

立法會

Legislative Council

LC Paper No. CB(2)1440/13-14

(These minutes have been seen
by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

**Minutes of meeting
held on Monday, 24 March 2014, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** :
- Hon MA Fung-kwok, SBS, JP (Chairman)
 - Hon Cyd HO Sau-lan
 - Hon Starry LEE Wai-king, JP
 - Dr Hon LAM Tai-fai, SBS, JP
 - Hon CHEUNG Kwok-che
 - Hon IP Kwok-him, GBS, JP
 - Hon Steven HO Chun-yin
 - Hon Frankie YICK Chi-ming
 - Hon WU Chi-wai, MH
 - Hon YIU Si-wing
 - Hon CHAN Chi-chuen
 - Hon LEUNG Che-cheung, BBS, MH, JP
 - Dr Hon Helena WONG Pik-wan
 - Hon IP Kin-yuen
 - Dr Hon CHIANG Lai-wan, JP
 - Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** :
- Dr Hon Kenneth CHAN Ka-lok (Deputy Chairman)
 - Hon Claudia MO
 - Hon Alice MAK Mei-kuen, JP
 - Hon Tony TSE Wai-chuen

**Public Officers : Item IV
attending**

Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

Ms Gracie FOO, JP
Deputy Secretary for Home Affairs (1)

Mr Vincent FUNG
Principal Assistant Secretary for Home Affairs
(Civic Affairs) 1

Item V

Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

Mrs Pamela TAN KAM Mi-wah, JP
Director of Home Affairs

Mr Patrick LI Pak-chuen, JP
Deputy Director of Home Affairs (1)

Mr Eric HUI Kwok-sun, JP
Assistant Director of Home Affairs (2)

Mr SIN Kwok-hau, JP
Assistant Director of Food and Environmental Hygiene
(Operations) 3

Mr CHEUNG Tak-keung
Assistant Commissioner of Police (Operations)

Ms Olga LAM Wai-ha, JP
Assistant Director of Lands (Estate Management)

**Clerk in : Ms Alice LEUNG
attendance Chief Council Secretary (2) 2**

**Staff in : Mr Bonny LOO
attendance Assistant Legal Adviser 3**

Miss Josephine SO
Senior Council Secretary (2) 6

Miss Emma CHEUNG
Legislative Assistant (2) 2

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I. Confirmation of minutes

(LC Paper No. CB(2)1054/13-14)

The minutes of the meeting held on 10 January 2014 were confirmed.

II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)955/13-14(01), CB(2)970/13-14(01), CB(2)996/13-14(01), CB(2)1015/13-14(01), CB(2)1110/13-14(01) and CB(2)1125/13-14(01)&(02))

2. Members noted that the following papers had been issued since the last meeting -

- (a) Referral memorandum from the Public Complaints Office of the Legislative Council ("LegCo") Secretariat on issues relating to the implementation of the Building Management Ordinance (Cap. 344);
- (b) Further letter dated 25 February 2014 from Dr Hon Kenneth CHAN on other issues relating to the Hong Kong, China Delegation to the Sochi 22nd Olympic Winter Games ("OWG");
- (c) Administration's response to the two letters dated 11 and 12 February 2014 respectively from Dr Hon Kenneth CHAN and Hon CHAN Chi-chuen on issues relating to the Hong Kong, China Delegation to the Sochi 22nd OWG;
- (d) Submission from Hong Kong Public Lending Right Alliance on the introduction of "public lending right" in Hong Kong;
- (e) Administration's response to the further letter dated 25 February 2014 from Dr Hon Kenneth CHAN on other issues relating to the Hong Kong, China Delegation to the Sochi 22nd OWG;
- (f) Email from a member of the public dated 18 February 2014 on LCSD Leisure Link; and

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- (g) Administration's response to the issues of concern raised in the email from a member of the public concerning LCSD Leisure Link.

