

**For discussion on
9 January 2015**

Legislative Council Panel on Home Affairs

**Report on the Public Consultation
on the Enhanced Measures against Shop Front Extensions**

PURPOSE

This paper seeks to brief Members on:

- (i) a summary of the views collected from the public consultation exercise on the “Enhanced Measures against Shop Front Extensions (SFE)”; and
- (ii) the proposed way forward in the light of the views received.

BACKGROUND

2. SFE broadly refer to the occupation of public places by shops in front of or adjacent to their premises for the purpose of conducting or facilitating business activities. Such extensions are very often at the expense of road access, safety and environmental hygiene, and affect the quality of city life.

3. Currently, the Government tackles the problem of SFE through a four-pronged approach, namely:

- (i) law enforcement by individual departments using powers under the relevant Ordinances;
- (ii) inter-departmental joint operations;
- (iii) collaboration with District Councils (DCs); and
- (iv) public education and publicity.

Despite the above efforts made, the problems of SFE persist. Proliferation of SFE continues to compromise the access of pedestrians,

drivers and other street users and sometimes, their safety as well.

PUBLIC CONSULTATION

4. The Home Affairs Department (HAD), the Food and Environmental Hygiene Department (FEHD), the Lands Department (LandsD), the Hong Kong Police Force (HKPF) and the Buildings Department (BD), jointly prepared a public consultation document on “Enhanced Measures against SFE” (“the consultation document”) (**Annex 1**). The four departments also set up an inter-departmental team to consult the public on how to tackle problems associated with SFE more effectively. The 4-month consultation period lasted from 14 March till 14 July 2014.

5. The consultation exercise invited the public to express views on two major areas, namely “enforcement measures” and “community and DCs’ involvement”. During the consultation period, a total of around 1,100 written submissions from various groups/ organisations and individuals through different channels were received.

6. The inter-departmental team also sought views from LegCo Members, political parties, industry stakeholders, residents’ organisations, concern groups and the general public through different channels which included attending the meetings of the LegCo Panel on Home Affairs (HA Panel)¹, the Business Facilitation Advisory Committee and the 18 DCs. A list of meetings attended by the inter-departmental team is at **Annex 2**. A list setting out the names of the submissions from individuals and various groups/ organisations making the submissions is at **Annex 3**.

SUMMARY OF PUBLIC VIEWS RECEIVED

A. Fixed Penalty System Proposal

7. Our respondents expressed general support to the introduction of a fixed penalty system as an additional enforcement tool to achieve a

¹ The inter-departmental team attended a meeting held on 24 March 2014 and a special meeting held on 7 June 2014.

greater deterrent effect against SFE. On the level of fixed penalty, most of them considered \$1,500 appropriate. On the other hand, industry stakeholders including shop owners expressed strong objection to the introduction of such a system and urged the Government to take into account their operational needs and exercise discretion.

8. As the proposed fixed penalty system may have different deterrent effect on large consortia and small shop operators, some respondents were of the view that the Government should recognise the difficulties faced by the business sector, especially the small shops, if a fixed penalty system were to be implemented. A few respondents, including the industry stakeholders, urged that a transitional period and a strategy of “caution before enforcement” or “warning before prosecution” during the initial enforcement phase should be adopted. In this respect, industry stakeholders appealed to have a sufficient transitional period for them to take remedial action.

9. Many respondents pointed out that the effectiveness of the fixed penalty system lied on the implementation and enforcement details. Some suggested that fixed penalty tickets should be issued repeatedly to offenders who had failed to rectify SFE problems within a reasonable period of time. Some respondents suggested that the penalty level should be increased progressively for repeated offences.

B. Enhanced Enforcement and Inter-departmental Cooperation

10. A great majority of respondents strongly supported the relevant departments to strengthen enforcement action against SFE. Some urged that, given the multifarious forms of SFE offences, respective enforcement departments should take prompt action on their own before the SFE problem deteriorated further. A great majority of respondents opined that enforcement departments, in particular FEHD, should step up enforcement action against SFE under the existing legislation especially for those SFE problems that cause danger to pedestrians and other road users.

11. Specifically, some respondents observed that as some SFE such as display and sale of merchandise outside shops were in fact occupation of public place for hawking, such offences should be handled in the same way as per illegal hawking. Some respondents appealed to enforcement departments to remove and/or seize articles causing obstruction as this

would immediately clear off the place where SFE offences occurred and help strengthen the deterrent effect.

