

**REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE
ON
REPORT NO. 68 OF THE DIRECTOR OF AUDIT
ON
THE RESULTS OF
VALUE FOR MONEY AUDITS**

July 2017

P.A.C. Report No. 68

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The Establishment of the Committee The Public Accounts Committee is established under Rule 72 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region, a copy of which is attached in **Appendix 1** to this Report.

2. **Membership of the Committee** The following Members are appointed by the President under Rule 72(3) of the Rules of Procedure to serve on the Committee:

Chairman : Hon Abraham SHEK Lai-him, GBS, JP

Deputy Chairman : Hon Kenneth LEUNG

Members : Hon Paul TSE Wai-chun, JP
Hon Steven HO Chun-yin, BBS
Hon LAM Cheuk-ting
Hon SHIU Ka-fai
Hon Tanya CHAN

Clerk : Anthony CHU

Legal Adviser : YICK Wing-kin

Procedure

The Committee's Procedure The practice and procedure, as determined by the Committee in accordance with Rule 72 of the Rules of Procedure, are as follows:

- (a) the public officers called before the Committee in accordance with Rule 72 of the Rules of Procedure, shall normally be the Controlling Officers of the Heads of Revenue or Expenditure to which the Director of Audit has referred in his Report except where the matter under consideration affects more than one such Head or involves a question of policy or of principle in which case the relevant Director of Bureau of the Government or other appropriate officers shall be called. Appearance before the Committee shall be a personal responsibility of the public officer called and whilst he may be accompanied by members of his staff to assist him with points of detail, the responsibility for the information or the production of records or documents required by the Committee shall rest with him alone;
- (b) where any matter referred to in the Director of Audit's Report on the accounts of the Government relates to the affairs of an organisation subvented by the Government, the person normally required to appear before the Committee shall be the Controlling Officer of the vote from which the relevant subvention has been paid, but the Committee shall not preclude the calling of a representative of the subvented body concerned where it is considered that such a representative could assist the Committee in its deliberations;
- (c) the Director of Audit and the Secretary for Financial Services and the Treasury shall be called upon to assist the Committee when Controlling Officers or other persons are providing information or explanations to the Committee;
- (d) the Committee shall take evidence from any parties outside the civil service and the subvented sector before making reference to them in a report;
- (e) the Committee shall not normally make recommendations on a case on the basis solely of the Director of Audit's presentation;
- (f) the Committee shall not allow written submissions from Controlling Officers other than as an adjunct to their personal appearance before the Committee; and

- (g) the Committee shall hold informal consultations with the Director of Audit from time to time, so that the Committee could suggest fruitful areas for value for money study by the Director of Audit.

2. **Confidentiality undertaking by members of the Committee** To enhance the integrity of the Committee and its work, members of the Public Accounts Committee have signed a confidentiality undertaking. Members agree that, in relation to the consideration of the Director of Audit's reports, they will not disclose any matter relating to the proceedings of the Committee that is classified as confidential, which shall include any evidence or documents presented to the Committee, and any information on discussions or deliberations at its meetings, other than at meetings held in public. Members also agree to take the necessary steps to prevent disclosure of such matter either before or after the Committee presents its report to the Council, unless the confidential classification has been removed by the Committee.

3. A copy of the Confidentiality Undertakings signed by members of the Committee has been uploaded onto the Legislative Council website.

4. **The Committee's Report** This Report by the Public Accounts Committee corresponds with Report No. 68 of the Director of Audit on the results of value for money audits which was tabled in the Legislative Council on 26 April 2017. Value for money audits are conducted in accordance with the guidelines and procedures set out in the Paper on Scope of Government Audit in the Hong Kong Special Administrative Region - 'Value for Money Audits' which was tabled in the Provisional Legislative Council on 11 February 1998. A copy of the Paper is attached in *Appendix 2*.

5. **The Government's Response** The Government's response to the Committee's Report is contained in the Government Minute, which comments as appropriate on the Committee's conclusions and recommendations, indicates what action the Government proposes to take to rectify any irregularities which have been brought to notice by the Committee or by the Director of Audit and, if necessary, explains why it does not intend to take action. It is the Government's stated intention that the Government Minute should be laid on the table of the Legislative Council within three months of the laying of the Report of the Committee to which it relates.

Consideration of the Director of Audit's Report tabled in the Legislative Council on 26 April 2017 As in previous years, the Committee did not consider it necessary to investigate in detail every observation contained in the Director of Audit's Report. The Committee has therefore only selected those chapters in the Director of Audit's Report No. 68 which, in its view, referred to more serious irregularities or shortcomings. The Committee has also sought and obtained information from the Administration on some of the issues raised in other chapters of the Director of Audit's Report No. 68. The Committee appreciates that, in response to the Committee's written questions, the relevant bureaux/departments have provided the Committee with lots of useful information to facilitate the Committee's better understanding of the subjects. The Administration's response has been included in this Report.

2. **Meetings** The Committee held a total of six meetings and two public hearings in respect of the subjects covered in this Report. During the public hearings, the Committee heard evidence from a total of 11 witnesses, including one Director of Bureau and four Heads of Department. The names of the witnesses are listed in *Appendix 3* to this Report.

3. **Arrangement of the Report** The evidence of the witnesses who appeared before the Committee, and the Committee's specific conclusions and recommendations, based on the evidence and on its deliberations on the relevant chapter of the Director of Audit's Report, are set out in Chapter 2 of Part 4 below.

4. The video and audio record of the proceedings of the Committee's public hearings is available on the Legislative Council website.

5. **Acknowledgements** The Committee wishes to record its appreciation of the cooperative approach adopted by all the persons who were invited to give evidence. In addition, the Committee is grateful for the assistance and constructive advice given by the Secretary for Financial Services and the Treasury, the Legal Adviser and the Clerk. The Committee also wishes to thank the Director of Audit for the objective and professional manner in which he completed his Report, and for the many services which he and his staff have rendered to the Committee throughout its deliberations.

The Committee held four public hearings on 6, 19 and 27 May and 27 June 2017 to receive evidence on this subject. As the subject involves issues spanning over the purview of various government bureaux and departments, and the witnesses have provided voluminous information in response to members' enquiries at the hearings, the Committee has decided to defer a full report on this subject in order to allow itself more time to consider these evidences and the issues raised in the Director of Audit's Report.

A. Introduction

The Audit Commission ("Audit") conducted a review on the monitoring of charitable fund-raising activities.

2. Hon Abraham SHEK Lai-him declared that he was a director of the Absolutely Fabulous Theatre Connection, a founder member of the Construction Industry Charity Fund and a member of the School Council of St. Stephen's Girls' College, all of which might have conducted fund-raising activities. Hon Paul TSE Wai-chun declared that he had participated in charitable fund-raising activities. Hon Steven HO Chun-yin declared that he was a member of the Democratic Alliance for the Betterment and Progress of Hong Kong, which might have conducted fund-raising activities. Hon LAM Cheuk-ting declared that he was a member of the Democratic Party, which might have conducted fund-raising activities. Hon SHIU Ka-fai declared that he was a member of the Assessment Committee of the Liberal Party Caring Foundation, which might have conducted fund-raising activities. Hon Tanya CHAN declared that she was a member of the Civic Party, which might have conducted fund-raising activities.

Background

3. Charitable fund-raising activities are common in Hong Kong and of many types, such as flag days and donation boxes to on-street selling and on-line appeals for donations. Funds raised by such activities are significant and increasing in recent years. According to the Director of Audit's Report ("Audit Report"), the charitable donations allowed for tax deduction under the Inland Revenue Ordinance (Cap. 112) had increased by 126% from \$5.25 billion for the year of assessment 2005-2006 to \$11.84 billion for 2014-2015.

Existing monitoring framework

4. Currently, the Administration's regulation of certain charitable fund-raising activities is incidental to the legislation that controls nuisances committed in public places, gambling and hawking. Under the legislation, permits or licences are required for conducting charitable fund-raising activities in public places such as flag days and on-street charity sales, or involving sale of raffle tickets. However, other forms of fund-raising activities, such as charity auctions, balls, concerts, dinners, sales, walks and film premieres as well as new modes of fund-raising, such as face-to-face solicitation of regular donations in public places by means of signing

Monitoring of charitable fund-raising activities

direct debit authorization forms and appeals for donations on the Internet, do not require a permit or a licence. The following departments are responsible for the monitoring of charitable fund-raising activities, depending on their nature:

- under section 4(17)(i) of the Summary Offences Ordinance (Cap. 228), public subscription permits ("PSPs") are required for any collection of money or sale or exchange for donations of badges, tokens or similar articles in public places. The Social Welfare Department ("SWD") issues PSPs for charitable fund-raising activities.¹ PSPs issued by SWD cover two types of charitable fund-raising activities in public places, namely flag days and general charitable fund-raising activities;²
- under section 22 of the Gambling Ordinance (Cap. 148), the Office of the Licensing Authority ("OLA")³ of the Home Affairs Department ("HAD") issues lottery licences to bona-fide organizations for the conduct and sale of fund-raising lottery tickets;
- under the Hawker Regulation (Cap. 132AI), the Food and Environmental Hygiene Department ("FEHD") issues temporary hawker licences ("THLs") to persons authorized by:
 - (a) charitable institutions or trusts of a public character exempt from tax under section 88 of the Inland Revenue Ordinance for charitable fund-raising activities involving on-street selling of commodities; or
 - (b) other non-profit-making organizations incorporated or registered under the laws of Hong Kong for fund-raising activities involving on-street selling of commodities for non-charitable or non-commercial purposes; and

¹ The responsibility for issuing PSPs for non-charitable fund-raising activities in public places (e.g. raising funds for election expenses by political organizations) under section 4(17)(ii) of the Summary Offences Ordinance rests with the Home Affairs Bureau.

² General charitable fund-raising activities include charity sale of badges, tokens or similar articles, setting up of donation boxes at stationed counters, moving around solicitation with money-collection boxes/bags and door-to-door donation in public housing estates.

³ OLA under HAD is responsible for administering the Miscellaneous Licences Ordinance (Cap. 114), Gambling Ordinance, Hotel and Guesthouse Accommodation Ordinance (Cap. 349), Clubs (Safety of Premises) Ordinance (Cap. 376), Amusement Game Centres Ordinance (Cap. 435), Bedspace Apartments Ordinance (Cap. 447) and Karaoke Establishments Ordinance (Cap. 573).

- the Lands Department ("LandsD") grants approval for temporary occupation of unleased land to non-profit-making organizations wishing to set up booths or counters for conducting fund-raising activities.

In 2014-2015, proceeds raised from regulated charitable fund-raising activities approved by SWD and HAD totalled \$282 million only.

Law Reform Commission Report on Charities

5. In the Law Reform Commission Report on Charities ("LRC Report") published in December 2013, the Law Reform Commission ("LRC") has identified deficiencies in the existing regulatory framework of charities,⁴ including limited control of charitable fund-raising activities. It made 18 recommendations to improve the transparency and accountability of charities, among which the following are related to the Administration's monitoring of charitable fund-raising activities: (i) imposing certain filing requirements in applications for charitable fund-raising licences or permits; (ii) setting up centralized telephone hotline for public enquiries and complaints in relation to charitable fund-raising activities; (iii) requiring charitable organizations to display their registration numbers on any documents and message transmitted by any means through which appeals for charitable fund-raising are made; (iv) setting up a platform of co-ordination in dealing with applications for charitable fund-raising licences among the different departments responsible for the licensing of charitable fund-raising activities; and (v) through the coordinated efforts of bureaux/departments ("B/Ds"), engaging in more public education on matters relating to charitable fund-raising activities.

6. In December 2011, during the consultation stage of LRC's proposals, the Secretary for Justice as Chairman of LRC invited the Chief Secretary for Administration to designate a bureau to take primary responsibility for LRC's proposals given that the proposals touched on areas which fell within the policy responsibilities of several bureaux. In May 2012, the Chief Secretary for Administration designated the Home Affairs Bureau ("HAB") as the responsible bureau for coordinating inputs from relevant B/Ds for formulating a response to LRC's recommendations for the Government's consideration. However, since the

⁴ Please refer to Chapter 1 of Report No. 68 of the Director of Audit for details of Government's support and monitoring of charities. To allow itself more time to consider the issues raised in this Director of Audit's Report, the Committee has decided to defer publishing a full report on this subject.

issue of the LRC Report in December 2013, HAB is still coordinating comments from relevant B/Ds for consideration of the way forward and has not yet provided a detailed public response to the LRC Report.⁵

7. The Committee held two public hearings on 16 May and 9 June 2017 to receive evidence on the findings and observations of the Audit Report.

The Committee's Report

8. The Committee's Report sets out the evidence gathered from witnesses. The Report is divided into the following parts:

- Introduction (Part A) (paragraphs 1 to 12);
- Government's efforts to promote transparency and accountability of charitable fund-raising activities (Part B) (paragraphs 13 to 23);
- Administration of public subscription permits for charitable fund-raising activities (Part C) (paragraphs 24 to 41);
- Administration of lottery licences for charitable fund-raising activities (Part D) (paragraphs 42 to 47);
- Administration of temporary hawker licences for fund-raising activities involving on-street selling (Part E) (paragraphs 48 to 60);
- Way forward (Part F) (paragraphs 61 to 70); and
- Conclusions and recommendations (Part G) (paragraphs 71 to 73).

⁵ In October 2011, the Director of Administration issued a General Circular setting out the guidelines for B/Ds when considering LRC proposals. According to the guidelines (which are still in force in accordance with the reissued General Circular in 2016), among others, B/Ds having policy responsibility in respect of any reports of LRC should provide a detailed public response to Secretary for Justice within 12 months of its publication, unless otherwise agreed by him as Chairman of LRC.

Speech by Director of Audit

9. **Mr David SUN Tak-kei, Director of Audit**, gave a brief account of the Audit Report at the beginning of the Committee's public hearing held on 16 May 2017. The full text of his speech is in *Appendix 4*.

Opening statement by Secretary for Home Affairs

10. **Mr LAU Kong-wah, Secretary for Home Affairs**, made an opening statement at the beginning of the Committee's public hearing held on 16 May 2017, the summary of which is as follows:

- the recommendations in the LRC Report had far-reaching implications on the operation and development of charities in Hong Kong and were also related to the duties of a number of B/Ds. Since the issues involved were very complicated, the relevant B/Ds had to consider these recommendations thoroughly and carefully;
- following the release of the LRC Report in December 2013, HAB conducted an internal consultation exercise within the Government in January 2014 and then convened two inter-departmental co-ordination meetings to discuss the comments made by B/Ds. Discussion at the first meeting mainly focused on the approach to and the framework for regulating charities as proposed in the LRC Report. Relevant B/Ds generally considered that further deliberations were required before reaching a decision;
- discussion at the second meeting mainly focused on exploring with relevant executive departments short-term measures that might be feasible under the existing regulatory framework in the light of the recommendations in the LRC Report under the following three broad directions:
 - (a) enhancing the transparency of charities and charitable fund-raising activities and upgrading the functions of the one-stop finder currently performed on "GovHK" ("one-stop finder") to facilitate the search by the public for information on approved charitable fund-raising activities;
 - (b) enhancing the accountability of charitable fund-raising activities such as considering further disclosing financial information on

approved fund-raising activities on the one-stop finder or providing hyperlinks for public scrutiny; and

- (c) reviewing the Reference Guide on Best Practices for Charitable Fund-raising Activities ("the Reference Guide")⁶ issued by SWD and encouraging charities to follow such practices, while the public might refer to the Guide for assessing the performance of charities in fund-raising activities and for a better understanding of the rights and interests of donors; and
- in formulating a response to LRC's recommendations for the Government's overall consideration, HAB and relevant B/Ds would make reference to the recommendations in the Audit Report, as well as the comments of the Committee.

The full text of Secretary for Home Affairs's opening statement is in ***Appendix 5***.