Matters relating to the participation of the Hong Kong, China delegation in large-scale international multi-sport games

3. Regarding the issues raised in the letters of the Deputy Chairman and Mr CHAN Chi-chuen as referred to in paragraph 2(b), (c) and (e) above, Mr CHEUNG Kwok-che suggested that matters relating to the participation of the Hong Kong, China delegation in large-scale international multi-sport games as well as the authority of the Sports Federation & Olympic Committee of Hong Kong, China to determine the composition of the Hong Kong, China delegation to these games should be discussed at a future meeting. Members agreed that the item be included in the Panel's list of outstanding items for discussion.

4. Members also agreed that to facilitate members' discussion, the Research Office of the LegCo Secretariat should be requested to conduct a research study on the institutional structure and governance of the National Olympic Committees ("NOCs") in selected places as well as that of their national sports associations ("NSAs"). Mr CHEUNG Kwok-che and Mr WU Chi-wai suggested that the research study should, among others, look into the role of the government in the countries under study in monitoring the operation of NOCs/NSAs and promoting elite sports development.

Clerk
&
Research
Office

5. The Chairman asked the Clerk to relay members' views and suggestions to the Research Office for preparation of a proposed research outline for consideration by members.

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1060/13-14(01) and (02))

6. Members agreed to discuss the following two items at the next regular meeting to be held on Friday, 11 April 2014, at 8:30 am -

- (a) Issues arising from the scrutiny of the Hong Kong Arts Development Council (Amendment) Bill 2013; and
- (b) Provision of new sports facilities in Shatin and Tuen Mun.

IV. Government's youth development policy
(LC Paper Nos. CB(2)1060/13-14(03) and (04))

7. As the item involved a funding proposal, the Chairman reminded members that in accordance with Rule 83A of the Rules of Procedure, they should disclose the nature of any direct or indirect pecuniary interests before they spoke.

8. At the invitation of the Chairman, Secretary for Home Affairs ("SHA") took members through the Administration's paper which provided an update on the Government's policy on youth development and the outcome of the Administration's review on the operation and positioning of the Youth Square ("YS"). The paper also sought members' support for the Government's proposal to launch a \$100 million Scholarship Scheme (a new initiative announced in the Chief Executive ("CE")'s 2014 Policy Address) for fostering a culture of multi-faceted excellence ("the proposed Scholarship Scheme").

Youth development policy

9. Noting the vision of CE on nurturing the next generation as set out in his 2014 Policy Address, Mr Christopher CHUNG expressed concern as to whether the vision was achievable and sustainable in the long run. In his view, the Administration should lay down in its paper clear objectives and deliverables to ensure undertaking of its mission and delivery of performance targets, and report regularly to the Panel on the progress of its youth development work. His view was echoed by Mr Frankie YICK.

10. Mr CHEUNG Kwok-che said that the subject of youth development straddled across a number of policy areas, including welfare, education, sports, arts and culture etc. He and Mr Frankie YICK both considered that the Administration's paper was not comprehensive enough to cover all relevant issues and it only focused on the new \$100 million Scholarship Scheme. They were particularly concerned about the Government's support for youth and students who were less talented or with special educational needs.

11. In response, SHA and Principal Assistant Secretary for Home Affairs (Civic Affairs) 1 ("PASHA(CA)1") made the following points -

- (a) youth development work was a long-term and sustained commitment. As the matter straddled various policy areas, the concerted efforts of relevant bureaux/government departments were required;

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- (b) in CE's 2014 Policy Address, there was a chapter dedicated to the nurturing of the next generation. Some of the announced initiatives fell under the purview of the Home Affairs Bureau ("HAB");
- (c) young people were the precious assets of the society. The Government's youth development policy would focus on creating opportunities for them and helping them to realize their potentials. It was the aim of the Government to foster a culture of multi-faceted excellence and to promote multiple pathways and equal opportunities for youth. The Administration would continue to work with relevant stakeholders and provide additional resources, where necessary, for enhancing the youth development work; and
- (d) the Government would implement measures to help young people in life planning. For instance, the Education Bureau would increase the manpower of the Career Guidance Team to provide holistic support to schools in providing career guidance service and life planning education, and HAB would provide funding support to non-governmental organizations to organize life planning activities for students and their parents.