12. A great majority of DC members noted that, while District Officers (DOs) could help co-ordinate large-scale joint operations involving different enforcement departments, they urged relevant enforcement departments to co-ordinate among themselves for smaller scale inter-departmental operations. Such operations could be arranged within a shorter time and hence, could be staged more frequently to address the relapse of SFE problem.

13. Views were divided (including among DC members) on whether SFE should be “tolerated”. Industry stakeholders and concern groups generally preferred allowing some degree of “tolerance” towards SFE, while residents and the general public held opposite views. Those who were in support advocated the need to strike a balance in strengthening enforcement, emphasising the need to give due regard to the livelihood of businesses and employees. Those who opposed held that SFE was an offence and considerations of district characteristics and livelihood of businesses should not be used as excuses for street obstruction.

C. DCs’ Involvement

14. A great majority of DC members considered that as the role of DC was advisory, it should be for the enforcement departments to determine their own enforcement priority instead of DCs. A few DC members opined that DCs should continue to offer advice to enforcement departments under the existing mechanism of “black spots”² as well as “tolerated areas” drawn up by relevant departments based on complaint records and enforcement experience.

D. Public Education and Publicity

15. A great majority of respondents supported enhancing efforts on public education and publicity against SFE. In general, DCs expressed keen interest to participate in public education and publicity activities at the district level to help raise public awareness of SFE.

² The existing mechanism for coming up “black spots” is that the relevant DCs will, based on the agreed criteria, advise which location(s) with SFE should be assigned a high priority in enforcement action and hence designated as “black spots” for consideration by relevant departments.

WAY FORWARD

16. The views collected during the public consultation have reaffirmed the need to continue to strengthen the Government's four-pronged approach against SFE. Relevant departments will continue to enhance enforcement and inter-departmental cooperation to tackle the SFE problem in a sustainable manner. The Government will also continue to engage DCs and step up public education and publicity. Specifically, the following measures will be taken:

(A) Proposed Fixed Penalty System

17. Except for the industry stakeholders, respondents generally supported the introduction of a fixed penalty system to tackle SFE as an additional enforcement tool to achieve a greater deterrent effect against SFE.

18. Noting the deficiencies of the existing summons system under section 4A of Summary Offences Ordinance (Cap 228), namely, long lead time for prosecution and light penalties imposed as identified in the public consultation document, we propose to amend the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap 570) such that the offence under section 4A of Cap 228 can be prosecuted with fixed penalty tickets, on top of the current summons system. The penalty level is proposed to be set at \$1,500.

19. The Government will map out the detailed legislative proposals on the proposed fixed penalty system and other necessary supporting work, e.g. enforcement strategy, before consulting the HA Panel further and introducing an amendment bill to Cap 570 into the LegCo, tentatively scheduled for the 2015-16 legislative session.

(B) Enhanced Enforcement and Inter-departmental Cooperation

(i) Enhanced Enforcement

20. It should be emphasised that the proposed fixed penalty system is intended to be an additional measure to tackle SFE and will not replace the existing enforcement tools such as summons. Indeed, relevant departments have been strengthening their enforcement measures to tackle the SFE problem.

21. **FEHD** has strengthened enforcement actions against SFE on various fronts including the following:

- (i) *“Illegal hawking provision”*: As some SFE cases involve occupation of public places for “illegal hawking”, FEHD has been stepping up efforts (e.g. revising strategies and guidelines) in exercising the power under section 83B of the Public Health and Municipal Services Ordinance (Cap 132) where the facts of the case support such actions. They will also exercise the power of seizure of hawker equipment and commodities provided under section 86 or 86B of Cap 132, where appropriate. As a result of the enhanced enforcement, the number of cases involving seizure made under these provisions has increased from around 260 in 2012 to around 440 in 2013, and is projected to rise to 750 in 2014;

- (ii) *Enforcement Strategy*: Instead of giving prior notice every time enforcement action is to be taken, FEHD now takes prosecution action against habitual SFE offenders immediately. As a result, the number of arrest and seizure cases by FEHD under section 83B, section 86 and section 86B of Cap 132 has grown in recent years, as mentioned in (i) above. On the other hand, the number of prosecutions by FEHD under section 4A of Cap 228 and section 83B of Cap 132, after growing from around 20,700 in 2012 to around 25,000 in 2013, is actually projected to drop to 19,400 in 2014. The reduction in the number of prosecutions coincides with a drop in the number of public complaints against SFE received by FEHD, from around 15,000 in 2013 to around 13,000 in 2014. Whilst it may be too early to draw a firm conclusion, the decrease in public complaints coupled with fewer prosecutions but rising number of arrests and seizures against SFE seem to suggest that the greater use of the “illegal hawking provision” has created stronger deterrent effect and helped contain the SFE problem;