Opening statement by Director of Social Welfare

11. **Ms Carol YIP, Director of Social Welfare**, made an opening statement at the beginning of the Committee's public hearing held on 16 May 2017, the summary of which is as follows:

- SWD had been reviewing from time to time the permit conditions and relevant guidelines on PSP applications and had updated the eligibility criteria and permit conditions of PSP in 2011, 2014 and 2017 respectively;
- SWD agreed with Audit's recommendations and planned to further enhance the transparency and accountability of charitable fund-raising activities through the following three-pronged approach:
 - (a) SWD would, in collaboration with relevant government departments, step up promotion efforts to encourage wider

⁶ The Reference Guide covers best practices on areas of donors' rights, fund-raising practices and accounting/auditing requirements for voluntary adoption by charities. It encourages charities to disclose more of their financial information and to minimize the fund-raising costs. Charities which voluntarily adopt the Reference Guide may choose to adhere to all or part of the Guide. The Guide also serves as a reference for the public in gauging the performance of a charity in fund-raising. Please refer to Appendix A of the Audit Report for some of the major practices specified in the Reference Guide.

adoption of the Reference Guide and the "Guidance Note on Internal Financial Controls for Charitable Fund-raising Activities" ("the Guidance Note");⁷

- (b) to tackle cases of serious or repeated non-compliance with permit conditions, SWD should examine the appropriate mechanism to handle such cases such as publicizing relevant information and seek legal advice, having regard to the causes and severity of individual cases; and
 - (c) SWD would continue to explore the feasibility of defining the scope of "administration costs" and also study whether a ceiling could be set on the administration costs for those on-street general charitable fund-raising activities of a nature similar to that of flag days; and
- under HAB's efforts to coordinate the responses of B/Ds towards LRC's recommendations, SWD would strengthen collaboration with other B/Ds.

The full text of Director of Social Welfare's opening statement is in *Appendix 6*.

Opening statement by Director of Home Affairs

12. **Miss Janice TSE Siu-wa, Director of Home Affairs**, made an opening statement at the beginning of the Committee's public hearing held on 16 May 2017, the summary of which is as follows:

- licence conditions imposed on the organizers were related to the lottery activities concerned, such as prize distribution arrangements, design of lottery tickets, arrangements during the activities and documents to be submitted after the activities, etc. Licensees were required under the licence conditions to submit various documents before the due dates specified in the licences upon completion of the lottery activities, so as to ensure that all lottery proceeds were used for the approved purposes; and

⁷ The Guidance Note sets out some basic controls to be considered by charitable fund-raising organizations with a view to ensuring that income generated from charitable fund-raising activities is spent for the designated purpose and that such income and expenditure are properly documented. Please refer to Appendix B of the Audit Report for some of the major internal financial controls specified in the Guidance Note.

Monitoring of charitable fund-raising activities

- HAD accepted the recommendations of the Audit Report, and agreed that these would help further enhance the monitoring of lottery activities. HAD would work with relevant departments on the feasibility of the proposed measures with a view to further enhancing the transparency and accountability of various types of fund-raising activities. HAD planned to work along the following four major aspects:
 - (a) to review the monitoring mechanism and consider suitable measures to deter late submission of documents;
 - (b) to enhance the Licensing Information System ("LIS")⁸ to facilitate the monitoring of late submission of documents by licensees;
 - (c) to provide more guidance to facilitate licensees in the preparation of annual financial statements; and
 - (d) to study measures to facilitate public access to the lottery accounts.

The full text of Director of Home Affairs's opening statement is in *Appendix 7*.

B. Government's efforts to promote transparency and accountability of charitable fund-raising activities

13. According to paragraphs 2.9 and 2.14(b) of the Audit Report, up to September 2016, SWD had invited 961 charitable organizations (which were the SWD's PSP applicants or subvented organizations) to provide information on adopting the Reference Guide and received responses from 426 organizations, of which 400 had indicated that they would adopt the Guide. The Committee enquired about details of the follow-up actions taken on the 535 non-responding organizations as well as actions taken/to be taken by SWD to encourage more charitable organizations in adopting the Reference Guide.

⁸ HAD uses LIS for recording information relating to licence applications, including the due dates and actual dates of receipt of all required documents, with the exception of the cash count records.

14. **Director of Social Welfare** explained at the public hearings and supplemented in her letter of 26 May 2017 (**Appendix 8**) that:

- since the release of the Reference Guide at the end of 2004, SWD had promoted it for voluntary adoption by charitable organizations through different channels. Every year, SWD would invite the organizations applying for PSPs or the permittees to adopt the Reference Guide on a voluntary basis. The relevant invitation letter was uploaded onto the SWD's website for promotion purpose;
- regarding the 535 non-responding organizations, except a small number of organizations which had not applied for PSPs again, SWD kept on sending letters to those yet-to-reply organizations every year to invite them to reconsider or confirm adoption of the Reference Guide. Along with SWD's requirement for PSP applicant organizations to indicate their decision on whether to adopt the Reference Guide in the application form, more permittees would be expected to adopt the Reference Guide;

Short-term measures

- as endorsed by the Lotteries Fund Advisory Committee ("LFAC")⁹ in its meeting in January 2017, SWD had gradually implemented the enhanced promotional efforts relating to the Reference Guide as follows:
 - (a) since April 2017, Flag Day applicant organizations for the year 2018-2019 had been requested to indicate whether they would adopt the Reference Guide in the application form and to state the reasons for partially adopting or not adopting the Reference Guide;
 - (b) the same arrangement would be applicable to applicant organizations for general charitable fund-raising activities with effect from July 2017; and

⁹ LFAC is chaired by Director of Social Welfare, and comprises representatives from the Labour and Welfare Bureau and members from the social welfare, academic, professional and business sectors as appointed by the Secretary for Labour and Welfare. It is the advisory body to SWD in advising Director of Social Welfare on applications for allocations from the Lotteries Fund and on charitable fund-raising activities.

- (c) the webpage of WiseGiving under the Hong Kong Council of Social Service had included a hyperlink to the Reference Guide. SWD would liaise with the Hong Kong Council of Social Service again to promote the Reference Guide to its members (especially the new members);

Medium-term measures

- SWD would join to work with relevant departments at the third inter-departmental meeting in end-June 2017 (More details of this meeting in paragraph 65 below) on the possible short-term measures with a view to further improving the monitoring of charitable fund-raising activities, including the recommendations mentioned in paragraph 2.19(a)(i) & (ii) of the Audit Report; and
- since different charitable fund-raising activities were under the regulation of the respective government departments, SWD would invite these departments to consider if the Reference Guide would be applicable to the charitable fund-raising activities under their purview. Where applicable, SWD would encourage them to promote the Reference Guide to those charitable organizations.

15. The Committee noted from paragraph 2.13 of the Audit Report that 194 (77%) of 252 multi-district applications received by LandsD in 2016 for temporary occupation of unleased land for fund-raising activities were for conducting face-to-face solicitation of regular donations by means of signing direct debit authorization forms, which did not require a permit or a licence under any legislation. The Committee enquired whether SWD had explored ways to regulate such new modes of fund-raising.

16. **Director of Social Welfare** explained at the public hearings and supplemented in her letter of 26 May 2017 (Appendix 8) that appeal for donations through the Internet and face-to-face solicitation of regular donations in public places by means of signing direct debit authorization forms was outside the charitable fund-raising activities regulated by SWD under the purview of Section 4(17)(i) of the Summary Offences Ordinance. SWD would work jointly with other relevant departments, in the light of LRC recommendation on facilitation of good practice, to study if the best practices set out in the Reference Guide were applicable to other forms of fund-raising activities.

17. Noting from paragraph 2.14(c) of the Audit Report that after SWD's review of the effectiveness of the Reference Guide through a survey of the charities conducted in September 2006, similar review had not been conducted for over ten years, the Committee asked whether SWD would conduct a further review on the effectiveness and the contents of the Reference Guide after the last review in September 2006.

18. **Director of Social Welfare** explained at the public hearings and supplemented in her letter of 26 May 2017 (Appendix 8) that:

- SWD promulgated the Reference Guide at the end of 2004 and conducted a survey among the charities to review the effectiveness of the Reference Guide in 2006. SWD then updated the contents of the Reference Guide in 2014 and 2017. Besides, SWD firstly issued the Guidance Note in 1998 and revised it in November 2004 with the assistance of the Hong Kong Institute of Certified Public Accountants ("HKICPA") and the Independent Commission Against Corruption;
- SWD would draw reference to previous experience to conduct another survey among the charitable organizations to review the effectiveness and content of the Reference Guide and the Guidance Note. SWD planned to kick-start the review within 2017 through consulting relevant government departments, professional bodies, social welfare sector, representatives of the organizations that had adopted/not adopted the Reference Guide, etc; and
- SWD would regularly review whether it warranted a timely update/refinement on the content of the Reference Guide and the Guidance Note every year.

19. Referring to paragraph 2.17 of the Audit Report, the Committee asked the relevant departments whether consideration would be given to enhancing the provision of information on the approved charitable fund-raising activities, such as key financial information of the charitable fund-raising activities, on the one-stop finder.

20. **Director of Social Welfare** advised at the public hearings and supplemented in her letter of 26 May 2017 (Appendix 8) that:

Monitoring of charitable fund-raising activities

- under HAB's coordination of B/Ds' views for the Administration's consideration of the overall responses to LRC's recommendations, SWD was ready to work together with other B/Ds to further develop the functions of the one-stop finder, for example, to serve as a single online platform for uploading the financial information on the approved charitable fund-raising activities; and
- SWD was willing to share its relevant experience with other government departments and strengthen the inter-departmental cooperation, in order to facilitate the public's access to the information about the approved charitable fund-raising activities (including the audited reports).

21. **Director of Home Affairs** explained at the public hearings and supplemented in her letter of 25 May 2017 (*Appendix 9*) that to enhance the transparency and accountability of lottery activities for fund-raising, the names of organizers, dates and locations of lottery activities were promulgated on HAD's website and on the one-stop finder. In addition, the approved number of tickets to be sold and the ticket price were also promulgated on HAD's website. HAD was working with the Office of the Government Chief Information Officer ("OGCIO") to upload the information on approved number of tickets and ticket price onto the one-stop finder. In parallel, HAD was also working with relevant B/Ds on the feasibility of uploading the lottery accounts onto the one-stop finder.

22. **Miss Vivian LAU Lee-kwan, Director of Food and Environmental Hygiene**, advised in her letter of 26 May 2017 (*Appendix 10*) that measures to safeguard the right to know of the public were being explored at the inter-departmental meetings coordinated by HAB, with due regard to the administrative considerations including resource deployment, the coordination of relevant licensing conditions and the potential legal implications of the disclosure of further information of charitable fund-raising activities.

23. The Committee further suggested that the Administration should consider introducing a symbol, which was easily recognizable in the form of a logo or badge, for display by holders of charitable fund-raising licences and permits during charitable fund-raising activities for identification by members of the public. **Secretary for Home Affairs** replied at the public hearing that HAB and the relevant B/Ds would consider this suggestion.

C. Administration of public subscription permits for charitable fund-raising activities

24. The Committee noted from paragraph 1.8(c) of the Audit Report that over the years, SWD had been receiving enquiries/complaints from the public on fund-raising activities. According to SWD, from April 2012 to September 2016, 46 (5%) of 891 such enquiries/complaints received were suspected cases of illegal fund-raising activities and were referred to the Police for further investigation. The Committee enquired about the follow-up actions on these suspected cases.

25. **Director of Social Welfare** explained in her letter of 26 May 2017 (Appendix 8) that established mechanism had been put in place by SWD in handling complaints on charitable fund-raising activities. If the permittee under complaint was suspected to have breached the permit conditions during the general charitable fund-raising activity, SWD would conduct investigation and require the permittee in question to provide a report on the complaint as well as to submit a proposal of improvement measures. If the complaint against breach of permit conditions was substantiated, SWD would take the following actions:

- issue a warning letter to the non-compliant permittee and such record of non-compliance would be taken into account when considering its future applications;
- suspend processing the PSP applications from the permittee in question in cases of repeated or serious non-compliance with permit conditions, until satisfactory improvements had been made;
- revoke the ongoing PSP that had been issued to the permittee where necessary if it had breached the permit condition with grave violation; and
- refer the case to the Police for investigation if the fund-raising activity under complaint was suspected to have contravened the law (e.g. unauthorized charitable fund-raising activities in public places).

26. At the Committee's request, **Director of Social Welfare** provided a copy of the PSP Application Form and a table setting out the relevant figures in relation to the complaints on charitable fund-raising activities received by SWD over the past three years in her reply dated 26 May 2017 (Appendix 8).

27. The Committee noted from paragraph 3.12 of the Audit Report that of the 1 497 audited reports due for submission by 325 permittees from April 2012 to September 2016, 15 (1%) were outstanding as of September 2016, of which six were long overdue (ranging from 216 to 429 days, averaging 342 days). The Committee enquired about the actions which would be taken by SWD against non-compliance cases, in particular about overdue audited reports.

28. **Director of Social Welfare** explained at the public hearings and supplemented in her letter of 26 May 2017 (Appendix 8) that:

- whenever a PSP permittee failed to submit an audited report to SWD within 90 days of the last event day and/or publish it according to the permit condition, SWD would issue written reminders/warnings (or via email) to the permittee concerned and to suspend its already-submitted or new PSP applications until all the required documents were received and checked in order. The non-compliant permittee would be put on a withholding list by SWD if the audited report was still outstanding upon the deadline specified in the written reminders/warnings. No new PSP would be issued to the permittee to safeguard public interests;
- up to the end of March 2017, SWD received four out of the six long overdue audited reports in question. The two permittees that were responsible for the remaining two long overdue cases had not been issued any PSPs since the due date of the audited reports concerned, and both organizations had been put on the withholding list after the issue of repeated written reminders and warnings; and
- SWD agreed to Audit's recommendation in paragraph 3.25(b) of the Audit Report and intended to strengthen the mechanism in addressing the cases of serious/repeated non-compliance with permit conditions through the following measures:
 - (a) SWD reiterated to some 150 representatives from non-governmental organizations at a briefing session held on 8 March 2017 on revised measures to monitor the general charitable fund-raising activities and a permittee's obligation to fully comply with permit conditions. The common situations of non-compliance were also shared in the session; and
 - (b) SWD announced in April 2017, via its website and the issue of a letter, the revised measures, such as the revised application

procedures, eligibility criteria and conditions of PSP, to enhance the monitoring of general charitable fund-raising activities which would be rolled out with effect from July 2017. Among other things, SWD had spelt out in the eligibility criteria for a PSP that "applications might be rejected or only processed in phases, etc." if an applicant organization was associated with records of non-compliance with permit conditions.

29. At the request of the Committee, **Director of Social Welfare** provided a sample of the auditor's report as required under a PSP in her reply dated 26 May 2017 (Appendix 8).

30. According to paragraphs 3.5 and 3.13 of the Audit Report, as of September 2016, there were eight organizations on SWD's withholding list (i.e. the processing of their new PSP applications would be withheld because of their non-compliance with the permit conditions). However, Audit's examination revealed that seven of them had continued to raise funds on their websites and through other activities which were outside the purview of SWD. The Committee asked whether consideration would be given to Audit's recommendation of publicizing information on serious or repeated cases of non-compliance with permit conditions in order to enable the public to make an informed choice when making donations.

31. **Director of Social Welfare** advised at the public hearings and supplemented in her letter of 16 June 2017 (*Appendix 11*) that SWD had been studying the "publication mechanism" as recommended by Audit. SWD would consult LFAC on how to define serious/repeated non-compliance with PSP conditions, and seek legal advice from the Department of Justice on the proposed "publication mechanism". SWD planned to implement the recommended "publication mechanism" within the fourth quarter of 2017. Due regard would be given to the causes and severity of individual cases before considering publicizing relevant information.