12. In expressing support for the proposed Scholarship Scheme, Dr CHIANG Lai-wan said that it was her understanding from some secondary school principals that providing opportunities for youth to reach out to and interact with the community, for example, through arranging job placements during the summer vacation for senior form secondary school students, could help deepen their understanding of different trades and enhance their awareness of the multiple pathways for future studies or career advancement. There was also a suggestion that consideration be given to establishing a Best Progress Award to encourage and recognize students with significant progress and improvement in their studies. She and Mr Frankie YICK hoped that the Government would give thoughts to these suggestions.

13. SHA responded that the suggestions were worthy of further consideration by the Administration. Citing the Outstanding Youth Commendation Scheme organized by HAB and the Commission on Youth as an example, he said that by giving recognition to a group of young role models having outstanding performance/achievements in different areas, the aforesaid Scheme demonstrated the Government's support of youth development along the vision and direction set out in paragraph 2 of the Administration's paper.

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14. Dr Helena WONG held the view that to develop the full potential of the young people, the Government should on the one hand, map out the direction for the youth to follow and on the other hand, provide them with opportunities to participate in the consultation processes and to express their views. She suggested the Administration to increase the number of representatives of youths in statutory and advisory bodies.

The proposed \$100 million Scholarship Scheme

15. The Chairman, Mr LEUNG Che-cheung and Mr IP Kwok-him said that they were in support of the Administration's proposal to launch the \$100 million Scholarship Scheme. The Chairman and Mr LEUNG hoped that consideration could be given to increasing the number of scholarships to be awarded each year, which was initially set at around 20, with a view to benefitting more students.

16. The Chairman pointed out that as elite athletes often had to devote much of their time and efforts to training and competitions, it was difficult for them to pursue at the same time regular studies and hence their academic performance was affected. He wondered whether universities and tertiary institutions could exercise discretion under the proposed Scholarship Scheme for admitting students with exceptional non-academic talents/achievements whose Hong Kong Diploma of Secondary Education ("HKDSE") examination results did not meet the basic university admission requirements. Echoing the view of the Chairman, Mr WU Chi-wai urged the Administration to appeal to the universities and tertiary institutions to remove the threshold on the examination results.

17. Deputy Secretary for Home Affairs (1) ("DSHA(1)") responded that in line with the concept of "multi-faceted excellence", the proposed Scholarship Scheme would give recognition to and place emphasis on non-academic achievements. The award of scholarships would be based mainly on students' achievements in sports, arts and/or community service, rather than academic merits. As a new scheme, the Administration considered it more appropriate to target at HKDSE graduates who had met all the basic requirements of university admission and/or any further requirements stipulated by individual faculties/departments. To give due respect to universities' autonomy in admission, the students nominated by secondary schools as well as the Assessment Panel would be referred to universities for consideration. If deemed necessary, the universities might conduct further interviews with the nominees to assess whether they had the aptitude for the programme selected. Such interviews might be arranged during or after the HKDSE examinations, but in any event before the release of the HKDSE results. The Administration expected the universities to give

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conditional offers to the nominees whom they intended to admit, which meant that the offers would be conditional upon the nominees attaining basic/further university admission requirements stipulated by individual faculties/departments.

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18. Noting that around 20 students who excelled in sports, arts and community service would be awarded the scholarship each year, the Chairman and Mr CHAN Chi-chuen sought information about the planned distribution of the 20 scholarships among these three areas of excellence. They requested the Administration to provide the said information in its paper to be submitted to the Finance Committee ("FC"), in order to facilitate Members' consideration of the funding proposal.