- (iii) *Tolerated areas*: Stringent enforcement action has been taken by FEHD if SFE extends beyond the agreed “tolerated areas”. The number of prosecutions in tolerated areas invoking the “illegal hawking provision” has increased substantially, from around 70 in 2013 to around 180 in 2014. This coupled with a decrease in the number of public complaints from around 1,100 in 2013 to around

800 (projected figures) in 2014, suggesting that the SFE problem in “tolerated areas” is gradually under control; and

- (iv) *Food premises:* FEHD has also stepped up enforcement actions against SFE of food premises, which include setting up dedicated task forces for enhanced enforcement actions, stepping up inspections and prosecution against illegal extension of food business area by licensed food premises, applying for court orders to close the unlicensed food premises if the businesses continue after cancellation of the licenses.

22. **LandsD** has also stepped up enforcement actions in the following areas:

- (i) *Illegal occupation of Government land:* LandsD has set up a working group to review the existing interpretation of section 6 of the Lands (Miscellaneous Provisions) Ordinance (Cap 28) and its application to land control actions. LandsD will submit some test cases to the Court to seek a ruling on the interpretation of “cease occupation”³ under Cap 28. It will initiate prosecution action against SFE without posting a fresh notice in those situations where the occupier has temporarily ceased the occupation of government land in compliance with the original notice, but then re-occupied the land afterwards. Subject to the outcome of these test cases, LandsD will consider enhancing enforcement against SFE to include movable platforms which are repeatedly placed at shop fronts by shop operators;
- (ii) *Resources and Training:* LandsD will deploy additional resources to its prosecution team and provide more training to equip its staff to take enforcement actions under Cap 28; and
- (iii) *Penalties:* The Development Bureau submitted to LegCo in July 2014 the Land (Miscellaneous Provisions) (Amendment) Bill to increase the penalties for offences relating to the unlawful occupation of unleased land to enhance deterrent effect.

³ “Cease Occupation” means to remove objects that occupy the concerned Government land.

23. **BD** has implemented the following enhancement measures:

(i) *Enforcement Strategy*: BD has recently revised relevant enforcement guidelines such that shopfront projections that are new or causing imminent danger to the public will be actioned immediately. Projections exceeding the tolerable dimensions identified during special or large scale operations will also be accorded with priority enforcement under the Buildings Ordinance (Cap 123); and

(ii) *Collaboration with LandsD*: BD has enhanced liaison with LandsD by sharing its enforcement guidelines on the tolerable dimensions in enforcement. Lists of buildings and individual premises targeted for enforcement are also given to LandsD for considering taking appropriate joint action.

(ii) Inter-departmental Cooperation

24. Enforcement departments will continue to co-operate more closely and mount small-scale joint operations among themselves more frequently, and will render more effective support for each other. For more complicated cases, they will seek the support of DOs to co-ordinate larger scale inter-departmental operations under the District Management Committee (DMC) mechanism.

(C) DC Collaboration

25. Recognising that the role of DCs is advisory in nature, the Government will continue to be responsible for drawing up enforcement plans and priorities, taking the views of DCs into account in the process. Depending on the wish of individual DCs, enforcement departments will continue to engage DCs in drawing up “black spots” and designating “tolerated areas”, as what the departments and DCs have all along been doing.

(D) Public Education and Publicity

26. In order to raise and sustain public awareness of the legal consequences of SFE under existing legislation, the Government will

launch another round of publicity on SFE. DOs, as appropriate, will seek support from DCs and provide other assistance including public education and publicity at the district level (e.g. distributing leaflets/ pamphlets/ advisory letters and verbal persuasion).

ADVICE SOUGHT

27. Members are invited to note the results of the public consultation exercise on measures to tackle SFEs and the proposed way forward, as set out in paragraphs 16 to 26 above.