32. According to paragraph 3.9 of the Audit Report, SWD had obtained the Department of Justice's advice for about 300 times mainly on the interpretation of the legal terms of the Summary Offences Ordinance as applicable to individual PSP applications. According to paragraph 3.26(b), SWD would examine the feasibility

of issuing general guidelines on the scope of PSP for reference by applicants. The Committee asked for the progress on this issue.

33. **Director of Social Welfare** explained at the public hearings and supplemented in her letter of 16 June 2017 (Appendix 11) that:

- SWD had listed out on its website some forms of general charitable fund-raising activities covered by PSP and examples for easy reference by the public and charitable organizations which intended to organize charitable fund-raising activities;¹⁰ and
- SWD had been actively studying Audit's view on issuing more guidelines on the scope of PSP. SWD expected that a preliminary draft of the general guidelines would be available by the end of 2017, whereas the finalized version would be uploaded onto SWD's website after advice from the Department of Justice had been sought.

34. According to paragraph 3.14(a) of the Audit Report, use of public places (especially those with high pedestrian flow) for charitable fund-raising activities was in high demand. However, during SWD's inspections of 30 (50%) of the 60 activities, no fund-raising activities were found at the approved locations, i.e. "no-show" cases. The Committee enquired about the improvement measures to be taken on the repeated "no-show" cases without valid reasons.

35. **Director of Social Welfare** explained at the public hearings and supplemented in her letters of 26 May and 16 June 2017 (Appendices 8 and 11) that:

- SWD might, in the course of processing their applications, appeal to all PSP applicant organizations to fully utilize the approval for using government land/venue for the conduct of charitable fund-raising activities to avoid wastage of public resources;
- SWD had since 2015 been conducting random on-site surprise inspections on some general charitable fund-raising activities. If "no-show" case was found, SWD would take follow-up actions including giving verbal or written reminders to urge the organizations

¹⁰ The link to the relevant part of the SWD's website was (http://www.swd.gov.hk/en/index/site_pubsvc/page_controlofc/sub_generalcha/).

Monitoring of charitable fund-raising activities

to be prudent in planning their fund-raising activities, arranging manpower and making good use of related public resources. The organizations would also be requested to give reasons therefor;

- the "no-shows" were mostly attributed to the following reasons:
 - (a) unanticipated inclement weather which might have significant impact on the deployment of fund-raisers with disabilities;
 - (b) unforeseeable manpower shortage as claimed by the permittees (e.g. unanticipated absence of fund-raisers which had rendered only one fund-raiser available, thereby leading to the eventual call-off of the event due to security concern); and
 - (c) the fund-raising activities had ended before the staff of SWD arrived at the locations, or started only after the departure of SWD's staff;
- SWD agreed to Audit's recommendation in paragraph 3.25(c) of the Audit Report and intended to take the following actions:

Short-term measure

- (a) with effect from late May 2017, SWD would reiterate to the permittee upon issue of PSP that it should exercise prudence in planning and making manpower arrangements for the charitable fund-raising activities, and use the government land/venue granted for the approved fund-raising activities effectively; and

Medium-term measure

- (b) SWD would strengthen the liaison with FEHD and LandsD on the feasibility of sharing enforcement information and taking concerted actions against organizations involved in repeated "no-show" cases as well as their relevant applications in the future; and
- representatives from SWD, FEHD and LandsD would attend the third inter-departmental meeting in end-June 2017 and further deliberate the arrangement of sharing information on charitable fund-raising activities obtained from inspections.

36. At the request of the Committee, **Director of Social Welfare** provided a timetable for following up Audit's recommendations in paragraph 3.25 of the Audit Report in her reply dated 26 May 2017 (Appendix 8).

37. In reply to the Committee's enquiry about the 60 deficit cases selected by Audit relating to the fund-raising activities held from April 2012 to March 2016 under PSPs for examining their audited reports, **Director of Social Welfare** explained in her letter of 26 May 2017 (Appendix 8) that most of the 60 deficit cases quoted in Table 6 of paragraph 3.18 and paragraph 3.20(a) of the Audit Report were primarily for large-scale events of public education or religious purposes. Fund-raising only accounted for a small part of the events and the majority of expenses were related to promotion and production.

38. According to paragraph 3.21 of the Audit Report, SWD had not set an across-the-board fund-raising expenses ceiling for general charitable fund-raising activities given the diversity of their nature and mode of operation, and the absence of a commonly agreed definition of "administration costs" of a fund-raising activity. According to paragraph 3.26, SWD undertook to explore the feasibility of defining the term "administration costs" with a view to setting an expenses ceiling for on-street general charitable fund-raising activities which were similar in nature to flag days. In this connection, the Committee asked for the progress of taking forward this improvement measure.

39. **Director of Social Welfare** explained at the public hearings and supplemented in her letter of 26 May 2017 (Appendix 8) that:

- SWD's permit condition that the fund-raising expenses of a flag day should not exceed 10% of the gross proceeds had been operating effectively due to the standardized nature and expenses of a flag day;
- it might not be practical to set an across-the-board ceiling for all general charitable fund-raising activities given the diversity of their nature and mode of operation, and the absence of a commonly agreed definition of "administration costs" of a fund-raising activity;
- at present, if dubious expenses were noted in the audited report of the fund-raising activities, SWD would request explanation from the organization concerned;

- as a short-term measure, LFAC agreed to explore the feasibility of defining the scope of "administration costs" involved in charitable fund-raising activities, and started to liaise with the fund-raising sector in early 2017. In parallel, SWD would consider seeking advice from HKICPA on this issue; and
- in the medium term, SWD would consult LFAC on exploring the feasibility to set a ceiling of "administration costs" for on-street general charitable fund-raising activities similar to the nature and pattern of flag days.

40. According to paragraph 3.23 of the Audit Report, as revealed in Case 2, accrued expenses could not be reflected in the accounts prepared on a cash basis, resulting in an understatement of the fund-raising expenses. Moreover, the permit condition of depositing the net proceeds into a bank account within 90 days of the last event day had not been complied with. According to paragraph 3.26(d), SWD undertook to examine the existing accounting requirements for charitable fund-raising activities in public places. The Committee enquired about the progress so far.

41. **Director of Social Welfare** explained at the public hearings and supplemented in her letter of 16 June 2017 (Appendix 11) that:

- a meeting between SWD and HKICPA was held in early June 2017, and the latter acknowledged that the adoption of "accrual basis" principle, rather than "cash basis", would better reflect the whole picture of the income and expenditure situation of the charitable fund-raising activity in question;
- the prevailing Practice Note 850 issued by HKICPA had mentioned that, in general, the income and expenditure account would be prepared on an "accrual basis"; and
- as stipulated in the conditions of PSP, a permittee must credit the balance of the donations after deducting any expenses incurred (i.e. the net proceeds) to the relevant bank account within 90 days of the last event day approved in PSP. The "recommended procedures" in Appendix I of the Practice Note 850 also required that a Certified Public Accountant engaged should check whether cash receipts were deposited in the permittee's own bank accounts within a reasonable

time and included in the bank statements. SWD would continue the discussion with HKICPA, with a view to examining and revising the Practice Note 850 or relevant accounting requirements after consultations with the stakeholders (i.e. charitable organizations, practitioners in the accounting field, etc.).

D. Administration of lottery licences for charitable fund-raising activities

42. According to paragraphs 4.6, 4.8 and 4.10 of the Audit Report, Audit examined 263 lottery licences granted from 2012-2013 to 2015-2016 and found that there were delays in submitting the lottery accounts for 120 (46%) licences. The delays were over three months in 17 (14%) cases, up to 746 days in one case. For 10 lottery accounts which had been overdue for over 180 days, reminders/warning letters had not been issued to the licensees concerned within the HAD's stipulated time.¹¹ While HAD's LIS had records of the submission due dates, it could not generate exception reports to facilitate HAD staff in following up the outstanding cases in a timely manner. The Committee doubted the effectiveness of HAD's monitoring of licensees' compliance with the lottery licence conditions, and enquired about the manpower responsible for processing and monitoring lottery licences.

43. **Director of Home Affairs** explained at the public hearings and supplemented in her letter of 16 June 2017 (*Appendix 12*) that:

- LIS currently used by HAD to record useful information relating to lottery licence applications was developed by the former Television and Entertainment Licensing Authority ("TELA") a long time ago, and it had not been enhanced since HAD took over the responsibility for issuing lottery licences from the former TELA in 2012;
- as LIS could not generate exception reports to facilitate HAD staff in following up the outstanding cases, they currently used a separate spreadsheet to record and bring up the outstanding cases for follow-up actions;
- HAD was upgrading LIS and anticipated that the enhancement could be completed within 2017; and

¹¹ Please refer to paragraph 4.7 of the Audit Report for HAD's internal guidelines on the issue of reminders and warning letters for overdue lottery accounts.

- one Executive Officer and one Clerical Officer were responsible for processing and monitoring lottery licences.

44. The Committee noted from paragraph 4.11 of the Audit Report that while the audited annual financial statements submitted by the licensees in six cases did not show separately the income and expenditure of their lottery events nor the use of net proceeds, HAD staff accepted the licensees' explanation that the income and expenditure of the lottery events and the use of net proceeds had been subsumed under other income and expenditure items in the financial statements. The Committee asked for the justifications for accepting the licensees' explanation without obtaining supporting information such as a breakdown of the income and expenditure items.

45. **Director of Home Affairs** explained at the public hearings and supplemented in her letter of 16 June 2017 (Appendix 12) that:

- some organizations grouped all the incomes received from various fund-raising events and all the event expenses into a single item, such as "donations received during the year" or "fund-raising expenses for the year", instead of showing separately the income and expenditure of the approved lottery events. Some annual financial statements did not show separately which item(s) of operating expenditure of the organizations were met by the net lottery proceeds. For these cases, HAD sought clarifications and explanations from the organizations and requested supplementary information where necessary to facilitate the understanding of the income and expenditure of the lottery event and whereabouts of the net proceeds. As the organizations concerned had provided lottery accounts stating the income and expenditure of the activities in accordance with the licence condition, the information so provided helped clarify the relevant items in the annual financial statements. Based on the information provided by the organizations, HAD accepted that the net lottery proceeds had been used for the approved purpose(s); and
- HAD had already reminded the organizations of the requirements to include the income and expenditure of the lottery event and the use of the net proceeds in annual financial statements if they were to organize lottery events again in future.

46. At the request of the Committee, **Director of Home Affairs** provided a copy of the latest version of the "Reference Guide on Organisation of Lottery Activities"¹² in her reply dated 16 June 2017 (Appendix 12).

47. In reply to the Committee's enquiry on whether a template of the audited annual financial statement as required under a lottery licence had been provided to the applicants, **Director of Home Affairs** advised in her letter of 16 June 2017 (Appendix 12) that it was a condition of lottery licence that if the net proceeds of the lottery were used for meeting the operating expenses of the organization, the licensee should submit to OLA an audited annual financial statement of the organization showing the income and expenditure of the lottery, and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event (might be shown in the form of "note to account" if appropriate). A sample "Note to Account" in the annual financial statement was added at Appendix VII of the latest version of the "Reference Guide on Organisation of Lottery Activities" to provide guidance to licensees to facilitate their compliance with the condition that the use of net proceeds was accounted for in the financial statements.

E. Administration of temporary hawker licences for fund-raising activities involving on-street selling

48. Noting from paragraph 5.5(c) of the Audit Report that since July 2012, only organizations issued with more than 12 THLs within 12 months had been required to submit audited accounts for each and every licence subsequently issued, the Committee enquired about the rationale behind the requirement on submission of audited accounts for the 13th licence onwards instead of for all licences issued to such organizations within the 12 months.

49. **Director of Food and Environmental Hygiene** explained at the public hearings and supplemented in her letters of 26 May and 16 June 2017 (*Appendices 10 and 13*) that:

- under the framework of the Public Health and Municipal Services Ordinance (Cap. 132), the main purpose for FEHD to issue THLs was to regulate the sale of commodities in public places in a hygienic manner as well as to ensure that the hawking activities would not cause

¹² The application forms for lottery licence are in Appendix II of the "Reference Guide on Organisation of Lottery Activities".

nuisances such as obstruction. The license conditions of THLs stipulated that the licence was issued to the licensee to raise funds through the on-street sale of commodities where a customer was paying the seller money in exchange for an actual commodity. FEHD opined that such transactions should be distinguished from charitable fund-raising activities which did not involve any benefit in return. THLs issued to charitable organizations in the past three years only accounted for about 30% to 40% of the total THLs issued by FEHD. The rest of THLs, comprising over half of the total, were issued to non-tax-exempted non-profit-making institutions or organizations for raising funds for non-charitable purposes through the on-street sale of commodities at a specific location and time;

- Hawker Regulation stipulated that the licence period of a THL should not exceed one month. Apart from this, there was no stated limit on the number of THLs granted to an applicant in one year. In February 2012, a media report revealed that a tax-exempt charitable organization had been issued with more than 120 THLs in a year by FEHD for the organization to raise fund through on-street sale of commodities, which had in turn aroused public concern on the possible abuse of THLs. Apart from notifying SWD and the Police of the incident for their follow-up actions, FEHD also immediately conducted a review of the mechanism for issuing THLs and introduced the new administrative measures in July of the same year in order to prevent the abuse of THLs and for fair distribution of public resource among fund-raising organizations. The relevant measures included:
 - (a) under normal circumstances, the total number of THLs granted to each fund-raising organization in 12 months should not exceed 20. Among them, no more than two licences should be granted for selling goods in the same district and no more than four licences should be granted for selling goods at hawker black spots;
 - (b) the maximum licence period was five days in any two consecutive weeks; and
 - (c) organizations issued with more than 12 licences within 12 months should prepare an auditor's report for each and every of the licences subsequently issued;
- the implementation of the above administrative measures had effectively prevented the abuse of THLs. On the other hand, no

further application of THL was made by the organization reported by the media; and

- THL had specified the time and designated one location for sale of commodities with a maximum licence period of five days in any two consecutive weeks. Such fund-raising activity was comparatively small in scale. Besides, actual commodities transactions were involved in this kind of activity for which donors were not eligible for tax deduction. It was necessary that the need to facilitate on-street fund-raising activities through the sale of commodities by tax-exempted charitable organizations and non-profit-making organizations and the need to address public concern about such activities should be considered at the same time. The existing requirement that organizations issued with more than 12 licences within 12 months should prepare an auditor's report for each and every of the licences subsequently issued was deemed as an appropriate way to keep a balance of the needs relating to the above two aspects.

50. At the request of the Committee, **Director of Food and Environmental Hygiene** provided a copy of application form and notice to applicants regarding THL in her reply dated 16 June 2017 (Appendix 13).

51. The Committee further enquired about the number of audited accounts which had been submitted to FEHD for the 13th licence onwards since July 2012, and based on these accounts, the average amount of income and expenditure for an event under THLs.

52. **Director of Food and Environmental Hygiene** advised in her letter of 16 June 2017 (Appendix 13) that:

- since the introduction of the new administrative measures in July 2012, only one organization had been issued with more than 12 THLs within 12 months in 2013. According to the relevant requirement, the organization concerned should have submitted within 90 days after the completion of the fund-raising activities of its 13th THL the auditor's report to FEHD. However, due to the fact that the concerned organization had submitted further applications for THL before the deadline and because of the faulty design of the computer system in early stage of implementation of the new measures for processing THL

applications, the concerned organization was issued with more than 12 THLs under the situation of no submission of the auditor's reports;

- FEHD was currently working on the mechanism for processing licence applications and improving the licence processing system to ensure timely follow-up actions and to prevent recurrence of similar incident effectively; and
- as the concerned organization had not submitted the audited report, FEHD was unable to provide the amount of income and expenditure involved in the fund-raising activities under the licence concerned.

53. According to paragraph 5.7(c) of the Audit Report, while both SWD and HAD had imposed conditions requiring a permittee/licensee to inform donors or prospective donors about the purpose of fund-raising and to properly account for the use of donations, no similar licence condition or administrative measure had been imposed by FEHD. According to paragraph 5.15(c) of the Audit Report, FEHD undertook to explore how best to enhance the financial accountability of charitable fund-raising activities covered by THL. The Committee enquired about the progress of this issue.

