

**For discussion
on 11 April 2016**

**Legislative Council Panel on Welfare Services
On-Street Charitable Fund-raising Activities**

Purpose

This paper briefs Members on the application procedures and notification mechanism in respect of on-street charitable fund-raising activities under the purviews of different government departments.

Present Position

2. On-street charitable fund-raising activities are regulated by the Social Welfare Department (SWD), the Food and Environmental Hygiene Department (FEHD) or the Home Affairs Department (HAD), depending on the nature of these activities.
3. The Director of Social Welfare issues Public Subscription Permits (PSPs) under section 4(17)(i) of the Summary Offences Ordinance (Cap. 228) for any collection of money or sale or exchange for donations of badges, tokens or similar articles in public places for charitable purposes. PSPs issued by SWD cover two types of charitable fund-raising activities, namely flag days and general charitable fund-raising activities (including charity sale of badges, tokens or similar articles, setting up donation boxes at stationed counters, moving around solicitation with money-collection boxes/bags, door to door donation in public housing estates, etc.).
4. Charitable bodies conducting on-street selling activities in public places for raising funds have to obtain a Temporary Hawker Licence (THL) from the Director of Food and Environmental Hygiene under the Public Health and Municipal Services Ordinance (Cap. 132).
5. Under section 22 of the Gambling Ordinance (Cap. 148), an organisation must submit prior application to HAD for a Lottery Licence for the conduct and sale of lottery tickets on public streets for charitable fund-raising activities.

Application Procedures and Notification Mechanism

6. To facilitate the applicant organisations to obtain prior approval for conducting

on-street charitable fund-raising activities, application forms for different charitable fund-raising activities are made available by the respective licensing departments. Each licensing department has its eligibility criteria in assessing the suitability of organisations and approving the permits/licences and its established mechanisms to monitor the approved charitable fund-raising activities.

7. For the notification mechanism, charitable fund-raising activities approved by the three licensing government departments can be searched with the one-stop finder at GovHK webpage (<http://www.gov.hk/en/theme/fundraising/today/>). The public may search the day-to-day approved charitable fund-raising activities, including the names of the organisations concerned and the date, time and venue of the fund-raising events via the website.

8. Details of the on-street charitable fund-raising activities regulated by SWD, FEHD and HAD, as stipulated in the letter dated 16 March 2016 from the Clerk to this Panel, are set out in **Annexes 1 to 3** respectively.

Advice Sought

9. Members are invited to note the application procedures and notification mechanism for on-street charitable fund-raising activities.

Social Welfare Department

Food and Environmental Hygiene Department

Home Affairs Department

April 2016

**On-street Charitable Fund-raising Activities Regulated by Social Welfare
Department (SWD)**

1. Type of Permit/ Licence Issued	Public Subscription Permits (PSPs) for flag days and general charitable fund-raising activities under section 4(17)(i) of the Summary Offences Ordinance (Cap. 228)
2. Approving Authority	Director of Social Welfare
3. Annual Average Number of Permits/Licences Issued for Charitable Fund-raising Activities in Recent Years	Annual averages of about 119 PSPs for flag days and 408 PSPs for general charitable fund-raising activities were issued in the past five years (from 2011-12 to 2015-16)
4. Eligibility Criteria	Applicant organisation for a PSP must be a bona-fide non-profit-making organisation exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112) ¹ . The applicant organisation must have organised charitable activities for at least three years and be able to produce corresponding annual financial statements to support its record of charitable activities. In vetting PSP applications, due consideration will be given to individual applicant organisations' ability to conduct the fund-raising activities in terms of their manpower, financial management as well as track records which include their history of compliance with PSP conditions and opinions from the auditors as revealed in the previous audited reports of fund-raising activities, etc.
5. Application and Approving Procedures	For flag days, invitation for applications is normally advertised on newspapers and via the SWD website around mid-April each year with the application period ending in a

¹ There may be a few occasions, usually during ad hoc fund-raising for disaster relief, where the applicant organisation possesses a valid registration in Hong Kong under the Companies Ordinance or the Societies Ordinance.

