

# 立法會 *Legislative Council*

LC Paper No. CB(2)1442/13-14(08)

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## **Panel on Home Affairs**

### **Background brief prepared by the Legislative Council Secretariat for the meeting on 12 May 2014**

#### **Government's Policy and Measures on Street Performance**

#### **Purpose**

This paper provides background information and summarizes major concerns of members of the Panel on Home Affairs ("the Panel") on street performance.

#### **Background**

##### Government's policy on street performance

2. According to the Administration, it has all along been the Government's policy to promote arts and culture to the public and encourage public participation in order to integrate the arts into the community. The Government welcomes street arts performance to enrich the cultural life of people. At present, there are no laws in Hong Kong prohibiting street performance, but street performance must not pose any risk to public safety or cause nuisances or obstruction to the public, as in the case of other activities that take place in public space. Upon receiving a public complaint, government departments concerned such as the Police and the Food and Environmental Hygiene Department ("FEHD") will attend the scene and conduct enquiry. If the street performance breaches any statutory provisions, the government department will take enforcement actions which may include giving advice or verbal warning, requesting the performance be stopped and instituting prosecution. The relevant legal provisions are set out in several ordinances including the Summary Offences Ordinance (Cap. 228), the Control

of Obscene and Indecent Articles Ordinance (Cap. 390) and the Noise Control Ordinance (Cap. 400).

### Measures on promoting street performance

3. In July 2010, the Home Affairs Bureau ("HAB") launched the "Open Stage" pilot scheme, under which the piazzas of Hong Kong Cultural Centre, Sha Tin Town Hall and Kwai Tsing Theatre were provided as designated places for public performance by individuals or groups<sup>1</sup>. In January 2012, the Administration advised the Panel that the "Open Stage" scheme would only continue at Sha Tin Town Hall plaza on a long-term basis, in view of the relatively low level of patronage at the piazzas of Hong Kong Cultural Centre piazza and Kwai Tsing Theatre.

4. According to the Administration, LCSD also regularly organizes cultural activities at the outdoor areas of four performances venues (*i.e.* the Hong Kong Cultural Centre, Sha Tin Town Hall, Tsuen Wan Town Hall and Kwai Tsing Theatre). In 2013, some 140 cultural activities (not including the "Open Stage" scheme) such as concerts, Cantonese opera and dance performances were held. In addition, LCSD allowed performing arts activities such as singing, dancing and other self-entertainment activities to take place at the outdoor areas of performing arts venues managed by LCSD as long as these activities did not cause nuisance, annoyance or obstruction to other users.

### **Members' views and concerns**

5. While the Panel has not discussed specifically the subject of street performance, members expressed views and concerns about street performance when the Panel discussed issues relating to arts and culture in a number of meetings between 2008 and 2012. Members' major views and concerns are summarized below.

### Venues for street performance

6. When discussing the use of public space at the Panel meeting on 13 January 2012, members expressed concern about the availability of venues for street performance. Noting that LCSD would continue the "Open Stage"

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<sup>1</sup> Under the scheme, performers were required to pass an audition for ensuring that the performances were of a suitable artistic standard and comply with the safety and noise control requirement. Qualified performers could register on a first-come-first-served basis for a two-hour performance session between 10 am and 10 pm on weekends and public holidays at any of the three places. Performers were not required to pay for any rental, and might collect donations within the performance area.

scheme only at Sha Tin Town Hall plaza on a long-term basis, members enquired whether the Administration would consider providing other LCSD-managed venues for the scheme. There was another view that LCSD should consider establishing an application-and-approval mechanism for street performers at both the LCSD-managed venues and pedestrian precincts so as to facilitate street performance.

7. The Administration advised that LCSD would explore whether more suitable venues with heavy pedestrian flow could be made available for use under the "Open Stage" scheme. However, available sites for the "Open Stage" scheme were restricted to LCSD-managed venues because those venues had clearly-delineated boundaries within which LCSD could exercise its statutory authority.

8. As regards street performances at pedestrian precincts, the Administration advised that the suggestion of making available pedestrian precincts for the staging of street performances could not be considered by LCSD alone, as LCSD had no statutory authority to manage the public open space outside its purview. In the view of the Administration, it was a complex issue involving not only the responsibilities of various government departments (such as the Transport Department, the Police and FEHD) but also the need to balance the demands of different users and the views of local residents.

#### Regulation and law enforcement

9. When the Panel discussed issues relating to monitoring the work of the West Kowloon Cultural District Authority and the proposal to set up a new Cultural Bureau on 14 November 2008 and 22 May 2012 respectively, some members expressed the view that street performance was worth promoting. Members urged the Administration to relax the restrictions on street performance and refrain from intervening in street performance as far as practicable so that the performers' initiatives and creativity would not be hampered. At the meeting on 13 January 2012, some members suggested that the Administration should consider introducing a licensing regime for regulation of street performance, especially those conducted in crowded areas.

10. The Administration advised that street arts performance would be welcomed as long as they did not cause any nuisance to the public. However, extreme caution should be exercised in considering the licensing regime for street performance. In the view of the Administration, introducing licensing requirement for street performance would mean forbidding unlicensed persons to conduct street performances, which would be a drastic change from the present arrangement. As the proposed licensing requirement might be subject to challenge on the grounds that it represented a violation of the right to

freedom of expression guaranteed under the Basic Law, it was necessary to carefully consider, among other things, whether there were solid legal grounds and sufficient community support for the introduction of a licensing regime for regulating street performance.

### **Latest development**

11. At the Panel meeting on 12 July 2013, members noted Dr Hon Kenneth CHAN's letter and the Administration's response to his letter dated respectively 18 June and 11 July 2013 concerning the Government's policy on promoting street performance (LC Paper Nos. CB(2)1445/12-13(01) and CB(2)1608/12-13(01)). Members agreed that the subject matter be discussed at a Panel meeting.

12. On 1 November 2013, a referral memorandum from the Clerk to the Panel on Environmental Affairs concerning a joint letter dated 6 June 2013 from Hon KWOK Wai-keung and Hon TANG Ka-piu was issued to members (LC Paper No. CB(2)200/13-14(01)). In the letter, Hon KWOK and Hon TANG raised concern about the control over noise of street performances as well as its impact on such activities. On a related issue, members noted at the meeting on 13 December 2013 that the Administration had provided a written response to Hon Claudia MO's letter dated 22 November 2013 in which she expressed concern about the arrangement of shortening the opening hours of the pedestrian precinct at Sai Yeung Choi Street South (LC Paper Nos. CB(2)375/13-14(01) and CB(2)508/13-14(01) respectively).

13. The Administration will brief members on the Government's policy and measures on street performance at the meeting on 12 May 2014.

### **Relevant papers**

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

## Appendix

### Relevant papers on Government's Policy and Measures on Street Performance

Committee	Date of meeting	Paper
Panel on Home Affairs and Panel on Development	14.11.2008 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Home Affairs	13.1.2012 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Home Affairs	22.5.2012 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Home Affairs	12.7.2013 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Home Affairs	13.12.2013 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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