54. **Director of Food and Environmental Hygiene** explained in her letter of 16 June 2017 (Appendix 13) that FEHD was considering, as far as practicable and legally viable, introducing new licensing condition and administrative measure for issuing THLs to tax-exempted charitable organizations and non-profit-making organizations. FEHD would make reference to the best practices specified in the Reference Guide promulgated by SWD while having due regard to factors such as the nature, scale and duration of the fund-raising activities, proportionality of the requirements, and cost of compliance, etc. As regards the safekeeping of the funds raised from fund-raising activities, financial accountability and transparency of the purpose of fund-raising, FEHD planned to, from December 2017, impose new licensing conditions which required licensees to display notices/ banners to state the purpose of fund-raising, and through the implementation of administrative measure to remind the applicants concerned to provide secure and sealed boxes for collecting and safekeeping of the funds raised from the sale activity properly.

55. According to paragraph 5.11 of the Audit Report, "no-show" cases were found in 1 251 (59%) of 2 128 inspections conducted by FEHD, but it currently did not take any follow-up actions on the "no-show" cases. According to

paragraph 5.15(g) of the Audit Report, as most of the "no-show" cases were related to fund-raising activities covered by waivers issued to organizations that had obtained PSPs from SWD, FEHD would explore with SWD the feasibility of imposing sanction to forestall frivolous applications for PSP, tackling the problem at source. The Committee asked for the progress of this matter.

56. **Director of Food and Environmental Hygiene** advised at the public hearings and supplemented in her letter of 16 June 2017 (Appendix 13) that FEHD would attend the third inter-departmental meeting in end-June 2017 to discuss matters including the study on how to interface with relevant departments on the use of Government land by licensees or permittees for fund-raising activities. Moreover, FEHD would study with SWD and LandsD means to enhance communication among departments and the feasibility of sharing of enforcement information and taking concerted actions on repeated "no-show" cases.

57. The Committee noted from paragraph 5.12 of the Audit Report that owing to the lack of one-stop service, an organization might need to seek approvals from different departments (FEHD, SWD and LandsD) for the same charitable fund-raising activity involving on-street selling, resulting in duplication of regulatory efforts and extra workload and inconvenience to charitable organizations. In this connection, the Committee asked how HAB would take forward Audit's recommendation of providing one-stop service to streamline the processing and approvals of fund-raising activities involving on-street selling by the Administration.

58. **Secretary for Home Affairs** advised in his letter of 16 June 2017 (*Appendix 14*) that HAB would co-ordinate relevant B/Ds and examine the common requirements of the licences and permits, and explore the possibility of providing a one-stop service to facilitate licence applications for on-street fund-raising activities.

59. Noting from paragraph 5.15 (d) of the Audit Report that FEHD would actively consider introducing a new administrative measure, i.e. not processing any subsequent application from any organization until the audited accounts for the previous fund-raising activities were submitted as required, the Committee enquired about the progress of introducing this new measure.

60. **Director of Food and Environmental Hygiene** advised in her letter of 16 June 2017 (Appendix 13) that FEHD planned to introduce an administrative

measure in December 2017 for tax-exempted charitable organizations and non-profit-making organizations that had been granted with 12 licences within 12 months. If they wished to continue to submit application to FEHD for the 13th THL, they should submit the application forms together with the financial reports audited by a certified public accountant registered with HKICPA. The reports should disclose to FEHD the amount of funds raised through the 12 previous licences, every expense related to the fund-raising activities as well as the statements which set out the income and expenditure account. If the tax-exempted charitable organization or non-profit-making organization concerned failed to do so, its new application would not be considered until the auditor's report had been submitted as required. The measure of submitting auditor's report was applicable to all subsequent applications within the relevant period but the total number of THLs granted should not exceed 20.

F. Way forward

61. The Committee noted with concern that for three-and-a-half years since the issue of LRC Report on Charity in December 2013, HAB was still coordinating inputs from relevant B/Ds for formulating a response to LRC. The Committee enquired about the reasons for the slow progress, in particular about the issues that the Administration had taken a longer time to study.

62. **Secretary for Home Affairs** explained at the public hearings and supplemented in his letter of 26 May 2017 (*Appendix 15*) that:

- HAB's co-ordination efforts had not been confined to collecting views of relevant B/D at meetings. HAB had also, through various communication channels, co-ordinated B/Ds to study the recommendations and explore possible way forward;
- upon release of the LRC Report in December 2013, HAB wrote to relevant B/Ds on 20 January 2014 inviting their consideration of LRC's recommendations. The recommendations of LRC involved the duties of at least nine bureaux and nine executive departments;
- upon receiving comments from the relevant B/Ds, HAB sought clarification on the replies from some of the B/Ds. HAB then made an initial assessment and considered that the challenges in implementing LRC's recommendations would come mainly from LRC's three major recommendations, which included providing a

statutory definition of "charitable organizations"; establishing and maintaining a register of charitable organizations by a single Government bureau or department; and delegating the same B/D to be responsible for co-ordinating the work of regulating charitable organizations and charitable fund-raising activities which were currently under the purview of different B/Ds;¹³

- at the inter-departmental meeting on 11 August 2015, HAB discussed with eight B/Ds, whose scopes of work under the current legislation and statute involved the monitoring of charitable organizations or charitable fund-raising activities, the approach to and the framework for regulation as proposed in the LRC Report. Given the complexity of the issue, the B/Ds concerned agreed that the Administration should consider carefully the feasibility and implications of those recommendations from policy and practical implementation perspectives, as well as responses from relevant stakeholders;
- as one of the key rationales behind LRC's recommendations was to enhance the transparency of charitable organizations, especially those raising funds from the public, so as to protect the interests of donors, the relevant B/Ds agreed that departments currently responsible for issuance of permits or licenses relating to charitable fund-raising activities, i.e. FEHD, HAD and SWD, could consider how to enhance the regulation of charitable fund-raising activities under the existing regime;
- after conducting further data collection and relevant research, HAB convened another cross-departmental meeting on 4 October 2016 to study with FEHD, HAD and SWD the formulation of short-term viable administrative measures, with a view to enhancing the transparency of charitable fund-raising activities. Their consideration mainly followed three broad directions, which included enhancing the transparency of charitable organizations and charitable fund-raising activities; enhancing the accountability of charitable fund-raising activities; and reviewing the Reference Guide issued by SWD and encouraging charities to follow such practices; and
- the relevant B/Ds were exploring along the above three broad directions, including the relevant administrative considerations such as

¹³ Please refer to Appendix 15 for a summary of the major challenges faced by the Administration in implementing LRC's recommendations.

allocation of resources, co-ordination of licensing requirements and legal considerations relating to the disclosure of more information on fund-raising activities. As for enhancing the one-stop finder and the "1823" Government Hotline, the Efficiency Unit and OGCIO initially considered that the proposals should be technically feasible.

63. At the request of the Committee, **Secretary for Home Affairs** provided a chronology of the co-ordination work of HAB on the views from relevant B/Ds in response to LRC's recommendations in his reply dated 16 June 2017 (Appendix 14).

64. The Committee further asked how HAB would take forward the various LRC's recommendations to enhance the regulation and monitoring of charitable fund-raising activities.

65. **Secretary for Home Affairs** advised at the public hearings and supplemented in his letter of 16 June 2017 (Appendix 14) that HAB would convene another meeting in end-June 2017 to further explore the feasibility of the various administrative measures proposed by LRC. The departments involved would include the Efficiency Unit, FEHD, HAD, LandsD, OGCIO and SWD. They should examine how the regulation of fund-raising activities for charitable causes could be strengthened and the transparency of public fund-raising activities be enhanced under the existing mechanism. Apart from taking into account the recommendations from LRC, they would make reference to the suggestions in the Audit Report for monitoring charitable fund-raising activities and the views of the Committee, which included:

Licence or permit application

- co-ordinating relevant B/Ds and examining the common requirements of the licences and permits, and exploring the possibility of providing a one-stop service to facilitate licence applications for on-street fund-raising activities (i.e. Recommendation 9 in the LRC Report and paragraph 5.14(e) in the Audit Report);

Monitoring the approved charitable fund-raising activities held in public area

- studying the feasibility of issuing the same badge, which was easily recognizable, to approved charitable fund-raising activities held in

public area for identification by members of the public as suggested by the Committee;

- co-ordinating enforcement efforts on charitable fund-raising activities held in public places (i.e. the recommendation in paragraph 3.25(c) of the Audit Report);

Enhancing the transparency of charitable fund-raising activities

- exploring the possibility of uploading financial reports or income and expenditure accounts relating to the approved charitable fund-raising activities onto the one-stop finder upon completion of those activities or providing relevant hyperlinks on department websites for public scrutiny (i.e. recommendations in paragraphs 3.25(h) and 4.14(d) of the Audit Report);
- exploring the possibility of upgrading the functions of the one-stop finder and enhancing the services of the existing "1823" Hotline to facilitate the search by the public for information on approved charitable fund-raising activities, as well as to respond to any public enquiries and complaints relating to charitable fund-raising activities (i.e. Recommendation 10 in the LRC Report and the recommendation in paragraph 2.19(a)(iv) of the Audit Report);

Promoting the code of good practice

- conducting a review on the existing Reference Guide issued by SWD to see if the Guide could be made applicable to more types of different charitable fund-raising activities, including other new modes of fund-raising (i.e. Recommendation 12 in the LRC Report and the recommendation in paragraph 2.19(a)(iii) of the Audit Report); and
- considering launching relevant promotional programmes to encourage charitable organizations to organize activities with reference to the best practices for charitable fund-raising activities if it was shown that the Reference Guide was applicable to or could be amended to apply to more types of different charitable fund-raising activities. They would also step up promotion efforts in the community so that the public might refer to the Reference Guide to make easy assessment of the performance of charitable organizations in those activities and to have a better understanding of the rights and interests of donors

(i.e. Recommendation 13 in the LRC Report and the recommendations in paragraphs 2.19(a)(i) and (ii) of the Audit Report).

66. The Committee also asked for the short-term measures taken as well as other measures to be taken by the relevant departments to improve the monitoring of charitable fund-raising activities in response to LRC's recommendations, apart from those which have already mentioned in previous sections of this Report.

67. **Director of Social Welfare** explained in her letter of 26 May 2017 (Appendix 8) that:

Filing requirements (Recommendation 6 in the LRC Report)

- SWD had required the charitable organizations to submit their audited financial statements for the past three years during application for PSPs;

Public education (Recommendation 13 in the LRC Report)

- SWD would continue to publicize the message of "Be a Smart Donor" through its website and distribution of the publicity items to the public; and

Information available to the public (Recommendation 7 in the LRC Report)

- SWD would continue its efforts to promote the one-stop finder by the following means:
 - (a) to print the website link of the one-stop finder and its Quick Response Code on all the permits and publicity items; and
 - (b) to promote concurrently the one-stop finder through the verbal/written replies to enquires and/ or complaints.

68. **Director of Home Affairs** explained at the public hearings and supplemented in her letters of 25 May and 16 June 2017 (Appendices 9 and 12) that:

- to raise public awareness of the best practices of charitable fund-raising activities and the one-stop finder, HAD was working to provide

relevant links and information in HAD's "Reference Guide on Organisation of Lottery Activities" and distribute relevant information in OLA;

- HAD had already stepped up the monitoring of licensees' compliance with lottery licence conditions in submitting the required documents. It had also reviewed all cases with outstanding documents, issued reminders and taken follow-up actions. Apart from issuing warning letters for cases of repeated late submission of documents, HAD had also discussed with the organizations to identify areas for improvement. For serious cases or cases failing to make improvement, HAD would consider refusing application from the same organization in future;
- a new Appendix (i.e. Appendix II) was added in the latest version of the "Reference Guide on Organisation of Lottery Activities" listing out the documents to be submitted upon completion of the lottery event and the corresponding due dates;
- HAD was upgrading LIS. It was anticipated that the enhancement to the relevant system function for generating exception reports to facilitate the staff in OLA in following up the outstanding cases could be completed within 2017; and
- with effect from 7 June 2017, the statements of income and expenditure and review reports of the lottery activities submitted by licensees were posted onto OLA's homepage. Members of the public could also request to inspect the documents at OLA and/or request a copy at a charge.

69. **Director of Food and Environmental Hygiene** explained at the public hearings and supplemented in her letter of 26 May 2017 (Appendix 10) that:

- FEHD would consider further enhancing, as far as practicable and legally viable, the transparency and accountability of issuing THLs to charitable organizations. It would make reference to the best practices specified in the Reference Guide promulgated by SWD while having due regard to factors such as the nature, scale and duration of the fund-raising activities, proportionality of the requirements, and cost of compliance, etc; and

- FEHD was also considering revising the application form and notice to applicants (including the online version) regarding THLs in 2017 to make it clear to applicants that in order to organize on-street fund-raising activities through the sale of commodities, applicants should, apart from applying for a THL, make reference to the relevant guidance under the Reference Guide and ensure that the requirements imposed under the legislation administered by other government departments in relation to the activity concerned were observed.

70. **Ms Bernadette LINN, Director of Lands**, explained at the public hearings and supplemented in her letter of 26 May 2017 (*Appendix 16*) that:

- while LandsD had not been involved in the monitoring of fund-raising activities authorized by the respective licensing authorities for PSPs, lottery licences and THLs, LandsD had been providing input on land status to the licensing authorities when required. For fund-raising activities involving the setting up of booths or counters on government land, LandsD had also been processing and approving, where possible, applications for temporary use of government land when such applications were received. Hitherto LandsD had not promulgated clear guidelines as to whether such separate approvals by LandsD were really necessary when the temporary occupation by booths/counters formed part of fund-raising activities approved/to be approved by the various licensing authorities, and the practice varied across districts;
- to streamline the administrative processes for approving fund-raising activities, LandsD would promulgate guidelines to confirm that no separate approval for temporary occupation of government land was required from LandsD in respect of fund-raising activities approved by the relevant licensing authorities. LandsD would continue to provide comments to the licensing authorities and potential licensees when approached, by checking the land status of the concerned locations and, where the locations involved unleased and unallocated land, advising whether any potential and approved occupations by booths or counters, which might or might not be related to fund-raising activities, were known to LandsD; and
- LandsD would draw up guidelines on implementing the above arrangement in consultation with FEHD, SWD and HAD before launching the revised arrangement to help reduce the workload of the applicant, while facilitating internal cross-checking to avoid the

scenario of multiple parties setting up booths or counters in the same areas of unleased and unallocated government land at the same time.

G. Conclusions and recommendations

<p>Overall comments</p>

71. The Committee:

- notes that:
 - (a) the charitable donations allowed for tax deduction under the Inland Revenue Ordinance (Cap. 112) increased by 126% from \$5.25 billion for the year of assessment 2005-2006 to \$11.84 billion for 2014-2015. Most of these tax-deductible charitable donations were raised by fund-raising activities that did not require a permit or a licence;
 - (b) there is no consolidated legislation enacted to regulate charitable fund-raising activities in Hong Kong. The regulation of certain charitable fund-raising activities is incidental to the legislation that controls nuisances committed in public places, gambling and hawking respectively. At present, monitoring of charitable fund-raising activities¹⁴ is confined to those requiring permits or licences from the Social Welfare Department ("SWD"), the Home Affairs Department ("HAD") or the Food and Environmental Hygiene Department ("FEHD"), such as flag days, sale of raffle tickets and on-street charity sales. In 2014-2015, proceeds raised from these activities approved by SWD and HAD totalled \$282 million only. All of the three licensing departments have imposed different requirements and had different application procedures for the permit or licence for charitable fund-raising activities;

¹⁴ Approved Flag days and other general charitable fund-raising activities in public places, such as setting up donation boxes, are covered by Public Subscription Permits ("PSPs") issued by SWD under the Summary Offences Ordinance (Cap. 228). Charitable fund-raising activities involving on-street selling are covered by Temporary Hawker Licences issued by FEHD pursuant to the Hawker Regulation (Cap. 132AI). Fund-raising through a lottery is covered by Lottery Licences issued by HAD under the Gambling Ordinance (Cap. 148).