	<p>month's time. Flag day applications are considered and endorsed by the Lotteries Fund Advisory Committee (LFAC) around September of the year. Applicant organisations will be informed around October of the results of their applications. Eligible applicant organisations will be invited to witness the lots-drawing, which determines their order of priority for selection of flag days. Flag day permits are normally issued around December.</p> <p>For general charitable fund-raising activities in public places, applications for PSPs may be submitted to SWD for approval throughout the year. Applicant organisations should submit to SWD the completed application forms together with relevant supporting documents at least three weeks (but not more than two months) prior to the commencement date of the fund-raising activities.</p>
<p>6. Notification Mechanism</p>	<p>(a) Charitable fund-raising activities approved by different government departments can be searched with the one-stop finder at GovHK (http://www.gov.hk/en/theme/fundraising/today/). The SWD website provides a hyperlink to this GovHK webpage.</p> <p>(b) Each flag day organiser is required to mark clearly and prominently on the money collection bags for flag sale the name of the organisation and the message that the flag day has been approved by SWD.</p> <p>(c) Permittee of general charitable fund-raising activities is required to display prominently the approved PSP at the venue of the fund-raising activities and to ensure that there is sufficient publicity for the proposed fund-raising activities so as to facilitate public understanding of the organiser and the purposes of fund-raising.</p>
<p>7. Monitoring Mechanism</p>	<p>SWD has stipulated a set of permit conditions for compliance by each Permittee, and established a complaint mechanism to guard against non-compliance. Members of the public or the media may raise enquiries or lodge complaints in respect</p>

of the fund-raising activities approved under PSPs, including those related to compliance with permit conditions.

SWD will clarify with the enquirers the issues raised and provide them with relevant information and immediate follow-up actions will also be taken on any complaints received. If fund-raising activities under complaint are suspected to have contravened the law (e.g. unauthorised charitable fund-raising activities in public places), SWD will refer them to the Police for investigation. For the Permittees in respect of which there is Police investigation going on about their fund-raising activities, SWD will shelve their applications being processed in the interests of the public until the result of Police investigation is available. SWD may put on hold the already approved fund-raising activities of the Permittees if there are sufficient justifications.

If fund-raising activities under complaint are suspected to have breached the permit conditions, investigation will be conducted and the Permittee will be required to provide a report on the complaint. If the complaint against breach of permit conditions is substantiated, SWD will issue a warning letter to the Permittee and such record of non-compliance will be taken into account when future applications from the same Permit Holder are considered. If the complaint investigation reveals that the Permittee has breached the permit condition with serious violation and/or committed any criminal act, SWD may, apart from issuing a warning letter, revoke the PSP that has been issued to the organisation or suspend its fund-raising activities approved by the PSP in the interests of the public. In case of any controversial issues revealed in the complaint investigation, SWD will seek the advice of LFAC or relevant authorities concerned as necessary.

On-street Charitable Fund-raising Activities Regulated by Food and Environmental Hygiene Department (FEHD)

1. Type of Permit/ Licence Issued	Temporary Hawker Licence (THL) issued under the Hawker Regulation (Cap. 132AI)
2. Approving Authority	Director of Food and Environmental Hygiene
3. Annual Average Number of Permits/Licences Issued for Charitable Fund-raising Activities in Recent Years	An annual average of about 50 THLs were issued in the past three years (from 2013 to 2015) for charitable fund-raising applications.
4. Eligibility Criteria	Applicant must be an adult person authorized by a charitable organisation exempted from tax under section 88 of the Inland Revenue Ordinance (Cap.112) and must not be the holder of any valid hawker licence.
5. Application and Approving Procedures	Applicant must submit an application on a prescribed THL application form available from FEHD website at least 12 working days before the date of the proposed activity. The application will be referred to the Hong Kong Police Force and Lands Department for comment and to Social Welfare Department for information. Upon receiving favourable comments from departments concerned and subject to relevant criteria being met, FEHD will consider issuing a THL to the applicant.
6. Notification Mechanism	The members of public can find the information of organizations issued with THL for fund-raising purpose at departmental website of FEHD (http://www.fehd.gov.hk/english/pleasant_environment/hawker/fundrasing.html). Besides, charitable fund-raising activities approved by