19. In reply to Mr CHAN Chi-chuen's and Dr Helena WONG's enquiries about the criteria to be adopted for making nominations for the award of scholarship, PASHA(CA)1 said that the process would involve three key steps, viz. nomination, selection and matching. After receipt of nominations by secondary schools, the nominations would be shortlisted with reference to a set of objective criteria. In order to encourage youths to pursue multi-faceted excellence, students whose achievement matched the undergraduate programme(s) they chose would be given extra credits. Thereafter, an Assessment Panel, comprising well-respected figures in the fields of education, sports, arts and community service, would interview the shortlisted candidates with a view to making around 20 nominations for consideration by universities.

20. Mr LEUNG Che-cheung said that he noted that the Administration had injected \$1 billion each into the Hong Kong Special Administrative Region Government Scholarship Fund and the Self-financing Post-secondary Education Fund in 2012-2013 to provide a total of 10 000 scholarships/awards a year for students with talents in non-academic fields. He asked whether the Administration had any plan to combine the proposed Scholarship Scheme with existing scholarships in view of the fact that they shared similar policy objective of promoting multi-faceted excellence.

21. In response, PASHA(CA)1 advised that -

- (a) under the proposed Scholarship Scheme, universities and tertiary institutions would be provided with additional resources out of the fund to cover the full costs of admitting about 20 additional local students a year who excelled in sports, arts and community service to study undergraduate programmes;

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- (b) the new Scholarship Scheme would serve as an admission channel which placed emphasis on non-academic achievements. While the target students were HKDSE graduates, the process started with nominations by secondary school principals and universities/tertiary institutions were expected to give conditional offers to the nominees whom they intended to admit before the release of the HKDSE results; and
- (c) contrary to the few pre-admission scholarships available for prospective students which were awarded mainly on the basis of academic merits, the Scholarship Scheme aimed to promote multi-faceted excellence.

Youth Square

22. Mr YIU Si-wing held the view that although the primary objective of YS was to serve as a focal point for territory-wide youth development activities with its target users being youths and youth organizations in Hong Kong, there was a need for YS to yield a reasonable return. Noting that the Administration had, based on past experience and the consultant's financial analysis, recommended to set the target cost-recovery ratio for YS at 50%, he asked about the rationale behind the determination of such a ratio.

23. In response, SHA and PASHA(CA)¹ explained that -

- (a) the principal recommendation of the consultancy study was that there existed a possible discrepancy between the youth development objective of YS and the Government's originally planned full-cost-recovery objective. Because of this, it had not been possible for YS to fully fund its recurrent expenditures through its revenues. Being a key government investment to promote youth development, YS needed to ensure that its facilities were mainly used by the target user groups (i.e. youths and youth organizations) and offer concessionary rates to them. As the objectives of youth development and full-cost-recovery might be in conflict, the Administration had critically considered how YS should be positioned to strike a proper balance between the two objectives;
- (b) as youth development was a long-term and ongoing process, the Government's continued input of resources was necessary and justifiable. By offering a diversified range of venues and facilities for the young people and youth organizations, YS was an important platform for the Government to pursue its youth

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development objective. This, however, might not be possible when the rates charged for the facilities were not set at a level affordable to these target users whose budgets were limited;

- (c) since the opening of YS, its utilization rates had been improving. Through various promotional efforts and implementation of concessionary proposals, the utilization had been on the rise and many facilities were achieving more than satisfactory utilization rates which were above the performance targets;
- (d) despite the satisfactory utilization rates, YS had been incurring operating deficits due to various constraints. It should be noted that the cost structure of YS was largely fixed with the management fees, which were adjusted annually according to the Composite Consumer Price Index and made up a large proportion of its operating cost (85%); and
- (e) given the constraints mentioned above, it would not be realistic for YS to increase revenue or reduce costs significantly to make up for its deficit. Against this background and taking into account the consultant's financial analysis, the Administration recommended that the target cost-recovery ratio be set at 50%. This ratio was considered as prudent and realistic.

