking trade should be retained and revitalized because of its traditional characteristics. The Food and Health Bureau and FEHD thus launched a review on hawker licensing policy which explored –
  - (i) the feasibility of re-issuing new hawker licences;
  - (ii) the feasibility of relaxing the requirements for succession to and transfer of hawker licences without compromising environmental hygiene; and

- (iii) the ways to strengthen the role of DCs in terms of hawker licensing and management work at the district level.
- After the review, the following measures were implemented –
    - (i) 659 back-row vacant pitches were merged with front-row pitches to provide a larger trading area for licensees;
    - (ii) 218 new fixed-pitch hawker licences and 61 new itinerant hawker licences (frozen confectionery) were issued;
    - (iii) the requirements for succession to and transfer of “Dai Pai Tong” licence were relaxed upon consulting the respective DC; and
    - (iv) for all new hawker licences, they should not be allowed for further succession or transfer.
- (d) Public Consultation on Management of Fixed-Pitch Hawker Areas in 2012
- Following the fire outbreak at Fa Yuen Street in 2011, the consultation aimed to seek public views on the proposed medium and long-term measures for improving the management of hawker stalls so as to reduce the fire risks to nearby residents.
  - After considering the results of the public consultation, we implemented the following measures for hawkers operating in 43 fixed-pitch hawker areas -

- (i) a mechanism for suspension and cancellation<sup>1</sup> of hawker licence was implemented with effect from 1 November 2012; and
- (ii) a five-year Hawker Assistance Scheme was launched on 3 June 2013 to provide financial assistance to hawkers for stall reconstruction and relocation in order to expedite the work in reducing fire risks. An ex-gratia payment will be paid to those hawkers who opt for voluntary surrender of their hawker licences to the Government.

## **POLICIES REGARDING IHL HOLDERS**

### **Former UC Policy**

9. The former UC adopted a compulsory deletion policy for IHL in 1993 and passed a bylaw for that purpose in 1994, with the target deletion date set for 1 April 1996. However, due to a judicial review of the policy and subsequent appeals, the bylaw did not come into operation as originally planned.

10. At the meeting of the Markets and Street Traders Select Committee of the former Provisional UC in March 1997, members of the Committee agreed that the IHL Compulsory Deletion Policy should be reactivated and set up the Working Group on Itinerant Hawker Licence under the Standing Committee of the former Urban Council in April 1997 to recommend necessary measures and take necessary follow up to

---

<sup>1</sup>□ Under the new sanction mechanism, a licensee who has committed any of the fire-risk related hawker offences for six times within three months and upon conviction, he/she will be subject to licence suspension for seven days. If, within the subsequent 12 months from the date of the last offence leading to the suspension, six offences are committed by a licensee within a period of three months and leading to convictions, the second suspension will be increased to 14 days. Similarly, for convictions leading to the third and subsequent suspensions, the suspension period is further increased to a maximum of 30 days. Nevertheless, any hawker who violates any of the three serious offences, namely making false declaration to obtain a hawker licence, illegal connection of electricity and subletting of hawker stall, will be seriously dealt with. Upon conviction of any one of these three offences, the offender renders himself liable to immediate cancellation of the hawker licence.

re-site the remaining IHL holders. The package then offered to IHL holders under the IHL Compulsory Deletion Policy was as follows -

- (a) to select a vacant fixed pitch and be regarded as fixed-pitch licensed hawker;
- (b) to select a vacant stall in public market with concessionary rental arrangement; or
- (c) to receive an ex-gratia payment of \$30,000.

### **Former RC Policy**

11. The former RC, on the other hand, did not adopt a compulsory deletion policy but relied on natural attrition to phase out IHLs.

### **Recommendations of the Working Group on IHL**

12. The Working Group on IHL submitted its final report in December 1999. The report was passed by the Markets and Street Traders Select Committee of the former Provisional UC. The major recommendations of the report were as follows -

- (a) not to set a deadline for phasing out IHLs unless the resiting of IHL holders could be properly arranged;
- (b) to adopt natural attrition to phase out IHLs instead of compulsory deletion;
- (c) release of vacant fixed pitches and market stalls for selection by IHL holders as a matter of priority; and
- (d) allow IHL holders to select vacant fixed pitches with permitted trade different from those specified in their licence.