Home Affairs Department
January 2015

Enhanced Measures against Shop Front Extensions Consultation Document



Public Consultation on the Enhanced Measures against Shop Front Extensions

Content

| | | |
|-----------|--|----|
| Chapter 1 | Overview | 1 |
| Chapter 2 | Present Situation | 3 |
| Chapter 3 | Enforcement Measures | 7 |
| Chapter 4 | Community and District Councils' Involvement | 10 |
| Chapter 5 | Invitation of Views | 13 |

Chapter 1 Overview

1.1 Shop front extensions (SFEs) broadly refer to the occupation of public places by shops, including food premises, in front of or adjacent to their premises for the purpose of conducting or facilitating business activities. Such extensions are very often at the expense of road access, safety and environmental hygiene, and affect the quality of city life. They usually cause nuisance, inconvenience and hazards to pedestrians and traffic. In some cases, pedestrians are even forced to walk on the carriageway intended for vehicles due to obstruction on the walkway.

1.2 Currently, the Government tackles 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 (DOs) for more complex cases involving several departments;
- (c) collaboration with the District Councils (DCs); and
- (d) public education and publicity.

1.3 Despite the efforts made, the problem of SFEs persists. Proliferation of SFEs continues to compromise the safety and access of pedestrians, drivers and other street users.

1.4 In order to improve our living environment, the Government considers that efforts should be stepped up to tackle problems associated with SFEs. Enforcement measures against SFE offences should be enhanced and a fixed penalty system may be considered in order to heighten the deterrent effect.

1.5 The Government also proposes to enhance community involvement by capitalising on DCs' knowledge of the district characteristics, and the needs and aspiration of people in their district. Public education and publicity efforts should be stepped up as well in order for messages against SFEs to reach members of the public and shop operators more effectively.

1.6 The Home Affairs Department, in consultation with the Food and Environmental Hygiene Department (FEHD), the Lands Department (LandsD), the Hong Kong Police Force (HKPF) and the Buildings Department (BD), has prepared this document to consult the public on how we can tackle problems associated with SFEs more effectively. The consultation period will last for four months from 14 March till 14 July 2014.

Chapter 2 Present Situation

What are SFEs

2.1 Currently, various forms of SFEs exist. They include but are not limited to –

- (a) unauthorised alfresco dining services in front of or adjacent to food premises;
- (b) additional counters beyond the confines of shops for sale of commodities such as takeaways (e.g. lunch boxes, cooked snacks), fresh produce (e.g. vegetables, meat, seafood, flowers) or grocery items (e.g. tissue paper, detergents, milk formula products);
- (c) placement of articles such as wet goods (e.g. flowers, seafood), grocery items (e.g. tissue paper, detergents, milk formula products) or construction materials (e.g. brick, cement) beyond the confines of shops with or without platforms, shelves or ramps for temporary storage or display purposes;
- (d) placement of publicity materials (e.g. stand-alone advertisement boxes, easy-mount frames, electric light boxes) beyond the confines of shops;
- (e) conduct of business operations (e.g. iron bar cutting, welding works, car repair and washing, recycling activities, mail sorting) on pavements or at roadsides outside the shops; and
- (f) attachment of fixed canopies to shops to provide a covered “shelter” area, or attachment of platforms at shop front to extend the shops’ business area.

Problems with SFEs

2.2 Owing to high shop rentals and keen business competition, many shop operators are tempted to extend their business areas onto the pavements. However, SFEs often obstruct the pavements and cause nuisance, inconvenience and hazards to pedestrians and traffic.

How do we tackle SFEs

2.3 A number of departments, including FEHD, HKPF, LandsD and BD, are empowered under various Ordinances to tackle different situations involving SFEs. They are summarised below –

- (a) Obstruction of Public Places:
FEHD and HKPF can, under delegated authority, take prosecution action under section 4A of the Summary Offences Ordinance (Cap. 228) for obstruction of public places where such obstruction inconveniences or endangers road users;
- (b) Conduct of Food Business outside Licenced Food Premises:
FEHD can prosecute the licensees of food premises issued with a full licence for conducting food business beyond the confines of their premises under section 34C of the Food Business Regulation (Cap. 132X);
- (c) Obstruction to Scavenging Operations:
Where there is obstruction by goods or other items placed at the shop front, regardless of the business in which the shops operate, FEHD can take enforcement action under sections 22(1)(a) or 22(2)(a) of the Public Health and Municipal Services Ordinance (Cap. 132) if such goods obstruct FEHD's cleansing operations;
- (d) Illegal Hawking:
FEHD can prosecute offenders under section 83B of Cap. 132 if there is sufficient evidence that shop operators are engaged in illegal hawking outside their shops;
- (e) Erection of Unauthorised Structures on Government Land at shop front:
LandsD can take enforcement action under section 6 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) against such unauthorised structures erected on unleased government land as concrete platforms, ramps or steps; and
- (f) Erection of Unauthorised Building Works attached to and supported by Buildings:
BD can take enforcement action under section 24 of the Buildings Ordinance (Cap. 123) where there are erections of unauthorised shop extensions encroaching onto the pavement, or unauthorised projecting structures attached to and supported by