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24. Mr YIU Si-wing also enquired about the revenues generated by Y-Loft in the past few years, and whether upward adjustment of room charge had ever been made in light of the high occupancy rate of Y-Loft (over 80%) since its opening in 2010. He requested the Administration to provide the information after the meeting.

25. Ms Cyd HO informed the meeting that she was a member of the Public Accounts Committee ("PAC") during the 2011-2012 legislative session. She recalled that in the course of PAC's deliberations of the Director of Audit's Value for Money Audit Report No. 58, members in general supported the policy direction and objectives formulated for YS. Pointing out that the PAC report published in July 2012 had called for actions to boost the usage of YS' venues and facilities by target users, e.g. offering appropriate concessionary rentals to them and removing any unnecessary constraints on the use of the venues and facilities, she asked whether and if so, what measures had been taken by the Administration in response to the recommendations of PAC.

26. DSHA(1) responded that the Administration had engaged a consultant to carry out a review of the management and operation mode of YS, in order

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to assess whether the existing management and operation mode was the most cost-effective and appropriate arrangement. Whilst the consultancy study had recommended a number of measures for promoting the popularity of YS, attracting patronage and improving usage of its facilities, the Administration would report the above to PAC in its next progress report. DSHA(1) added that the Hong Kong Art School ("HKAS") had moved into YS from June 2013, taking up some of the spaces of the minor facilities. It was envisaged that HKAS would bring in organic changes in the use of YS as a whole.

27. Mr WU Chi-wai held the view that in assessing whether and how YS could maximize its role in contributing to youth development, the Administration should, apart from measuring the utilization rates of facilities, take into consideration the visitor flow, the user profiles as well as the usage of YS' venues and facilities by target users. He enquired about the efforts of the Administration in building up the image and identity of YS among its target users.

28. SHA reiterated that with its target users being the youth organizations and youths in Hong Kong, various types of rental concessions had been offered to attract tenants and patronage to YS. The intention was to attract tenants which would conduct programmes, classes, activities or business conducive to youth development at YS.

Support to youth exchange programmes and youth uniformed groups

29. Mr IP Kwok-him sought detailed information about the Government's increased support to uniformed groups and the plan of expanding the International Youth Exchange Programme ("IYEP").

30. In response, PASHA(CA)1 advised that -

- (a) young people were encouraged to capture the many opportunities that came with globalization by broadening their horizons and enriching their understanding of the Mainland and the rest of the world. In this connection, the Government would increase the funding support to community organizations for offering more internship placements and exchange opportunities in the Mainland for youths. It would also actively explore the feasibility of extending IYEP to more countries, so as to enable more young people to benefit from overseas exchange opportunities; and
- (b) additional resources would also be allocated to strengthen the networking and communication with young people at the district

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level, through organizing various activities such as voluntary services, leadership training camps and study tours. The recurrent subvention for uniformed groups would be doubled starting from 2014-2015, so that more young people would benefit from the activities of these uniformed groups, through which leadership skills, confidence and self-discipline could be developed.

Need for further discussion on youth development policy

31. Mr CHEUNG Kwok-che, Mr Frankie YICK, Mr WU Chi-wai, Mr CHAN Chi-chuen and Dr Helena WONG expressed similar view that the Administration's paper was not comprehensive enough to cover all relevant issues relating to youth development. In their view, the foci of the Administration's paper were mainly on the new \$100 million Scholarship Scheme for fostering a culture of multi-faceted excellence and the outcome of the Administration's review on the operation and positioning of YS. They considered it necessary for the Panel to further discuss at another meeting the Government's overall objectives and strategies for youth development and the concerted efforts of various bureaux/departments in youth development work. The Chairman suggested and members agreed that the matter be included in the Panel's list of outstanding items for discussion.

Submission of the Scholarship proposal to FC

32. Members did not raise objection to the submission of the funding proposal to FC. Mr WU Chi-wai said that the Administration's proposal to FC should be framed explicitly in the context of the \$100 million Scholarship Scheme and the title of the paper should reflect clearly the focus of the proposal. SHA agreed to do so.