### **Subsequent follow up action by FEHD**

13. At the meeting of LegCo Panel on Food Safety and Environmental Hygiene (Panel) in April 2001, FEHD sought Members' views on the future arrangements of IHLs. Members of the Panel considered that -

- (a) the hawkker policy for IHLs in the urban areas and in the New Territories should be consistent;
- (b) the amount of ex-gratia payment for surrendering IHL should be increased; and
- (c) it was not necessary to set a time-table for phasing out all IHL holders.

14. At the meeting of LegCo Panel in April 2002, FEHD submitted a progress report on the major recommendations of the Working Group on IHL of the former Provisional UC and proposed an alignment policy for IHLs in the urban areas and in the New Territories. The Panel supported the alignment policy but had diverse views on whether to impose a five-year time limit for the option of surrendering licences and on the amount of ex-gratia payment.

15. The Alignment Policy for IHL was then implemented on 1 January 2003 and eventually extended until 31 December 2012. A total of 514 IHL holders had voluntarily surrendered their licences under the scheme. Among them, 412 opted for ex-gratia payment, 74 elected vacant fixed hawkker pitches and 28 selected vacant market stalls.

16. Following the Hawker Licensing Review conducted in 2008, FEHD eventually decided to issue 61 new IHLs (Frozen Confectionary).

## **ISSUE OF FIXED-PITCH HAWKER LICENCE TO FORMER TOBACCO HAWKERS OR RETAILERS**

17. Prior to August 1989, the Customs and Excise Department (C&ED) issued tobacco hawker licences (THLs) or tobacco retailer's licences (TRLs) under the Dutiable Commodities Ordinance (DCO), Cap. 109, permitting holders to sell cigarettes and tobacco in urban areas.

18. Following the legislative amendments to DCO, persons selling dutiable commodities (including retailers) were no longer required to obtain licences from C&ED. Since then, C&ED ceased to issue new THLs or TRLs and stopped renewing licences. According to records, a total of 28 THLs or TRLs were valid at that time. Some THL or TRL holders carried on with their business upon expiry of their licences. Since they were not holding any hawker licence, they were regarded as unlicensed hawkers when hawking in public places.

### **Decision of the Markets and Street Traders Select Committee of the former Provisional UC**

19. In March 1999, a Legislative Councillor, on behalf of these cigarette and tobacco traders, suggested to the then Urban Services Department (USD) that a specific type of hawker licence should be issued to these traders given the special background. Site inspection by USD revealed that there were 13 tobacco trading sites and four of them were personally operated by former THL or TRL holders.

20. At the meeting of the Markets and Street Traders Select Committee of the former Provisional UC held in November 1999, the matter concerning issue of hawker licence to the former holders of THL or TRL issued previously by the C&ED was discussed.

21. Having considered the special circumstances, members of the Markets and Street Traders Select Committee of the former Provisional UC agreed that -

- (a) only those 28 persons who were previously holders of THLs or TRLs issued by C&ED were eligible to apply for trading in-situ; and
- (b) USD should consider the applications submitted by the eligible persons and consult relevant departments.

### **Subsequent follow-up action by FEHD**

22. Upon establishment in 2000, FEHD invited eligible tobacco traders to apply for fixed-pitch hawker licences and considered creating 13 fixed hawker pitches taking into account the requests of these traders. However, after considering the environmental hygiene factor, the need to maintain obstruction-free passageways as well as the views of the local community, only one site in Sham Shui Po district was considered suitable for the purpose. The trader operating thereat was subsequently issued with a fixed-pitch hawker licence for in-situ operation. Other sites were unsuitable for creating fixed hawker pitches and traders there were required to move to other vacant fixed pitches to carry on with their business. Subsequently, a trader opted for a vacant fixed hawker pitch and was issued with a hawker licence.

23. In 2008, a Legislative Councillor conveyed the tobacco traders' request to issue hawker licences to them in order to retain this traditional trade of Hong Kong. Site investigations by FEHD revealed that out of the 13 tobacco trading sites that were identified in 1999, only eight had continued operation and they were all located in Central and Western District. At the meeting of LegCo Panel in January 2009, Members agreed with the Administration's proposal to issue fixed pitch hawker licences to the concerned operators. After consultation with relevant departments on the provision of fixed hawker sites at the eight tobacco trading sites and the Central and Western DC on the proposal, the eight tobacco hawkers were subsequently issued with fixed-pitch hawker licence for in-situ operation.

## **ADVICE SOUGHT**

24. Members are invited to note the content of this paper.

**Food and Health Bureau  
Food and Environmental Hygiene Department  
July 2014**