	<p>different government departments can be searched with the one-stop finder at GovHK (http://www.gov.hk/en/theme/fundraising/today/) .</p>
<p>7. Monitoring Mechanism</p>	<p>The activity in relation to the THL will be checked daily by FEHD hawker control staff for compliance of relevant provisions of the Hawker Regulation (Cap. 132AI) and licensing conditions imposed on the licence. Any breaches may lead to enforcement action and/or cancellation of licence. Organisations issued with more than 12 licences within 12 months shall be subject to the following additional conditions for each and every of the licences subsequently issued -</p> <p>(a) the organisation shall prepare an income and expenditure account, including all the monies received from public subscription and a detailed breakdown of every disbursement item (e.g. expenses in auditing, transportation, printing and stationery, etc.) related to the fund-raising activities covered by the licence for audit by an accountant or firm or corporate practice whose name appears on the list of certified public accountants holding practising certificates or on the list of firms or corporate practice registered under the Professional Accountants Ordinance, published in the Gazette by the Registrar of the Hong Kong Institute of Certified Public Accountants under Section 32(1) of the Professional Accountants Ordinance, Cap. 50; and</p> <p>(b) the original auditor's report shall be forwarded to the Director of Food and Environmental Hygiene within 90 days from the last day of the licence period, and the Director may publicise the auditor's report in any form or manner for public inspection.</p>

**On-street Charitable Fund-raising Activities
Regulated by Home Affairs Department (HAD)**

1. Type of Permit/ Licence Issued	Lottery Licence issued under the Gambling Ordinance (Cap. 148)
2. Approving Authority	Public Officer appointed by the Secretary for Home Affairs under section 22 of the Gambling Ordinance (Cap. 148)
3. Annual Average Number of Permits/Licences Issued for Charitable Fund-raising Activities in Recent Years	An annual average of about 67 lottery licences were issued in the past five years (from 2011-12 to 2015-16) for charitable fund-raising activities.
4. Eligibility Criteria	According to section 22(1)(a)(i) of the Gambling Ordinance (Cap. 148), a lottery licence is issued to a club, association or body of persons for the promotion and conduct of lottery activity. The Office of the Licensing Authority (OLA) of the Home Affairs Department will consider the organisation's audited annual financial statements, records of activities/charitable works in the past and whether there is any record of breach of licence condition when vetting an application for lottery licence.
5. Application and Approving Procedures	Lottery organiser must apply for a lottery licence and obtain prior written approval from OLA for selling lottery tickets on public streets. OLA will consult relevant government departments (including Lands Department, Hong Kong Police Force, Highways Department and Transport Department) to avoid crowd control issue or having more than one fund-raising activity in the area at the same time. Licence condition also requires that the activity shall not create public order problems or cause nuisance.

<p>6. Notification Mechanism</p>	<p>(a) A copy of the lottery licence and the approval letter should be kept by the person-in-charge at each location for inspection by the public during on-street selling of lottery tickets.</p> <p>(b) The licence condition requires that all lottery tickets must state the licence number.</p> <p>(c) Details of approved lottery activities are available at OLA’s website (http://www.hadla.gov.hk/el).</p> <p>(d) Charitable fund-raising activities approved by different government departments can also be searched with the one-stop finder at GovHK (http://www.gov.hk/en/theme/fundraising/today/).</p>
<p>7. Monitoring Mechanism</p>	<p>Licence condition requires that if the net proceeds of the lottery are used for meeting the operating expenses of the organisation, the organisation shall submit to OLA an audited annual financial statement, which shows the income and expenditure of the lottery and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event.</p> <p>OLA will follow up if it is found that an organisation granted with a lottery licence sells lottery tickets at unauthorized locations. For those having breached licence condition, OLA may consider refusing further applications from the same organisation or person. For serious breach, the case will be referred to the police for investigation under sections 22(6) and 22(7) of the Gambling Ordinance (Cap. 148). The maximum penalty on conviction is a fine of \$50 000 and to imprisonment for 2 years.</p> <p>Upon receipt of report of unlicensed lottery activity, OLA will refer the case to the police for investigation. Any person who promotes, organizes, conducts or manages, or otherwise has control of, an unlawful lottery commits an offence and is liable -</p> <p>(a) on summary conviction to a fine of \$5 000 000 and to imprisonment for 2 years; or</p>

	<p>(b) on conviction on indictment to a fine of \$5 000 000 and to imprisonment for 7 years.</p> <p>Any person who -</p> <p>(a) sells or otherwise disposes of a ticket relating to an unlawful lottery;</p> <p>(b) has in his possession a lottery ticket relating to an unlawful lottery with a view to its sale or other disposal, commits an offence and is liable on conviction to a fine of \$50 000 and to imprisonment for 2 years.</p>