V. Shop front extension

(LC Paper Nos. CB(2)1060/13-14(05) and (06))

33. At the invitation of the Chairman, SHA briefed members on the Administration's paper on the enhanced measures against shop front extensions ("SFEs") and the public consultation document on the proposed fixed penalty system which was intended to be an additional measure for tackling SFEs.

34. Members noted that Mr Tommy CHEUNG and Mr Vincent FANG, non-Panel members, had jointly written to the Chairman on 21 March 2014, expressing opposition to the Administration's proposal to introduce a fixed

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penalty system to tackle problems associated with SFEs. In view of the impacts of the proposal on the catering and retailing trades, they requested the Panel to hold a public hearing to receive public views on the consultation document. Members agreed. The Chairman asked the Clerk to fix a date for the public hearing.

Clerk

35. Regarding Mr Tommy CHEUNG's and Mr Vincent FANG's suggestion that a study be conducted on the provision of support to trades with distinct characteristics which engaged in business activities involving the display of goods on pavements or at roadsides, the Chairman requested the Administration to give thoughts to the suggestion and, where appropriate, refer it to the relevant bureaux/departments for consideration.

(Post-meeting note: The joint letter from Mr Tommy CHEUNG and Mr Vincent FANG tabled at the meeting was issued to members vide LC Paper No. CB(2)1147/13-14(01) on 24 March 2014.)

Criteria for determining the priority of enforcement against SFEs

36. Mr CHEUNG Kwok-che, Dr Helena WONG, Ms Starry LEE and Mr LEUNG Che-cheung recognized that the problem of SFEs was a long-standing district issue. Given the complicated and controversial nature of the issue, the tackling of SFEs required the concerted efforts of the relevant enforcement departments. While agreeing that there was room for the Government to strengthen its collaboration with District Councils ("DCs") in tackling SFEs across all the 18 districts, Mr CHEUNG considered it necessary for the Administration to approach the issue from the perspective of pedestrian access and safety, in determining whether a tolerance level for SFEs should be set. Should criteria for determining the priority of enforcement against SFEs be drawn up, the enforcement departments should issue clear enforcement guidelines to their frontline staff to facilitate and ensure consistency in enforcement.

37. Mr Frankie YICK, Mr IP Kwok-him and Ms Starry LEE all considered that the Administration should not adopt a simple across-the-board approach to tackle the problems associated with SFEs. They hoped that the Administration would take into account the views received during the public consultation before deciding on the way forward.

38. SHA and Deputy Director of Home Affairs (1) ("DDHA(1)") responded that given their local knowledge and close contacts with residents, DCs were in a good position to advise the enforcement departments on the priority of enforcement. In general, SFEs that posed imminent danger to pedestrians and traffic should be assigned a higher priority. On the other

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hand, SFEs which constituted a distinct characteristic and contributed to the vibrancy of the district might either be assigned lower priorities or even tolerated, subject to the conditions that the SFEs concerned did not cause any imminent danger to pedestrians and traffic, and that the shop operators could exercise self-discipline by adhering to the level of extension agreed with the enforcement departments. Given DCs' knowledge of the district characteristics and the needs and aspirations of people in their district, they would be invited to help work out the criteria for determining the priority of enforcement against SFEs for consideration by relevant enforcement departments.

39. The Chairman, Mr IP Kwok-him and Ms Starry LEE were concerned whether and how objective yardsticks could be applied when making assessment on whether a SFE constituted a distinct characteristic and contributed to the vibrancy of the district. Ms LEE considered it not easy to come up with a consensus among various parties concerned. Citing the Mongkok Flower Market and food premises in some districts as examples, the Chairman cautioned that it might give rise to grey areas and inconsistency in enforcement, and attract criticism that the assessment was arbitrary and unreasonable.