- (c) other forms of fund-raising activities, such as charity auctions, balls, concerts, dinners, sales, walks, film premieres, as well as new modes of fund-raising, such as on-line appeals for donations and face-to-face solicitation of regular donations in public place by means of signing direct debit authorization forms, do not require a permit or a licence under any legislation; and
- (d) there have been public concerns over whether charitable fund-raising activities are properly run and the funds raised are responsibly used, and over the adequacy of the Administration's monitoring of such activities;

Law Reform Commission Report on Charities

- notes that:

- (a) in the 2013 Law Reform Commission Report on Charities ("LRC Report"), the Law Reform Commission ("LRC") has identified deficiencies in the existing regulatory framework of charities,¹⁵ including limited control of charitable fund-raising activities; and
- (b) LRC made 18 recommendations to improve the transparency and accountability of charities, among which the following are related to the Administration's monitoring of charitable fund-raising activities: (i) imposing certain filing requirements in applications for charitable fund-raising licences or permits; (ii) setting up centralized telephone hotline for public enquiries and complaints in relation to charitable fund-raising activities; (iii) requiring charitable organizations to display their registration numbers on any documents and message transmitted by any means through which appeals for charitable fund-raising are made; (iv) setting up a platform of co-ordination in dealing with applications for charitable fund-raising licences among the different departments responsible for the licensing of charitable fund-raising activities; and (v) through the coordinated efforts of

¹⁵ Please refer to Chapter 1 of Report No. 68 of the Director of Audit for details of Government's support and monitoring of charities. To allow itself more time to consider the issues raised in this Director of Audit's Report, the Committee has decided to defer publishing a full report on this subject.

bureaux/departments ("B/D"), engaging in more public education on matters relating to charitable fund-raising activities;

- understands that some of LRC's recommendations would carry significant implications on the operation and work of charities,¹⁶ and implementation of any such new measures would first require thorough deliberation by the stakeholders and the whole community;
- expresses grave concern and dissatisfaction and finds it unacceptable about the Home Affairs Bureau ("HAB")'s slow progress in preparing a response to the LRC's recommendations as evidenced by the following:
 - (a) notwithstanding the guidelines contained in the Administration's General Circular that a detailed public response to a report of LRC should be provided within 12 months of its publication, HAB had simply repeated that it was still coordinating comments from relevant B/Ds for consideration of the way forward more than three years after the publication of the LRC Report in 2013; and
 - (b) there were inadequacies in the internal consultation on LRC's recommendations. For example, while HAB had commenced the internal consultation process in January 2014 and received B/Ds' feedback from February to April 2014, it did not consolidate the views into a preliminary assessment paper until June 2015 and convened only two inter-departmental meetings on 11 August 2015 and 4 October 2016 respectively;
- notes that:
 - (a) Secretary for Home Affairs has explained that the issues involved in LRC's recommendations were very complicated and related to the duties of at least nine bureaux and nine executive departments. These B/Ds had to consider the recommendations carefully and thoroughly; and
 - (b) HAB will convene the third inter-departmental meeting on the LRC Report in end-June 2017 to discuss various administrative

¹⁶ Some of these recommendations include developing a clear statutory definition of what constitutes a charitable purpose, establishing a list of registered charitable organizations, and setting up a charity commission.

Monitoring of charitable fund-raising activities

measures proposed by LRC to enhance the regulation and monitoring of charitable fund-raising activities;

- urges HAB to:
 - (a) expedite the consultation with relevant B/Ds with a view to formulating a substantive response to all LRC's recommendations; and
 - (b) take into account the areas for improvement identified in this Report and the Director of Audit's Report ("Audit Report") in coordinating inputs from relevant B/Ds for formulating a substantive response to LRC's recommendations with a concrete timetable for actions;

Coverage of the existing monitoring of charitable fund-raising activities

- expresses grave concern about the Administration's limited monitoring of existing charitable fund-raising activities, in particular its failure to respond pro-actively to the significant increase in the amount of charitable donations as well as the rapid evolvement of new modes of fund-raising in recent years, and formulate effective measures to monitor such activities;
- notes that there have been ongoing inter-departmental discussions on possible enhancement of the Reference Guide on Best Practices for Charitable Fund-raising Activities ("the Reference Guide")¹⁷ for general application to fund-raising activities in the context of HAB's coordination of B/Ds' inputs for formulating the Administration's response to LRC's recommendations. Specifically, SWD was reviewing and assessing if this Guide could be made applicable to more different types of fund-raising activities, including new modes of fund-raising;

¹⁷ The Reference Guide covers best practices on areas of donors' rights, fund-raising practices and accounting/auditing requirements for voluntary adoption by charities. It encourages charities to disclose more of their financial information and to minimize the fund-raising costs. Charities which voluntarily adopt the Reference Guide may choose to adhere to all or part of the Guide. The Guide also serves as a reference for the public in gauging the performance of a charity in fund-raising. Please refer to Appendix A of the Audit Report for some of the major practices specified in the Reference Guide.

Monitoring of charitable fund-raising activities

- urges SWD to expedite the assessment of the applicability of the Reference Guide to the charitable fund-raising activities which currently do not require a permit or licence from the Administration;
- urges HAB to consider formulating other measures to enhance the monitoring of charitable fund-raising activities, in particular new modes of fund-raising with a view to upholding accountability and transparency for the donations received through these activities and protecting the public from unscrupulous practices;

Coordination among government departments

Administrative/licensing requirements and applications for charitable fund-raising licences and permits

- expresses grave concern and disappointment about the situation that different requirements are imposed by different licensing departments in the permit or licence for charitable fund-raising activities,¹⁸ as evidenced by the following:
 - (a) while both SWD and HAD have imposed conditions relating to the custody of the monies received during the charitable fund-raising activities and lottery events, and requiring a permittee/licensee to inform donors or prospective donors about the purpose of fund-raising and to properly account for the use of donations, no similar licence condition or administrative measure is imposed by FEHD for temporary hawker licences; and
 - (b) while HAD has imposed a condition requiring a lottery licensee to submit an audited annual financial statement of the organization, which should show the income and expenditure of the lottery, and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event, no similar licence condition or administrative measure is imposed by either SWD (for general charitable fund-raising activities) or FEHD;
- expresses grave concern and disappointment about a lack of coordination in dealing with applications for fund-raising licences and permits by SWD, FEHD and the Lands Department ("LandsD"). As a

¹⁸ Please refer to Appendix H of the Audit Report for a comparison of key permit/licence conditions and administrative measures imposed by SWD, HAD and FEHD.

Monitoring of charitable fund-raising activities

result, an organization might need to seek approvals from all the three departments for the same charitable fund-raising activity involving on-street selling.¹⁹ This would duplicate regulatory efforts and create extra workload and inconvenience to charitable organizations;

- urges HAB to:
 - (a) co-ordinate SWD, HAD and FEHD to consider standardizing the requirements on governance, accounting, reporting and disclosure of information by charities in relation to charitable fund-raising activities under the preview of the respective departments; and
 - (b) co-ordinate SWD, FEHD and LandsD to consider the Audit Commission ("Audit")'s recommendation of providing a one-stop service to streamline the processing and approvals of charitable fund-raising activities involving on-street selling;

Public access to information relating to charitable fund-raising activities

- expresses serious concern that while the one-stop finder on the government portal "GovHK" ("one-stop finder") launched in 2012 provided easy and convenient access to information on charitable fund-raising activities approved by SWD, HAD and FEHD, its usage had been on the low side and on a decreasing trend;²⁰
- notes that there have been ongoing inter-departmental discussions on the following possible enhancements in the context of HAB's coordination of B/Ds' inputs for formulating the Administration's response to LRC's recommendations:
 - (a) uploading information on the approved charitable fund-raising activities, such as financial reports relating to the fund-raising activities, onto the one-stop finder; and

¹⁹ For example, an organization needs to seek approvals from FEHD for the issue of a temporary hawker licence or a waiver from obtaining the licence for sale of commodities on streets; SWD for the issue of a PSP if the items sold are badges, tokens or similar articles as defined in the Summary Offences Ordinance; and LandsD for the approval of temporary occupation of unleased land for the setting up of a counter or booth.

²⁰ According to Audit's analysis of one-stop finder log records, the average daily hit rates of the one-stop finder decreased by 77% from 275 in 2012-2013 (from July 2012) to 62 in 2016-2017 (up to October 2016).

- (b) using the existing "1823" Government Hotline to facilitate the search by the public for information on approved charitable fund-raising activities;
- urges HAB to:
 - (a) expedite the discussion to work out the enhancements to the one-stop finder and "1823" Government Hotline; and
 - (b) co-ordinate SWD, HAD and FEHD to step up publicity efforts to raise public awareness of the one-stop finder;

Enforcement actions against non-compliance cases

- expresses serious concern that SWD, FEHD, LandsD and HAD had not taken effective enforcement actions against cases of non-compliance with requirements for charitable fund-raising licences and permits, as evidenced by the following:
 - (a) while use of public places (especially those with high pedestrian flow) for charitable fund-raising activities was in high demand, SWD's on-site inspections on general charitable fund-raising activities from June 2015 to September 2016 revealed no fund-raising activities at the approved locations in 30 (50%) of 60 inspections, i.e. "no-show" cases. Inspections conducted by FEHD on on-street selling activities for fund-raising purposes also found "no-show" cases in 1 251 (59%) of 2 128 inspections. The high percentage of "no-show" cases indicated an ineffective use of public resources. There was no sharing of enforcement information for taking concerted actions on repeated "no-show" cases by SWD, FEHD and LandsD; and
 - (b) there were inadequacies in follow-up actions taken by HAD on the late submission of required documents upon completion of the lottery events for charitable fund-raising. For example, for 263 lottery licences granted from 2012-2013 to 2015-2016, lottery accounts for 120 (46%) licences were submitted late. The delays were over three months in 17 (14%) cases, up to 746 days for the case with the longest delay. For 10 lottery accounts which had been overdue for over 180 days, reminders/warning letters had not been issued to the licensees concerned within HAD's stipulated

time.²¹ While HAD's computer system had records of the submission due dates, it could not generate exception reports to facilitate HAD staff in following up the outstanding cases in a timely manner; and

- urges SWD, FEHD, LandsD and HAD to step up enforcement actions against cases of non-compliance with the conditions and requirements stipulated in the charitable fund-raising licences and permits.

Specific comments

72. The Committee:

Government's efforts to promote transparency and accountability of charitable fund-raising activities

- expresses serious concern that while the Administration decided in 2002 that administrative controls should be strengthened with a view to enhancing transparency and accountability of fund-raising activities to enable donors to make an informed choice when making donations, the efforts to promote the voluntary adoption of best practices for organizing charitable fund-raising activities were inadequate as evidenced by the following:
 - (a) since the promulgation of the Reference Guide in 2004, while there were 8 923 tax-exempt charities in September 2016, SWD had only reached out to 961 charitable organizations under its purview for the purpose of understanding the extent of voluntary adoption of the Reference Guide. Of these 961 organizations, only 426 responded to SWD's surveys and 400 indicated that they would adopt the Reference Guide;
 - (b) in 2016, 194 (77%) of 252 multi-district applications received by LandsD for temporary occupation of unleased land for setting up of booths or counters for charitable fund-raising activities were for conducting face-to-face solicitation of regular donations in public places by means of signing direct debit authorization

²¹ Please refer to paragraph 4.7 of the Audit Report for HAD's internal guidelines on the issue of reminders and warning letters for overdue lottery accounts.

forms.²² Among the 18 applicants involved in these 194 applications, only six (33%) had adopted the Reference Guide; and

- (c) while the Reference Guide was updated in December 2014, the Administration has not launched any large-scale promotional programmes to enhance the awareness and recognition of the updated Reference Guide among the charitable organizations and the general public;
- expresses serious concern that there was inadequate guidance on other forms of fund-raising activities currently not subject to the Administration's monitoring in the publications of best practices for organizing charitable fund-raising activities. The best practices suggested in the current Reference Guide on soliciting regular donations by means of signing direct debit authorization forms fell short of that issued by the Hong Kong Council of Social Service. The Guidance Note on Internal Financial Controls for Charitable Fund-raising Activities ("the Guidance Note")²³ issued by SWD in 2004 has not been updated in light of the increased use of social media on the Internet for fund-raising. There was no provision in the Guidance Note for financial controls on donations made online which involve electronic payment service providers;
- notes that:
 - (a) Director of Social Welfare has agreed with Audit's recommendations in paragraph 2.19(a) and (b) of the Audit Report;
 - (b) Director of Home Affairs has agreed with Audit's recommendations in paragraph 2.19(a) of the Audit Report;

²² Such charitable fund-raising activities do not require a permit or licence from the Administration except approval from LandsD if temporary occupation of government land is involved.

²³ The Guidance Note sets out some basic controls to be considered by charitable fund-raising organizations with a view to ensuring that income generated from charitable fund-raising activities is spent for the designated purpose and that such income and expenditure are properly documented. Please refer to Appendix B of the Audit Report for some of the major internal financial controls specified in the Guidance Note.

- (c) Director of Food and Environmental Hygiene has generally agreed with Audit's recommendations in paragraph 2.19(a) of the Audit Report; and
- (d) Secretary for Home Affairs has accepted Audit's recommendation in paragraph 2.19(c) of the Audit Report;

Administration of public subscription permits for charitable fund-raising activities

- expresses serious concern that:
 - (a) while the public subscription permit ("PSP") requirement on filing audited reports for charitable fund-raising activities within 90 days of the last event day was to enhance transparency and accountability of the funds raised, there were delays in submission of audited reports. Of the 1 497 audited reports due for submission by 325 permittees from April 2012 to September 2016, 15 were outstanding as of September 2016, of which six were long overdue (averaging 342 days). For the 1 482 submitted audited reports, 658 were late reports, including 76 which were late for more than three months. Moreover, 13 of the 325 permittees failed to submit the audited reports on time repeatedly, i.e. for two to four times;
 - (b) notwithstanding that SWD has put in place a monitoring mechanism under which permittees which failed to submit audited reports after the issue of written reminders/warnings would be put on a withholding list so that the processing of their new PSP applications would be withheld, as of September 2016, Audit's examination revealed that seven of the eight organizations on the withholding list had continued to raise funds on their websites and through other activities outside SWD's purview;
 - (c) while it was important that fund-raising costs should be reasonable and that the greatest amount should be devoted to charitable programmes, SWD has not set a fund-raising expenses ceiling for general charitable fund-raising activities. From 2012-2013 to 2015-2016, the overall percentages of expenses to gross proceeds of such fund-raising activities ranged from 22% to 30%. In four cases, the permittees had spent more than 30% of their donation proceeds on hiring fund-raisers or

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paying allowance to volunteers for the on-street fund-raising activities; and

- (d) SWD did not specify whether accounts for charitable fund-raising activities should be prepared on a cash basis or an accrual basis and there could be an understatement of expenses in the accounts prepared on a cash basis, as evidenced by a case noted by Audit. Moreover, as permittees' auditors were not required to verify compliance with the permit condition of depositing the net proceeds into a bank account within 90 days from the last day of the event concerned, there was no assurance on compliance with this permit condition;

- notes that:

- (a) Director of Social Welfare has generally agreed with Audit's recommendations in paragraph 3.25 of the Audit Report;
- (b) SWD planned to publicize information on serious or repeated non-compliance cases in the fourth quarter of 2017, and it is working with the stakeholders on the transition from preparing their income and expenditure accounts of fund-raising activities on cash basis account report to accrual basis account report; and
- (c) Director of Food and Environmental Hygiene has generally agreed with Audit's recommendation in paragraph 3.25(c) of the Audit Report;

Administration of lottery licences for charitable fund-raising activities

- expresses serious concern that:

- (a) in a sample check of 30 lottery licences granted from 2012-2013 to 2015-2016, Audit found that in six (20%) cases, the audited annual financial statements submitted by the licensees concerned to HAD did not show separately the income and expenditure of their lottery events nor the use of net proceeds, contrary to the licence condition requirement;
- (b) HAD's requirement that public inspection of the lottery accounts be conducted in HAD's office physically and the restriction on making any copy of the accounts did not facilitate access to the

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accounts and were not conducive to achieving the Administration's objective of enhancing transparency and accountability of fund-raising activities; and

- (c) while HAD encourages lottery organizers to publicize lottery accounts on their websites, Audit survey of the websites of 10 lottery organizers revealed that none of them had done so;
- notes that Director of Home Affairs has agreed with Audit's recommendations in paragraph 4.14 of the Audit Report. HAD has implemented new measures to facilitate public access to the lottery accounts.²⁴ With effect from 7 June 2017, the statements of income and expenditure and review reports of the lottery activities submitted by licensees were posted onto the Office of the Licensing Authority ("OLA")'s²⁵ homepage. Members of the public can also request to inspect the documents at the office of OLA and/or request a copy at a charge;
- urges HAD to review the manpower to ensure compliance of the licensees with the licence conditions and requirements;

Administration of temporary hawker licences for fund-raising activities involving on-street selling

- expresses serious concern that:
 - (a) for organizations granted with more than 12 temporary hawker licences within 12 months, they were only required to submit audited accounts for the fund-raising activities covered by the 13th licence onwards. This might not be conducive to enhancing transparency and accountability of the fund-raising activities of

²⁴ For charitable fund-raising activities in public places granted with PSPs, SWD will upload relevant information onto the GovHK website (<http://www.gov.hk/fundraising>) and DATA.GOV.HK website (<http://data.gov.hk>). SWD will also require the organization granted with PSP to publish the audited annual financial statements on the organization's website or through other channels (e.g. publications of the organization) for public inspection. There is no similar requirement on publishing of financial statements for temporary hawker licences issued by FEHD.