buildings.

Limitations of Existing Legal Tools

(A) Lack of a Targeted Legal Tool against SFEs

2.4 A lot of the legal tools mentioned above have their specific intents and may not be very effective in tackling SFEs in certain specific situations. For example, section 6 of Cap. 28 is less effective in tackling SFEs that are mobile and temporary in nature because it provides for a notice period during which shop operators would have sufficient time to remove the goods or articles in question temporarily so as to comply with the notice, only to put them back afterwards without being prosecuted. For section 83B of Cap. 132, substantiation by evidence on the act of sale and purchase is required; while such acts usually involve money consideration, not all business transactions involving SFEs entail money transaction outside the shop premises. As regards section 34C of Cap. 132X, FEHD can only deal with SFEs of food premises issued with a full licence but not other types of shops.

(B) Long Lead Time of Prosecution

2.5 Section 4A of Cap. 228 appears to be a more effective piece of legislation to tackle SFEs. Over the years, the Government has had successful experiences in invoking the provision to eliminate the proliferation of on-street recycling cages and serious SFE cases.

2.6 Nonetheless, the deterrent effect of section 4A of Cap. 228 is limited by the long lead time of prosecution. Currently, prosecution for the offence is instituted by way of issuing summonses. Given the substantial amount of administrative work required, it takes about one to two months in general for a summons to be issued based on substantive evidence after the offending act is first observed. The time required between the issue of a summons and court hearing may take another one to two months, and it can take even longer time if the defendant chooses to plead not guilty in the first hearing.

(C) Light Penalties

2.7 The deterrent effect that a prosecution under section 4A of Cap. 228 may bring is further diminished by the often low level of penalties imposed. For instance, in 2013, persons convicted of the offence were fined \$595 on average while the maximum level of fine under the Ordinance is \$5,000. In most cases, the penalties are insignificant

compared to the high rentals that shop operators would have to pay for any additional space. Many offending shop operators therefore take these penalties as part of their operating costs.

Overall speaking, there is a need to review the situation with a view to delivering more effective enforcement to tackle problems associated with SFEs.

Chapter 3 Enforcement Measures

Fixed Penalty System

3.1 The Government is looking for an additional enforcement tool to tackle SFEs more efficiently and effectively. It should help address the deficiency of the existing summons system, namely, the long lead time of prosecution and light penalties. With this in mind, the Government is now exploring the possibility of introducing a fixed penalty system against SFE offences.

(A) Basic Features

3.2 With reference to certain road traffic and public cleanliness offences for which a fixed penalty is provided under existing legislation, the proposed fixed penalty system may be designed to cater for straight-forward and clear-cut cases of SFEs.

3.3 An appropriate fixed penalty system should have the following features –

- (a) it should be able to catch the person who commits the offending act as witnessed by law enforcers (i.e. caught “red-handed”), or the person-in-charge of the shop who is believed to have committed the offending act given sufficient circumstantial evidence (e.g. stacks of goods have been placed in front of the shop for a certain period of time; goods appeared to be of similar nature to those on sale inside the shop; or price tags and shop labels were stuck on those goods); and
- (b) where there is sufficient evidence (albeit circumstantial) of a SFE offence, the system should enable a fixed penalty ticket to be served on a person-in-charge of the shop who is found present at the scene. Where applicable, the person-in-charge may be the owner, licensee or manager of the shop, or anyone who has or admitted to have managerial control over the shop.

(B) Level of Fixed Penalty

3.4 In order to achieve the desired deterrent effect, the level of fixed penalty should be carefully considered having regard to the following –

- (a) the severity of the offence;
- (b) the fines of other offences of similar severity under other Ordinances;
- (c) the current level of fixed penalty under the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) (i.e. at \$1,500); and
- (d) the likelihood that the persons-in-charge would contest the prosecution by denying ownership of the articles causing obstruction at a SFE area, if the value of the articles is below that of the amount of fixed penalty.