40. DDHA(1) responded that at present, enforcement departments allowed a level of extension, i.e. three feet outside the shops, in the Mongkok Flower Market. The discretion provided was the outcome of consultation with the relevant DC and agreed with the shop operators. As regards licensed food premises that carried out business outside the confines of their premises, the Food and Environmental Hygiene Department ("FEHD") could take enforcement action under its purview. DDHA(1) stressed that in drawing up the criteria for determining the priority of enforcement against SFEs, the following factors had to be taken into account -

- (a) road access and safety of pedestrians, vehicles and other road users;
- (b) extent and nature of SFEs;
- (c) public hygiene and amenity;
- (d) effectiveness of past enforcement action;
- (e) instances of complaints;
- (f) district characteristics of the concerned area; and
- (g) community feedback and aspirations.

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41. Mr WU Chi-wai considered the Administration irresponsible in relying on DCs' advice in drawing up the criteria for determining the priority of enforcement against SFEs. He stressed that the onus should be on the Administration to formulate a clear enforcement policy against SFEs to ensure relevant enforcement departments' consistency in enforcement with a view to providing adequate and safe pedestrian access. DCs' involvement should be limited to consideration of special cases where discretion might be granted or SFEs be tolerated, in view of their distinct characteristics or contributions to the vibrancy of the district. Mr WU opined that to ensure effectiveness and efficacy in abating SFEs, the Government should continue to improve the existing multi-disciplinary enforcement regime. This apart, enforcement departments, including FEHD, the Lands Department, the Hong Kong Police Force and the Buildings Department, should conduct joint operations against SFEs more frequently.

42. In response, SHA stressed that there was no question of the Administration shirking its responsibility by putting forward the proposed fixed penalty system and consulting DCs' views on enforcement strategies against SFEs. On the contrary, it demonstrated the Administration's determination and commitment in tackling the problem of SFEs.

43. Mr IP Kwok-him said that he could not subscribe to Mr WU Chi-wai's view about DCs' involvement in tackling SFEs. He pointed out that since the dissolution of the two former Municipal Councils, there had been calls that the Administration should devolve more substantive power to DCs in the management of district affairs. It was therefore appropriate for the Administration to enhance community involvement by capitalizing on DCs' knowledge of the district characteristics as well as the needs and aspirations of people in their districts.

44. Pointing out the difficulty in law enforcement, Mr CHAN Chi-chuen considered it important for the Administration to make clear to the public which SFEs might be/had been assigned lower priorities of enforcement or even tolerated, and the rationale behind the Administration's decision of providing a tolerance level for some SFEs. Echoing Mr CHAN's view, Dr Helena WONG asked about the reasons for the difficulties in enforcing the existing legislation against SFEs.

45. SHA and DDHA(1) responded that -

- (a) the Government had all along been tackling the problem of SFEs through a four-pronged approach, namely (a) law enforcement by individual departments using powers under the relevant Ordinances, (b) joint operations led by District Officers for more

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complex cases involving several departments, (c) collaboration with DCs and (d) public education and publicity. Despite the efforts made, the problem of SFEs persisted. Proliferation of SFEs continued to compromise the safety and access of pedestrians, drivers and other street users;

- (b) the Government considered it necessary to enhance the efforts in tackling the problem of SFEs. It was looking for an additional enforcement tool to tackle SFEs more efficiently and effectively, and was exploring the possibility of introducing a fixed penalty system against SFE offences in order to heighten the deterrent effect. The proposed fixed penalty system was intended to be an additional measure, which would help address the deficiency of the existing summons system, namely, the long lead time involved in the prosecution process and the light penalties that had been proven as carrying little deterrent effect. It, however, would not replace the other existing enforcement tools; and
- (c) in view of the need to strike a balance carefully, the Administration would consult all the 18 DCs and meet with interested community groups and relevant stakeholders from the business sector, in taking forward the consultation exercise.

46. Mr LEUNG Che-cheung wondered whether DCs' recommendations in respect of the designation of "black spots" were final and whether enforcement departments would withhold actions against specific black spots if and when the shop operators concerned sought assistance from other parties, such as LegCo Members, to request a review of the designation.