²⁵ OLA under HAD is responsible for administering the Miscellaneous Licences Ordinance (Cap. 114), Gambling Ordinance, Hotel and Guesthouse Accommodation Ordinance (Cap. 349), Clubs (Safety of Premises) Ordinance (Cap. 376), Amusement Game Centres Ordinance (Cap. 435), Bedspace Apartments Ordinance (Cap. 447) and Karaoke Establishments Ordinance (Cap. 573).

the first 12 licences. Moreover, there was a case of non-compliance with the submission of audited accounts requirement by an organization issued with 16 temporary hawker licences in a 12-month period from mid-December 2012 to mid-December 2013 and FEHD had not taken any follow-up action; and

- (b) while FEHD's internal guidelines have required the conduct of inspections at the approved sale locations covered by temporary hawker licences to check licensees' compliance with licence conditions, 139 (6%) of the 2 508 required inspections from April 2014 to December 2016 had not been conducted. Records of 241 (10%) inspections were either missing or inadequate to show whether inspections had been conducted; and
- notes that Director of Food and Environmental Hygiene has generally agreed with Audit's recommendations in paragraph 5.14 of the Audit Report.

Follow-up action

73. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by the Committee and Audit, in particular the timetable for HAB to coordinate the preparation of a response to the recommendations of the LRC Report and the implementation details and timetable of any new measures.

The Audit Commission ("Audit") conducted a review of the Government's management of squatter structures and licensed structures covered by Government Land Licences ("GLLs").¹

2. Hon SHIU Ka-fai declared that he was a non-official member of the Hong Kong Housing Authority.

3. Since mid-1970s, the Lands Department ("LandsD") has not issued new GLLs. Meanwhile, under LandsD's squatter control ("SC") Policy, new squatter structures and unauthorized extensions of squatter structures are not allowed to be erected on government land or private agricultural land after the 1982 Squatter Survey.² However, surveyed squatter structures ("SS structures") are allowed to remain in existence on "temporary" basis, provided that the location, dimensions, building materials and use of each structure are the same as those recorded in the 1982 Squatter Survey, and until they are cleared for development, safety or environmental reasons, or until they are phased out through natural wastage. Unauthorized squatter structures erected or rebuilt after the 1982 Squatter Survey and SS structures not complying with the SC Policy are subject to LandsD's enforcement actions. In recent years, media reports have unveiled significant unauthorized extensions of squatter and licensed structures ("S&L structures") while some of them are susceptible to landslide risks. As of March 2016, there were 388 497 SS structures and 15 214 GLLs in force.

4. The Committee noted the following findings from the Director of Audit's Report:

- Audit's site visit in December 2016 revealed that 50 structures located at a red patrol area³ on Hong Kong Island might not have complied with the SC policy. LandsD subsequently investigated and confirmed

¹ Under the Land (Miscellaneous Provisions) Ordinance (Cap. 28), on payment of a prescribed fee, the Lands Department ("LandsD") may issue a GLL permitting a licensee to erect structures of specified dimensions, for specified purposes and for a specified period of time on a piece of unleased government land. GLL is not transferable, and LandsD may cancel a GLL if there is a breach of any licence conditions.

² In 1982, the Housing Department conducted a territory-wide survey on the squatter areas and squatter structures in Hong Kong.

³ Under a tri-colour system adopted for Squatter Control Offices routine-patrol purposes, squatter areas in the territory were classified into red, yellow and green areas in descending order of vulnerability to new squatting activities.

that 19 of the 50 cases did not comply with the SC Policy, including seven new cases which LandsD did not notice previously. For two of the seven cases, the total areas of the two SS structures had increased by 16% and 100% respectively, and the height by 170% and 118% respectively. However, the Squatter Control Office ("SCO")'s routine patrols had not detected the irregularities. Meanwhile, as of January 2017, LandsD was still investigating 21 of the 50 cases to see whether or not they complied with the SC Policy;

- in late February 2017, Audit conducted site visits to two squatter areas under the monitoring of SCO/Kowloon, Tsuen Wan and Kwai Tsing and SCO/New Territories East (2) respectively, and noted that 40 structures might not have complied with the SC Policy, while 9 of the 40 cases were new non-compliant cases that LandsD was not aware of before Audit's site visit. As of March 2017, LandsD was still investigating 23 of the 40 cases to see if they complied with the SC Policy;
- of the seven SCOs,⁴ only SCO/New Territories East (1) maintained information on the source of identifying non-compliant SS structures. From January 2015 to September 2016, SCO/New Territories East (1) discovered 25 cases during SC patrols, and 181 cases were originated from public complaints or referrals from other Bureaux/Departments;
- Audit examined SCO/Hong Kong and Lei Yue Mun ("HK&LYM")'s Case Monitoring Report⁵ of October 2016 and discovered that in July 2015, SCO/HK&LYM received a complaint on illegal re-occupation of a de-registered SS structure which should have been vacated and boarded up during a non-development clearance exercise in 2001. However, due to the unclear responsibilities among SCO/HK&LYM and LandsD's Clearance Unit, no enforcement actions had been taken since the complaint was lodged. Audit also found that LandsD had failed to rectify the non-compliance of six SS structures (SS Structures E, F1, F2, G to I) mentioned in Cases 5 to 7 despite its follow-up actions. In Case 7, LandsD conducted site inspections from August to December 2016 on 133 SS structures occupied for commercial purposes along the seafront at which SS Structures G to I

⁴ The seven SCOs are Hong Kong and Lei Yue Mun; Kowloon, Tsuen Wan and Kwai Tsing; Islands; New Territories East (1); New Territories East (2); New Territories West (1); and New Territories West (2).

⁵ Since June 2016, each SCO was required to hold bi-monthly Case Monitoring Meetings and prepare Case Monitoring Reports for monitoring the progress of enforcement actions taken on SS structures not complying with the SC Policy.

were situated, but as of December 2016, inspections for 77 SS structures were still pending, and 48 SS structures were confirmed having irregularities;

- Audit selected 2 of the 13 patrol areas which were patrolled by Teams A and B of SCO/HK&LYM for review, and discovered that from January 2015 to September 2016 (comprising 432 working days), the two teams had respectively conducted patrols to the two patrol areas on 257 and 208 working days respectively, but only 2 of the 465 (257 + 208) daily patrol reports recorded irregularities found during the patrols. Also, the two teams often spent only one to two minutes between visiting two check-points. Audit criticized that given the short time spent on conducting inspections of areas covered by check-points (on average one check-point covered 18 SS structures), it was unlikely that the patrol teams could effectively carry out their patrol functions;
- seven SCOs and 12 District Lands Offices ("DLOs")⁶ did not maintain a centralized database to record the time of inspecting each SS structure, the irregularities observed and the follow-up actions taken. Instead, these information was kept in individual case files. As such, there was no assurance that SS structures had satisfactorily complied with the licence conditions;
- in Case 8, an unauthorized rooftop structure on a licensed structure had not been rectified 12 years after LandsD's issuance of a warning letter in February 2005. In Case 9, despite the death of the licensee of a licensed structure made known to DLO/Islands in November 2011, and in the absence of an application and approval of a transfer of GLL concerned, no enforcement actions had been taken up to January 2017;
- LandsD had not provided the Rating and Valuation Department ("RVD") with information on 262 128 SS structures erected on private agricultural land and all the licensed structures covered under 15 214 GLLs as of March 2016 for the latter to assess and charge rates and government rent. In February 2017, Audit sample checked structures covered by 30 GLLs, and discovered that RVD had not assessed and charged rates on structures covered by 18 GLLs (60%) in remote areas involving relatively low rateable values. In this

⁶ The 12 DLOs are DLO/Hong Kong East, DLO/Hong Kong West and South, DLO/Kowloon East, DLO/Kowloon West, DLO/Islands, DLO/North, DLO/Sai Kung, DLO/Shia Tin, DLO/Tai Po, DLO/Tsuen Wan and Kwai Tsing, DLO/Tuen Mun and DLO/Yuen Long.

connection, RVD would, having regard to resource availability and work priority, assess the outstanding licensed structures by phases based on LandsD's information. Meanwhile, upon receipt of the addresses, locations and boundaries of the abovementioned 262 128 SS structures, data matching would be conducted by RVD to check whether the pertinent SS structures had been assessed or exempted from assessment to rates and/or government rent;

- the licence fees, which had not been revised since 1970s, were significantly lower than the market rent of similar premises, e.g. the licence fee for a domestic licensed structure located in the New Territories was only \$0.3 per square metre a year;
- as of March 2016, 4 733 non-domestic GLLs had not been converted into short-term tenancies in accordance with the Government's policy;
- in Case 10, a household which was affected by the clearance operation for a works project was referred to the Housing Department by LandsD for allocating of Public Rental Housing flat. A Public Rental Housing flat was eventually allocated to the household even though it did not meet the re-housing criteria;
- as of February 2017, upgrading works for 940 (59% of 1 582) government man-made slopes posing landslide risks to S&L structures had not commenced, and studies for 106 (7% of 1 582) government man-made slopes were still in progress. Moreover, as of January 2016, while 199 squatter structures were prone to landslide risks posed by natural terrains, natural terrain hazard studies had not been conducted to identify required mitigation measures; and
- as of January 2017, 210 Dangerous Hillside Orders on private slopes posing landslide risks to S&L structures had not been satisfactorily complied with, while 34 (16%) of these 210 Dangerous Hillside Orders had been outstanding for 10 to 21 years.

5. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding the underlying reasons for LandsD failing to detect non-compliant SS structures and take enforcement actions in a timely manner, follow-up progress of the non-compliant SS structures identified by Audit, improvement measures to enhance the effectiveness of SC patrols, the assessing progress on the outstanding licensed structures, and the follow-up actions relating to

the upgrading works for the government man-made slopes posing landslide risks to S&L structures as well as the Dangerous Hillside Orders. The replies from **Director of Lands, Commissioner of Rating and Valuation, Director of Civil Engineering and Development** and **Director of Buildings** are in *Appendices 17* to *20* respectively.

6. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.

The Committee has forwarded questions and enquiries to the Home Affairs Department and the Leisure and Cultural Services Department for written replies concerning issues and irregularities raised in the Director of Audit's Report on the subject. Upon receiving written replies from the two departments, the Committee subsequently decided to hold a public hearing in July 2017 in order to obtain further information on the issues raised. A full report on this subject will be deferred so as to allow the Committee sufficient time to consider the evidence that will be obtained at the public hearing and the issues raised in the Director of Audit's Report.

Kai Tak Cruise Terminal

The Audit Commission ("Audit") conducted a review of the progress in developing Hong Kong into a leading regional cruise hub and the management of the Kai Tak Cruise Terminal ("KTCT").

2. The Government was committed to developing Hong Kong into a regional cruise hub. KTCT would be important for Hong Kong to capture the growth of the cruise industry in the Asia Pacific Region, and sustain its development as a regional cruise hub. The Tourism Commission ("TC") under the Commerce and Economic Development Bureau is responsible for monitoring the operation of KTCT and works closely with the Advisory Committee on Cruise Industry. As at 28 February 2017, the total actual project expenditure for KTCT was \$6,613 million. The Government had estimated that the economic benefits to be brought by the cruise industry would range from \$859 million to \$1.1 billion per annum by 2013, \$1.5 billion to \$2.5 billion by 2016, and \$1.5 billion to \$2.6 billion by 2023.

3. The Committee noted the following findings from the Director of Audit's Report:

- the economic benefits to be brought by the cruise industry were estimated by an economic model taking into account various factors, including the estimated number of ship calls and passenger throughput, and the estimated spending by cruise passengers and cruise operators. Audit found that the actual number of ship calls of 191 in 2016 was 5% and 31.3% lower than the estimated numbers under the low and high growth scenarios of the model respectively. The actual cruise passenger throughput of 677 031 in 2016 was 25% higher than the estimated throughput under the low growth scenario and was 33.5% lower than the estimate under the high growth scenario. The average per-passenger spending of cruise passengers visiting Hong Kong was also short of the spending assumed in the economic model. The average per-passenger spending of cruise vessels using Hong Kong as their turnaround port decreased by 37% from \$4,699 in 2013 to \$2,950 in 2015, whilst the average per-passenger spending of cruise vessels using Hong Kong as a port-of-call increased slightly by 3%. So far, TC had not assessed the progress made in achieving the projected economic benefits;

Kai Tak Cruise Terminal

- the utilization rates of KTCT¹ during the peak seasons (i.e. January to March and October to December) of 2014 to 2016 were 18.1%, 22.5% and 38.3% respectively, and for the peak seasons of 2015 and 2016, the total number of days when both berths were utilized were only 5 and 14 respectively. For non-peak seasons (April to September) of 2015 and 2016, the total number of days with a ship at one or both of the two berths were only 29 and 35 respectively, representing very low utilization rates of 15.8% and 19.1% respectively. Audit was of the view that KTCT had the capacity to receive more cruise vessels even at the peak seasons;
- under the tenancy agreement between the Government and the terminal operator, the latter was required to pay a fixed rent of \$13 million for the ten-year operation and a variable rent, while TC was responsible for monitoring the performance of the terminal operator through a set of service pledges and performance indicators specified in the tenancy agreement. However, the terminal operator did not fully comply with the requirements under the tenancy agreement. For example, the terminal operator had not submitted the reports on compliance with the service pledges for 2013, 2014 and 2015 to TC until 30 December 2016;
- as at 1 March 2017, of the 5 601 square metres ("m²") total ancillary commercial area of KTCT, 2 906 m² (51.9%) was not open for business. As for the area that was let and open for business, one shop on the rooftop with an area of 355 m² had been left vacant since its handover to the terminal operator, and it had not been leased out as at 1 March 2017. Meanwhile, the sub-tenancy of the two shops on the second floor with a total area of 2 196 m² was terminated due to the legal disputes between the terminal operator and the sub-tenant on the outstanding rents. The terminal operator was not able to recover the vacant possession of the two shops pending the outcome of the legal proceedings;
- Audit examination of TC records discovered that there was room for improvement in transport connectivity. For instance, the total number of shopping malls providing free mall shuttle bus services on a regular basis had decreased from three in 2013 to two in 2015. Meanwhile, only 6 of the 18 taxi pick-up points were made available for boarding during peak hours;

¹ Percentage of days with a cruise vessel at one or both of the two berths.