Enhancing Inter-departmental Enforcement

3.5 As the proposed fixed penalty system is supposed to be an additional measure to tackle SFEs and will not replace the other existing enforcement tools such as issuance of summons, we will continue to improve the existing multi-disciplinary enforcement regime, and enforcement departments including FEHD, HKPF, LandsD and BD will continue to take enforcement action on their own against SFE cases under their purview.

3.6 Enforcement departments will also enhance coordination amongst themselves in their enforcement plans and mount small-scale joint operations by themselves more frequently. When dealing with more complex SFE cases that cannot be effectively resolved after substantial efforts by enforcement departments, DOs will continue to coordinate large-scale inter-departmental joint operations amongst FEHD, HKPF, LandsD and BD.

Economic Impact

3.7 Whilst taking enhanced enforcement action and introducing a fixed penalty system could help tackle SFEs more effectively on one hand, this could also have an impact on the livelihood of some businesses and their employees on the other. We need to strike a balance carefully, taking into account the views of the community.

A fixed penalty system may be considered on top of stepped up enforcement action. Nonetheless, a balance should be struck between introducing a higher level of deterrence and minimising the impact on businesses.

Chapter 4 Community and District Councils' Involvement

Current Role of DCs

4.1 Under section 61 of the District Council Ordinance (Cap. 547), a major function of DCs is to advise the Government on matters affecting the well-being of the people in the district. In practice, DCs have all along been playing an important role in encouraging public participation in various district activities including publicity campaigns to promoting public hygiene, such as Clean Hong Kong.

4.2 At present, enforcement departments and DOs consult respective DCs on enforcement strategies on SFEs from time to time and take specific actions where appropriate upon the advice of DCs or individual DC members. A typical example is Yuen Ngai Street (commonly known as Fa Hui (花墟)) in Mong Kok where the Yau Tsim Mong DC has suggested to departments concerned the stepping up of enforcement at specific black spots.

Enhanced Role of DCs

4.3 Given that the problem of SFEs has been a long-standing district issue, there is room for the Government to strengthen collaboration with DCs in tackling SFEs across all the 18 districts. Specifically, DCs may be invited to help –

- (a) work out the criteria for determining the priority of enforcement against SFEs for consideration by relevant departments;
- (b) based on the agreed criteria, advise for consideration by relevant departments which location(s) with SFEs should be assigned a higher priority in enforcement action and hence designated as “black spots”;
- (c) participate in general and/or district-specific public education and publicity efforts against SFEs. For example, DCs may participate in district campaigns and site visits with relevant departments to SFE black spots, whereby advisory messages are conveyed to shop operators;
- (d) make joint efforts with the enforcement departments in monitoring and reviewing the effects of joint operations; and

- (e) assist the enforcement departments in monitoring the trend of SFE complaints.

Criteria for determining Enforcement Priority

4.4 When taking part in drawing up the criteria for determining the priority of enforcement against SFEs (cf paragraph 4.3(a) above), DCs may take into account the following –

- (a) road access and safety of pedestrians, vehicles and other road users;
- (b) extent and nature of the 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.

4.5 Given their local knowledge and close contacts with residents, DCs are well placed to advise the Government on the priority of enforcement. In general, SFEs that pose imminent danger to the pedestrians and traffic should be assigned a higher priority. On the other hand, SFEs that constitute a distinct characteristic and contribute to the vibrancy of the district may either be assigned lower priorities or even tolerated, subject to the conditions that the SFEs do not cause any imminent danger to pedestrians and traffic, and that the shop operators can exercise self-discipline by adhering to a level of extension agreed with the enforcement departments.

Public Education and Publicity

4.6 The continued patronage by members of the public in shops with SFEs may, in effect, have encouraged shop operators to continue the malpractice. Therefore, public awareness of the problem is conducive to improving the situation.

4.7 At present, Announcements in the Public Interest (APIs) are aired

on television and radio on the problems caused by SFEs, exhorting shop operators not to extend their business areas and obstruct the pavements. While territory-wide publicity efforts through APIs should continue, more education and publicity activities bearing specific district characteristics at the district level are considered necessary. Pamphlets or leaflets on the legal consequences of SFEs and street obstruction in general may be produced and distributed to shops and other businesses that operate on the streets.