47. SHA reiterated that with their local knowledge and close contacts with residents, DCs were well placed to advise the Government on the priority of enforcement. The parties which put forward a request for a review of the designation should provide sufficient grounds or reasons to support their request. He stressed that since all prosecutions must be proceeded with in conformity with the rule of law, any enforcement actions must be based on sufficient and concrete evidence.

Proposed level of fixed penalty

48. Mr CHEUNG Kwok-che said that the public might have concerns about the level of penalty proposed. In his opinion, any proposed fine must be proportionate to the nature and severity of the offence, in comparison with other fixed penalties. He asked about the level of penalties imposed by the court for past convictions involving SFEs.

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49. SHA replied that in 2013, persons convicted of the offence of obstruction of public places under section 4A of the Summary Offences Ordinance (Cap. 228) were fined \$595 on average while the maximum penalty under that section was a fine of \$5,000 and imprisonment for three months. In most cases, the penalties were insignificant compared to the high rentals that shop operators would have to pay for any additional space. Many offending shop operators might simply take these penalties as part of their operating costs.

50. Mr IP Kwok-him said that he often received complaints from members of the public on SFEs. In his view, given the deficiency of the existing summons system, the proposed fixed penalty system might be a feasible option. He enquired about the considerations to be taken into account by the Administration in proposing the level of fixed penalty under the new system.

51. SHA responded that the level of fixed penalty was one aspect on which the consultation paper sought public views, while the Administration would make reference to a number of factors outlined in the consultation document (such as, amongst others, the current level of fixed penalty under the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) (i.e. at \$1,500)).

52. Mr LEUNG Che-cheung suggested that the Administration should consider taking more vigorous actions against repeated SFE offences and increasing the manpower of enforcement departments for performing beat/inspection duty, in order to achieve the desired deterrent effect.

53. In response to Mr LEUNG Che-cheung's enquiry, DDHA(1) said that if the proposed fixed penalty system was to be implemented, according to legal advice sought and obtained by the Administration, penalty notices could be issued to the same shop operator again if the problem was not rectified within a reasonable period of time. However, details of the prosecution policy including guidelines would only be worked out in consultation with enforcement departments at a later stage if the proposed fixed penalty system was supported by the community. DDHA(1) stressed that the problem of SFEs had to be tackled through a multi-pronged approach including public education and publicity. This public consultation exercise could raise public awareness of the problem of SFEs and it was hoped that a consensus in the community could be reached.

Street management problems

54. Ms Starry LEE and Mr LEUNG Che-cheung said that SFEs were only one of the many problems associated with street management. Expressing concern about the problem of obstruction of public places/walkways by

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goods or articles left unattended (e.g. easy mount frames for displaying commercial publicity materials and illegally parked bicycles), Ms LEE asked whether the proposed fixed penalty system for tackling SFEs would also address the aforementioned problem.

55. In response, DDHA(1) admitted that street management was a common problem to many districts, and it fell within the ambits of various enforcement departments. For the problems mentioned by Ms Starry LEE, it should be noted that enforcement actions would be taken in accordance with the Public Health and Municipal Services Ordinance (Cap. 132) and the Land (Miscellaneous Provisions) Ordinance (Cap. 28) respectively against unauthorized display of easy mount frames and illegal parking of bicycles. SHA and DDHA(1) both advised that the current proposal was mainly about how the Administration could tackle SFEs. Director of Home Affairs added that while public views were invited on a number of issues, any suggestions on possible enforcement measures other than fixed penalty (e.g. removal and/or seizure of goods) to address the problem of SFEs were also welcomed.

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56. Ms Starry LEE maintained the view that the Administration should take the opportunity to also address the problems associated with street management. She requested the Administration to advise in writing whether goods or articles causing obstruction and left unattended on streets could be removed or confiscated under the existing laws, and details of the relevant ordinances and regulations should the answer be in the affirmative.

57. There being no other business, the meeting ended at 10:32 am.