Kai Tak Cruise Terminal

- the video wall installed on the external wall of the terminal building facing the Hong Kong Island had never been let out and hence had not generated any income;
- two plant rooms (occupying 1 100 m²) in KTCT were reserved for setting up an on-shore power supply system, but the installation of the system had been put on hold. The plant rooms were temporarily used by the Electrical and Mechanical Services Trading Fund. Audit considered that there was a need to review the optimal use of the plant rooms;
- in 2015 and 2016, 256 water leakage/seepage cases and 98 lifts/escalators fault cases at KTCT were reported to the Architectural Services Department and the Electrical and Mechanical Services Trading Fund; and
- TC planned to conduct a mid-term assessment on the progress in achieving the expected economic benefits of the whole cruise industry in Hong Kong by 2023 at a suitable juncture, say, 2018. Meanwhile, TC would formulate the strategic directions and initiatives on cruise tourism development and consolidate a document entitled "Strategic Plan for Cruise Tourism".

4. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding the shortfall in the average per-passenger spending, initiatives to promote the use of KTCT, the monitoring on the performance of the terminal operator, the lease situation of the commercial area and video wall of KTCT, improvement measures on the transport connectivity of KTCT, the installing of the on-shore power supply system, the usage of the two plant rooms, the maintenance of KTCT facilities, and the strategic planning for cruise development. The consolidated replies from **Secretary for Commerce and Economic Development** and **Commissioner for Tourism** are in *Appendix 21*.

5. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.

The Audit Commission ("Audit") conducted a review to examine the Social Welfare Department ("SWD")'s management of projects financed by the Lotteries Fund.

2. The Lotteries Fund was established in 1965 by resolution of the Legislative Council for the purpose of financing the support and development of social welfare services in Hong Kong by way of providing grants, loans and advances. An non-governmental organization ("NGO") or a government bureau or a department may apply for a Lotteries Fund grant to finance five major categories of social-welfare related expenditures.¹ In March 2014, \$10 billion was allocated from the General Revenue to the Lotteries Fund to finance the Special Scheme on Privately Owned Sites for Welfare Uses ("the Special Scheme") targeting to provide 17 000 additional service places for the elderly and persons with disabilities. As of March 2016, the Lotteries Fund had a fund balance of \$22 billion which was placed with the Exchange Fund.

3. The Committee noted the following findings from the Director of Audit's Report:

- while the target time for processing a major grant (value exceeding \$400,000) was 9 months and a minor grant (value of \$400,000 or below) was 4 months, from April 2011 to September 2016, the time taken by SWD to process 236 (19% of 1 251) applications for major grants and 245 (23% of 1 087) applications for minor grants had exceeded the respective target time. In particular, SWD had taken 2 to 7.5 years to complete processing and approving 82 major-grant applications and 1 to 3.6 years to complete processing 30 minor-grant applications;
- in October 2004, SWD sought the approval from the Financial Services and the Treasury Bureau for a premises-construction grant of \$35.7 million to meet the construction costs of three welfare facilities for, among others, provision of 120 service places for the elderly in a private development. While the land grant was executed in July 2006 under which the Government was committed to reimbursing \$32.5 million to the developer for constructing the three welfare facilities, the related Lotteries Fund grant of \$35.7 million was not

¹ The five major categories of social-welfare related expenditures are: (a) those incurred for premises renovation and construction; (b) an experimental project; (c) subvention-linked minor expenditures; (d) SWD Fund expenditures; and (e) fitting-out works and furniture and equipment expenditures for new/reprovisioned premises.

approved by the Financial Services and the Treasury Bureau until May 2012. At the time of grant approval, the construction of the welfare facilities had been completed in July 2011 and subsequently handed over to the Government in May 2012;

- in February 2014, when seeking \$10 billion funding approval for the Special Scheme, the Labour and Welfare Bureau and SWD informed the Legislative Council that 63 preliminary proposals from 43 NGOs were received. However, as of November 2016, only one project providing 100 service places had been completed, 11 projects that would provide 3 609 services places were at different implementations stages, and the remaining 51 projects were still at different planning stages;
- as of September 2016, works for five Lotteries Fund-funded projects with approved Lotteries Fund grants totalling \$15 million had not commenced five to eight years after approval of the grants. For 259 completed projects (involved unpaid Lotteries Fund commitments totalling \$690 million which could have been released for funding other projects), the project accounts had not been finalized 5 to 25 years after funding approvals, while the Hong Kong Housing Authority and the Architectural Services Department were respectively the works agent and technical adviser for 39 and 20 projects. For Project F,² although its works had been substantially completed in 1993 and it should be financed by the Capital Works Reserve Fund, expenditures of about \$20,000 under Project F had been disbursed from the Lotteries Fund and yet to be reimbursed to the Lotteries Fund as of January 2017. Furthermore, the Hong Kong Housing Authority had wrongly charged the cost of Project F to another Lotteries Fund-funded project account. As for Project G,³ its account could not be finalized even its works had been substantially completed for more than 19 years; and
- 2 of the 11 Lotteries Fund Advisory Committee ("LFAC") members did not make declarations of potential conflicts of interest on two and one agenda items respectively discussed at LFAC meeting. Two LFAC members, who were paid executive staff of two NGOs respectively, were issued relevant LFAC papers and attended meetings involving

² In October 1991, a premises-renovation grant of \$0.58 million was approved as an interim funding measure for the Hong Kong Housing Authority to carry out fitting-out works for a child care centre located in a public housing estate.

³ In February 1993, a premises-construction grant of \$1.46 million was approved for the construction and fitting-out works for a social centre for the elderly located in a private development.

discussion for three and one grant applications related to the two NGOs respectively, which had violated the Standing Orders of LFAC.

4. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding the administration of funding applications and project implementation, and the governance and management of the Lotteries Fund and LFAC. The replies from **Secretary for Labour and Welfare, Director of Social Welfare, Director of Architectural Services** and **Director of Housing** are in *Appendices 22 to 25* respectively.

5. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.

Provision of dental services

The Audit Commission ("Audit") conducted a review of dental services provided by the Government.

2. Hon SHIU Ka-fai declared that he was a family member of a civil servant who was eligible for dental services provided by the Government.

3. In 2015-2016, the expenditure on dental services totalled \$1,018 million, comprising \$271 million incurred for promotive and preventive services¹ to the general public, \$598 million for dental services for civil servants and their family members, and \$149 million for specific dental services for the public (including emergency services and services for the elderly and people with intellectual disability). The total number of attendance for such services (including publicity activities, dental check-ups, dental treatments, etc.) was some 1.5 million, with about 48% being civil servants and their dependants.

4. The Committee noted the following findings from the Director of Audit's Report:

- the attendance at activities of educational and publicity programmes from 2011-2012 to 2015-2016 for special school students, secondary school students and general public was low and fluctuated from year to year;
- in 2011-2012 to 2015-2016 school years, not more than 10% of primary schools in Hong Kong had used the Bright Smiles Mobile Classroom services;²
- the number of unattended appointments for the Department of Health ("DH")'s School Dental Care Service increased from 60 703 in 2011-2012 service year³ to 74 963 in 2015-2016 service year. In 2015-2016, the no-show rate of Primary 6 students was the highest at 26%;

¹ The Department of Health runs School Dental Care Service for students and educational and publicity programmes for both students and the public.

² Under the Bright Smiles Mobile Classroom programme, a roving oral health education bus visits different primary schools to enrich the oral health knowledge of students.

³ A service year for the School Dental Care Service starts in November and ends in October of the ensuing calendar year.

Provision of dental services

- for general dental services provided by DH to civil servants and their dependants, the proportion of new cases with waiting time more than six months had increased from 34% as at 1 January 2013 to 46% as at 1 January 2016. Meanwhile, 82% of the civil service eligible persons who were offered a referral to other clinics on 1 January 2013 had declined the referral, and this figure had increased to 90% as at 1 January 2016. As at 1 January 2016, the waiting time for annual check-ups in four clinics⁴ was 13 to 14 months;
- DH had planned to provide 64 new dental surgeries in the period 2011-2012 to 2015-2016. However, 11 of the 64 planned surgeries had still not commenced operation as at 30 October 2016; 7 of the 11 surgeries did not commence operation as scheduled because the premises were being occupied by other departments and pending handover to DH, while the remaining four surgeries had unexpected delays in fitting out some surgeries and sufficient Dental Officers could not be recruited to operate the completed surgeries. DH records did not provide the estimated project cost of 21 surgeries;
- patients seeking emergency dental services provided by DH under General Public Sessions⁵ were required to obtain a disc from one of the 11 government dental clinics which had a total quota of about 40 000 discs a year. According to a survey conducted by DH in 2014, some 23% of the respondents seeking emergency dental services had the experience of failing to obtain a disc. However, Audit found out that the disc quota was not always fully utilized. In 2015-2016, the unutilized disc quota totalled 5 480 discs, which represented 13.7% of the total disc quota, and three clinics⁶ had a high percentage (25.2% to 74.7%) of unutilized disc quota;
- from 1 October 2015 to 30 September 2016, 182 (19%) of the 944 residential care homes/day care centres eligible for services of DH's Outreach Dental Care Programme for the Elderly did not participate in the Programme;

⁴ The four clinics are Yan Oi Dental Clinic, Yuen Long Jockey Club Dental Clinic, Fanling Health Centre Dental Clinic and Tai Po Wong Siu Ching Dental Clinic.

⁵ The Government provides emergency dental services in designated sessions on designated days of the week.

⁶ The three clinics are Tai O Dental Clinic, Cheung Chau Dental Clinic and Kennedy Town Community Complex Dental Clinic.

Provision of dental services

- an outreach dental team served only 868 elderly persons from 1 October 2015 to 30 September 2016, which fell short of the required number of 1 000 persons. In the same period, the outreach dental teams identified through on-site oral health assessment that 32 950 elderly persons needed dental treatments, but 13 324 (40%) of them refused to receive treatment;
- as at 30 September 2016, only 10 733 (8%) of the estimated 134 000 eligible elderly persons participated in the Elderly Dental Assistance Programme launched under the Community Care Fund. Besides, as a general rule, the administration cost of a programme of the Community Care Fund should be capped within 5% of the estimated total disbursement of the programme, but the total administration cost spent on the Elderly Dental Assistance Programme from 2012-2013 to 2015-2016 was 18.8% of its total disbursement of \$56.9 million; and
- results of DH's 2011 Oral Health Survey indicated that some oral health goals for 2010 had not been attained, and DH had not published the level of attainment of the goals. Meanwhile, the existing oral health goals which were set some 26 years ago in 1991 were likely outdated.

5. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding the measures to enhance the public participation in the educational and publicity programmes, School Dental Care Service, Outreach Dental Care Programme for the Elderly and Elderly Dental Assistance Programme, the underlying reasons for the increasing proportion of civil service eligible persons declining referrals to clinics with shorter waiting time for new cases and relevant improvement measures, progress of the provision of the new dental surgeries, measures to maximize the utilization of General Public Sessions, the administration cost of the Elderly Dental Assistance Programme, and the review on the oral health goals as well as oral health surveys. The consolidated replies from **Secretary for Food and Health** and **Director of Health** are in *Appendix 26*.

6. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.

The Language Fund

The Audit Commission ("Audit") conducted a review of the management of the Language Fund ("LF").

2. Hon Abraham SHEK Lai-him declared that he was a director of the Absolutely Fabulous Theatre Connection and a member of the School Council of St. Stephen's Girls' College, all of which are involved in language education.

3. LF was set up in March 1994 and held in trust by the Permanent Secretary for Education Incorporated as the Trustee to provide financial support for initiatives aiming at improving Hong Kong people's proficiency in Chinese (including Putonghua) and English languages. The Standing Committee on Language Education and Research ("SCOLAR") was established in 1996 to advise the Government on the use of LF and language education issues in general, and the Language Education and SCOLAR Section of the Education Bureau ("EDB") has been assigned as the SCOLAR Secretariat. From 1994 to 2017, the Legislative Council ("LegCo") approved seven capital injections into LF totaling \$8,000 million. From 1994 to 2016, the Trustee of LF approved \$3,703 million to fund 544 initiatives.

4. The Committee noted the following findings from the Director of Audit's Report:

- in 2007, the Trustee approved \$225 million from LF to launch a six-year pilot Putonghua as the medium of instruction for teaching the Chinese Language subject ("PMIC") Support Scheme. From 2008-2009 to 2013-2014 academic year (all years mentioned hereinafter refer to academic year), 132 primary schools and 28 secondary schools participated in the Scheme, with \$54 million used for the provision of non-cash support measures¹ and \$148 million used as grants for schools to help teachers implement their school plans on using PMIC as well as to attend relevant professional development programmes. In 2012, EDB spent \$1.42 million to commission a tertiary education institution to conduct a study to examine the process of, and the changes and impacts brought to the participating schools by the implementation of PMIC. However, only four schools participated in the last phase of the Scheme were selected for the study,

¹ Some of the measures include professional advice rendered by Mainland teaching experts to help the schools implement their plans on using PMIC.

The Language Fund

and with respect to students' performance, the findings were inconclusive as to whether Putonghua was more effective than Cantonese;

- in 2006 and 2010, \$880 million and \$323 million were earmarked from LF for the English Enhancement Scheme ("EES") and the Refined English Enhancement Scheme ("REES") respectively. These two Schemes were administered by the Education Commission and Planning Division ("ECPD") of EDB instead of the SCOLAR Secretariat. In 2015, ECPD had completed the evaluation on EES and REES and found out that 177 (41%) and 175 (45%) of the schools participated in EES and REES respectively did not show satisfactory performance in meeting the pledged targets vis-à-vis objectives of the schools. As no arrangements were made between ECPD and the SCOLAR Secretariat on the reporting requirements to SCOLAR, the implementation information and evaluation report of EES and REES were not provided to SCOLAR;
- \$270 million was approved in January 2010 for the four-year English Enhancement Grant Scheme ("EEGS").² Under EEGS, grants of not more than \$0.5 million were disbursed to each participating school over a period of two years, and the unspent funds should be returned to the Government upon project completion. Audit examined 20 projects, and discovered that the returns of unspent funds of 15 (75%) projects took an average of 95 days after the final report submission due date, and many targets set by the schools in their implementation plans were not easily measurable;
- the applications of the Professional Development Incentive Grant Scheme for Language Teachers³ had been decreasing from 3 164 in 2003-2004 to 15 in 2015-2016 (up to June 2016), while 4 252 of

² The Scheme lasted from 2010-2011 to 2013-2014 to prepare primary school students for their needs of learning English in secondary schools.

³ The Scheme was launched to provide financial incentive to encourage language teachers to pursue recognized programmes of studies for enhancing their subject knowledge and pedagogy in the language they teach.