The Government encourages community involvement in alleviating problems associated with SFEs. DCs, in particular, are invited to play a stronger role.

Chapter 5 Invitation of Views

5.1 Under the motto of “no livelihood issue is trivial (民生無小事)”, the Government would like to listen to your views on how to tackle problems associated with SFEs more effectively. While the Government is open to how the subject matters raised in this consultation document should be addressed, views are invited on the following issues specifically –

Enforcement Measures

- (a) Do you support stepping up enforcement action against SFEs?
- (b) Do you support the introduction of a fixed penalty system to tackle SFEs?
- (c) What do you think would be an appropriate level of fixed penalty?
- (d) What are your concerns about a fixed penalty system?
- (e) How to strike a balance between enhancing enforcement and protecting the livelihood of businesses?

Community and DCs' Involvement

- (f) What should be the extent of DCs' involvement in tackling SFEs?
- (g) What should be the criteria to be considered by DCs when they advise the Government on the priority of enforcement against SFEs?
- (h) How should public education and publicity efforts against SFEs be enhanced?

5.2 Please forward your views and comments to us by email, mail or facsimile on or before 14 July 2014:

Email address: sfe@had.gov.hk

Address: Division II
Home Affairs Department
31/F Southorn Centre
130 Hennessy Road
Wan Chai, Hong Kong

Fax number: 3107 0697

5.3 It is voluntary for any member of the public to supply his / her personal data upon providing views on this consultation document. Any personal data provided with a submission will only be used for the purpose of this consultation exercise.

5.4 The submissions and personal data collected may be transferred to other Government bureaux and departments or agencies for purpose(s) directly related to this consultation exercise. The parties receiving the data are bound by such purposes in their subsequent use of such information.

5.5 The names and views of individuals and organisations which put forth submissions in response to this consultation document (“senders”) may be published, in whole or in part, for public viewing after conclusion of the public consultation exercise. The Government may use, adopt or develop any views put forward without seeking permission or providing acknowledgement of the party making the view. The Government may, either in discussion with others or in any subsequent report, whether privately or publicly, attribute comments submitted in response to the consultation document. If you do wish to remain anonymous and / or keep your views submitted in relation to all or part of a submission confidential, it is necessary for you to state so when making your submission.

5.6 Any sender providing personal data to this Department in the submission will have right of access to or correction of personal data contained in the submission. Any requests for data access or correction of personal data should be made in writing to –

Address: Administrative Officer (2)
Home Affairs Department
31/F Southorn Centre
130 Hennessy Road
Wan Chai, Hong Kong

Fax number: 3107 0697

Email address: sfe@had.gov.hk

Home Affairs Department
March 2014

**Public Consultation on the Enhanced Measures against
Shop Front Extensions
List of Meetings Attended**

1. Legislative Council Meetings

- Panel on Home Affairs Meeting (24.3.2014)
- Panel on Home Affairs Special meeting (7.6.2014)

2. District Councils or District Council Committees Meetings

- Tsuen Wan District Council
- Kowloon City District Council – Food and Environmental Hygiene Committee
- Southern District Council – District Development and Environment Committee
- Eastern District Council – Food, Environment and Hygiene Committee
- Kwai Tsing District Council – Community Affairs Committee
- Wong Tai Sin District Council – Food and Environmental Hygiene Committee
- Yau Tsim Mong District Council
- Yuen Long District Council
- Sham Shui Po District Council
- Sha Tin District Council – Health and Environment Committee
- Sai Kung District Council
- Wan Chai District Council
- Tai Po District Council – Environment, Housing and Works Committee
- North District Council – District Minor Works and Environmental Improvement Committee
- Tuen Mun District Council – Environment, Hygiene and District Development Committee

- Central & Western District Council – Food, Environment, Hygiene and Works Committee
- Islands District Council
- Kwun Tong District Council – Environment and Hygiene Committee

3. Meetings with Merchant Sectors

- Meeting with Business Facilitation Advisory Committee (BFAC)
- Meeting with the Food Business and Related Services Task Force of BFAC
- Meeting with the Wholesale and Retail Task Force of BFAC
- Meeting with Catering and Retail Business Sectors
- Meeting with Merchants Association

4. Meetings with Residents' Organisations/ Residents

- Sham Shui Po District Residents' Consultation Forum organised by the Sham Shui Po Branch of the Democratic Alliance for the Betterment and Progress of Hong Kong
- Kwai Tsing District Residents' Consultation Forum organised by Mr NG Kim-sing, Kwai Tsing DC Member

**Public Consultation on the Enhanced Measures against
Shop Front Extensions
List of Respondents**

1. Members of the Legislative Council and Political parties/groups

- Hon WU Chi-wai
- Hon LEUNG Che-cheung
- Civic Party
- Dr Hon Helena WONG Pik-wan
- The Democratic Party
- New People's Party

2. District Council Members

- WU Chi-wai WONG Kai-ming CHAN Man-kin
- TSE Suk-chun
- CHAN Siu-tong CHUNG Kong-mo IP Ngo-tung
- YEUNG Tsz-hei HUNG Chiu-wah KWAN Sau-ling
- CHOI Siu-fung LAU Pak-kei
- NG Kim-sing
- LEUNG Che-cheung LUI Kin KWOK Keung
- SIU Long-ming WONG Wai-ling CHUI Kwan-siu
- LEE Yuet-man CHIU Sau-han YAU Tai-tai
- CHEUNG Muk-lam YUEN Man-yee
- YIU Kwok-wai LAU Kwai-yung
- LAU Pui-yuk CHENG CHAN Wai-ming
- WONG Tat-tung Wing-shun
- Paul ZIMMERMAN
- SHUM Siu-hung
- LAU Pui-yuk

- | | | | |
|---|----------------|----------------|----------------|
| - | CHAN Kok-wah | HUNG Kam-in | POON Chun-yuen |
| | OR Chong-shing | SZE Lun-hung | KWOK Bit-chun |
| | MAK Fu-ling | LIM Henry | NGAN Man-yu |
| | TAM Siu-cheuk | CHEUNG Ki-tang | CHAN Chun-kit |
- CHEUNG Yan-hong
 - WONG Yee-him
 - KWU Hong-keung
 - NG Kim-sing
 - TO Shek-yuen
 - WONG Kin-san

3. Merchants Associations

- The Hong Kong Wholesale Florist Association Limited
- Tsuen Wan Restaurant & Food Supplier Association
- Hong Kong Catering Industry Association
- Hong Kong General Chamber of Pharmacy Limited
- Hong Kong Retail Management Association
- 中港食品安全交流協會 港九新界冰鮮禽畜批發零售商會
中環商販協會
- The French Chamber of Commerce and Industry in Hong Kong
- Hong Kong Federation of Restaurants & Related Trades Limited
- The Hong Kong Medicine Dealers' Guild
- Federation of Hong Kong, Kowloon and New Territories Hawkers Associations – Shek Lei (I) (II) Merchants Association

4. 628 members of the public

5. Residents Groups

- Kolot Property Services Company
- The Association of the Residents of Private Buildings of Kwai Fong District
- 新界東北區居民聯合會

- The Incorporated Owners of Pak Cheung Building Blocks C&D Tung Choi Street
- Cheung Wo Court
- Estate Owners' Committee of Fortress Metro Tower
- The Incorporated Owners of Hau Tak Building
- The Mutual Aid Committee of Fu Keung House, Tai Wo Hau Estate
- The Mutual Aid Committee of Lai On Estate, Sham Shui Po
- Mongkok District Residence Association
- The Incorporated Owners of Paramount Building
- Tsim Sha Tsui Residents Concern Group
- The Association of the Residents of Private Buildings of Kwai Fong District
- The Incorporated Owners of Chuen Fai Centre (Sha Tin)

6. Concern Groups

- 食環署管工組
- Market Movement 2014
- Hawker Sections (Eastern)
- Chung Wan and Mid-Levels Area Committee
- Kennedy Town and Shek Tong Tsui Area Committee
- Sheung Wan and Sai Ying Pun Area Committee
- 港島東區長者友善社區關注組
- Food and Environmental Hygiene Department Foremen Grade Staff General Union
- Hong Kong Food and Environmental Hygiene Supervisory Staffs Union
- Hong Kong Federation of Mainland Properties' Occupiers Limited
- Hawker Control Officers Union
- 店鋪阻街關注組
- Chung Wan and Mid-Levels Area Committee
- 活化油麻地街坊會、活化廳繼續工作小組、德昌里二號三號舖
- Life Workshop