The Language Fund

15 246 language teachers who joined the teaching profession before 2004-2005 still did not possess the qualifications outlined by SCOLAR;⁴

- from 1994 to 2016, \$558 million was approved from LF for 378 language education community projects, and working groups had been set up to plan and oversee these projects. Audit examined 10 completed projects, and found that no spot checks or surprise visits were conducted as stated in the Work Manual of LF. Of the 63 project reports submitted by project grantees for the 10 projects, 45 (71%) were submitted late. In 4 of the 10 projects, there were cases of non-compliance with the procurement requirements stipulated in the project agreement. Of the 10 examined projects, one was over \$1 million and three were over one year, but no independent evaluations of these projects were conducted by the SCOLAR Secretariat;
- before 2015-2016, LF did not call for applications for sponsorship projects. From 2012-2013 to 2014-2015, there were only 15 applications for sponsorship projects. Starting from 2015-2016, an open-call exercise had been conducted annually to invite proposals aiming to attract more partners from the community, and the applications increased to 7 and 12 for 2016-2017 and 2017-2018 respectively;
- from 2014 to 2016, \$48 million was approved from LF for 24 bottom-up research and development ("R&D") projects.⁵ In one project, there was no documentary evidence showing that the SCOLAR Secretariat had taken follow-up action on the reservations and conditions given by the Vetting Committee;
- for the appointment of SCOLAR members for the term from 1 July 2015 to 30 June 2017, the SCOLAR Secretariat issued the appointment letters on 5 June 2015, but the conflicts of interest Declaration Forms were sent

⁴ SCOLAR considered that the possession of a Bachelor of Education degree majoring in the relevant language subject, or a first/higher degree majoring in the relevant language subject and a Postgraduate Diploma in Education or Postgraduate Certificate in Education majoring in that language subject was essential to ensuring adequate preparation of language teachers in proficiency, subject knowledge and pedagogy.

⁵ Starting from March 2014, apart from the top-down approach, SCOLAR had also adopted a bottom-up approach of inviting applications through open-call exercises. Proposals from education institutions were invited. Priority areas/themes on language learning/development and pedagogy were identified by SCOLAR whereas the actual topic, and scope and duration of the projects were proposed by the applicants. Proposals were assessed by a Vetting Committee.

The Language Fund

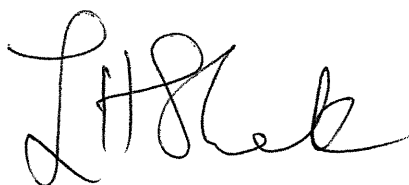
to members by emails after the commencement of the term. In the event, nine members returned the Forms more than 30 days after the commencement of the term. Also, six of the eight working groups under SCOLAR only held one meeting from 1 July 2015 to 31 October 2016;

- as at 30 June 2016, Audit examination revealed that of the 68 "ongoing" initiatives in LF project database, only 55 (81%) were in progress. For the remaining 13 (19%) initiatives, six had been completed/terminated for over one year and their unspent balance amounted to \$61.1 million;
- EDB informed the LegCo Panel on Education in December 2013 that the investment return from the placement with the Exchange Fund would be used to fund support measures to schools and teachers, R&D projects and language education community projects, and in the period from the placement with the Exchange Fund in March 2014 to June 2016, the interest income earned from the Exchange Fund was \$513.3 million. However, Audit found that the actual total funding of \$262 million approved for the period from March 2014 to June 2016 was \$251.3 million (49%) less than the interest income of \$513.3 million earned from the Exchange Fund; and
- from 2007 to 2016, over 20% and over 30% of Secondary 3 students did not meet the basic competencies in Chinese Language and English Language respectively under the Territory-wide System Assessment. In 2016, about 15% and 20% of Secondary 6 students did not attain "Level 2" or above in Chinese Language and English Language respectively under the Hong Kong Diploma of Secondary Education Examination.

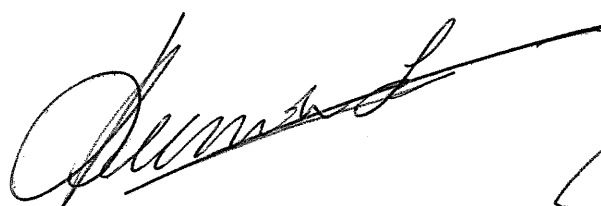
5. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding the effectiveness of the PMIC Support Scheme and Professional Development Incentive Grant Scheme for Language Teachers, the management of EES, REES, EEGS, language education community projects and R&D projects, the governance of SCOLAR, the financial and investment management of LF, and the measures to improve the Chinese and English language proficiency of students. The replies from **Secretary for Education** are in **Appendix 27**.

6. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.

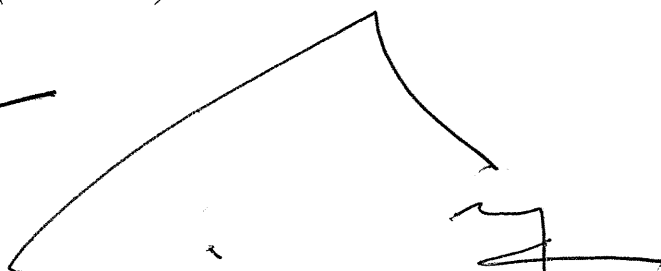
SIGNATURES OF THE CHAIRMAN,
DEPUTY CHAIRMAN AND MEMBERS OF THE COMMITTEE



Abraham SHEK Lai-him
(Chairman)



Kenneth LEUNG
(Deputy Chairman)



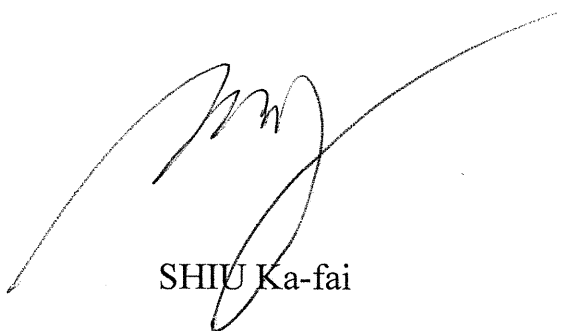
Paul TSE Wai-chun



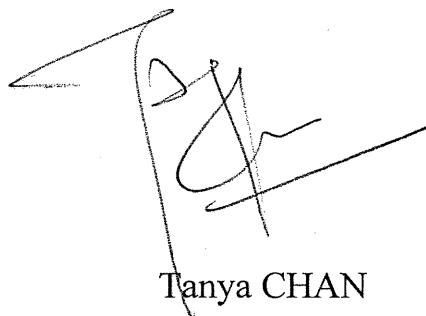
Steven HO Chun-yin



LAM Cheuk-ting



SHIU Ka-fai



Tanya CHAN

22 June 2017

**CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NO. 68
DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT**

**Director of
Audit's Report
No. 68**

**P.A.C.
Report No. 68**

<u>Chapter</u>	<u>Subject</u>	<u>Chapter</u>
1	Government's support and monitoring of charities	1
2	Monitoring of charitable fund-raising activities	2
3	Management of squatter and licensed structures	3
4	Provision of district council funds for community involvement projects	4
5	Kai Tak Cruise Terminal	5
6	Management of projects financed by the Lotteries Fund	6
7	Provision of dental services	7
8	The Language Fund	8

**RULES OF PROCEDURE OF
THE LEGISLATIVE COUNCIL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

72. Public Accounts Committee

(1) There shall be a standing committee, to be called the Public Accounts Committee, to consider reports of the Director of Audit –

- (a) on the accounts of the Government;
- (b) on such other accounts required to be laid before the Council as the committee may think fit; and
- (c) on any matter incidental to the performance of his duties or the exercise of his powers as the committee may think fit.

(2) The committee shall also consider any report of the Director of Audit laid on the Table of the Council which deals with examinations (value for money audit) carried out by the Director relating to the economy, efficiency and effectiveness of any Government department or public body or any organization to which his functions as Director of Audit extend by virtue of any Ordinance or which receives public moneys by way of subvention.

(3) The committee shall consist of a chairman, deputy chairman and 5 members who shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. *(L.N. 214 of 2005)*

(3A) The chairman and 2 other members shall constitute a quorum of the committee. *(L.N. 214 of 2005)*

(3B) In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence. *(L.N. 214 of 2005)*

(3C) All matters before the committee shall be decided by a majority of the members voting. Neither the chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided, in which case he shall give a casting vote. *(L.N. 214 of 2005)*

(4) A report mentioned in subrules (1) and (2) shall be deemed to have been referred by the Council to the committee when it is laid on the Table of the Council.

(5) Unless the chairman otherwise orders, members of the press and of the public shall be admitted as spectators at meetings of the committee attended by any person invited by the committee under subrule (8).

(6) The committee shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members and to any person invited to attend a meeting at least 5 clear days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

(7) *(Repealed L.N. 214 of 2005)*

(8) The chairman or the committee may invite any public officer, or, in the case of a report on the accounts of or relating to a non-government body or organization, any member or employee of that body or organization, to give information or any explanation or to produce any records or documents which the committee may require in the performance of its duties; and the committee may also invite any other person to assist the committee in relation to any such information, explanation, records or documents.

(9) The committee shall make their report upon the report of the Director of Audit on the accounts of the Government within 3 months (or such longer period as may be determined under section 12 of the Audit Ordinance (Cap. 122)) of the date on which the Director's report is laid on the Table of the Council.

(10) The committee shall make their report upon the report of the Director of Audit mentioned in subrule (2) within 3 months (or such longer period as may be determined by the Council) of the date on which the Director's report is laid on the Table of the Council.

(11) Subject to these Rules of Procedure, the practice and procedure of the committee shall be determined by the committee.

**Paper presented to the Provisional Legislative Council
by the Chairman of the Public Accounts Committee
at the meeting on 11 February 1998 on
Scope of Government Audit in the
Hong Kong Special Administrative Region -
'Value for Money Audits'**

SCOPE OF WORK

1. The Director of Audit may carry out examinations into the economy, efficiency and effectiveness with which any bureau, department, agency, other public body, public office, or audited organisation has discharged its functions.
2. The term "audited organisation" shall include -
 - (i) any person, body corporate or other body whose accounts the Director of Audit is empowered under any Ordinance to audit;
 - (ii) any organisation which receives more than half its income from public moneys (this should not preclude the Director from carrying out similar examinations in any organisation which receives less than half its income from public moneys by virtue of an agreement made as a condition of subvention); and
 - (iii) any organisation the accounts and records of which the Director is authorised in writing by the Chief Executive to audit in the public interest under section 15 of the Audit Ordinance (Cap. 122).
3. This definition of scope of work shall not be construed as entitling the Director of Audit to question the merits of the policy objectives of any bureau, department, agency, other public body, public office, or audited organisation in respect of which an examination is being carried out or, subject to the following Guidelines, the methods by which such policy objectives have been sought, but he may question the economy, efficiency and effectiveness of the means used to achieve them.

GUIDELINES

4. The Director of Audit should have great freedom in presenting his reports to the Legislative Council. He may draw attention to any circumstance which comes to his knowledge in the course of audit, and point out its financial implications. Subject to these Guidelines, he will not comment on policy decisions of the Executive Council and the Legislative Council, save from the point of view of their effect on the public purse.

5. In the event that the Director of Audit, during the course of carrying out an examination into the implementation of policy objectives, reasonably believes that at the time policy objectives were set and decisions made there may have been a lack of sufficient, relevant and reliable financial and other data available upon which to set such policy objectives or to make such decisions, and that critical underlying assumptions may not have been made explicit, he may carry out an investigation as to whether that belief is well founded. If it appears to be so, he should bring the matter to the attention of the Legislative Council with a view to further inquiry by the Public Accounts Committee. As such an investigation may involve consideration of the methods by which policy objectives have been sought, the Director should, in his report to the Legislative Council on the matter in question, not make any judgement on the issue, but rather present facts upon which the Public Accounts Committee may make inquiry.

6. The Director of Audit may also -

- (i) consider as to whether policy objectives have been determined, and policy decisions taken, with appropriate authority;
- (ii) consider whether there are satisfactory arrangements for considering alternative options in the implementation of policy, including the identification, selection and evaluation of such options;
- (iii) consider as to whether established policy aims and objectives have been clearly set out; whether subsequent decisions on the implementation of policy are consistent with the approved aims and objectives, and have been taken with proper authority at the appropriate level; and whether the resultant instructions to staff accord with the approved policy aims and decisions and are clearly understood by those concerned;

- (iv) consider as to whether there is conflict or potential conflict between different policy aims or objectives, or between the means chosen to implement them;
- (v) consider how far, and how effectively, policy aims and objectives have been translated into operational targets and measures of performance and whether the costs of alternative levels of service and other relevant factors have been considered, and are reviewed as costs change; and
- (vi) be entitled to exercise the powers given to him under section 9 of the Audit Ordinance (Cap. 122).

PROCEDURES

7. The Director of Audit shall report his findings on value for money audits in the Legislative Council twice each year. The first report shall be submitted to the President of the Legislative Council within seven months of the end of the financial year, or such longer period as the Chief Executive may determine. Within one month, or such longer period as the President may determine, copies shall be laid before the Legislative Council. The second report shall be submitted to the President of the Legislative Council by the 7th of April each year, or such date as the Chief Executive may determine. By the 30th April, or such date as the President may determine, copies shall be laid before the Legislative Council.

8. The Director's report shall be referred to the Public Accounts Committee for consideration when it is laid on the table of the Legislative Council. The Public Accounts Committee shall follow the rules governing the procedures of the Legislative Council in considering the Director's reports.

9. A Government minute commenting on the action Government proposes to take in respect of the Public Accounts Committee's report shall be laid on the table of the Legislative Council within three months of the laying of the report of the Committee to which it relates.

10. In this paper, reference to the Legislative Council shall, during the existence of the Provisional Legislative Council, be construed as the Provisional Legislative Council.

**Witnesses who appeared before the Committee
(in order of appearance)**

Mr LAU Kong-wah	Secretary for Home Affairs
Mr Laurie LO Chi-hong	Deputy Secretary for Home Affairs (1)
Ms Carol YIP	Director of Social Welfare
Mr KOK Che-leung	Assistant Director (Subventions) Social Welfare Department
Miss Janice TSE Siu-wa	Director of Home Affairs
Ms Josephine CHEUNG Pui-lin	Assistant Director of Home Affairs (Support)
Miss Vivian LAU Lee-kwan	Director of Food and Environmental Hygiene
Ms Maisie CHAN Kit-ling	Deputy Director of Food and Environmental Hygiene (Environmental Hygiene)
Ms Bernadette LINN	Director of Lands
Mr Patrick LEUNG Yun-hing	Principal Land Executive/Land Control and Lease Enforcement Lands Department
Mr LAM Wing-hong	Assistant Director (Operations) 2 Food and Environmental Hygiene Department

**A brief account of Chapter 2 of Report 68
“Monitoring of charitable fund-raising activities”
by the Director of Audit
at the Public Hearing of the Public Accounts Committee
of the Legislative Council on Tuesday, 16 May 2017**

Mr. Chairman,

Thank you for inviting me here to give a brief account of Chapter 2 of Report No. 68 of the Director of Audit, entitled “Monitoring of charitable fund-raising activities”.

This Audit Report comprises six parts.

Part 1 of the Report, namely "Introduction", describes the background of the audit.

Hong Kong is a philanthropic community where fund-raising for charities forms part of its way of life. To ensure that charities uphold accountability and transparency during the course of their fund-raising activities, it is important to monitor these activities in an effective and appropriate manner. Currently, there is no legislation enacted specifically for this purpose. The Government’s regulation of certain charitable fund-raising activities, such as flag days, sale of raffle tickets and on-street charity sales, is incidental to three pieces of legislation, namely the Summary Offences Ordinance, the Gambling Ordinance and the Hawker Regulation.

Part 2 of the Report examines the Government’s efforts to promote transparency and accountability of charitable fund-raising activities.

The Audit Commission (Audit)’s examination revealed that the Government decided in 2002 that administrative controls should be strengthened with a view to enhancing transparency and accountability of fund-raising activities to enable donors to make an informed choice when making donations. Therefore, the Social Welfare Department (SWD) promulgated in 2004 the “Reference Guide on the Best Practices for Charitable Fund-raising Activities” (Reference Guide) for voluntary adoption by charities.

Up to September 2016, 400 charitable organisations had indicated to the SWD that they would adopt the Reference Guide. However, the number of tax-exempt charities under the Inland Revenue Ordinance has doubled to nearly 9,000 in the past decade and there have been an increasing number of fund-raising activities which are not subject to Government’s monitoring, such as appeals for donations through the Internet or face-to-face solicitation of regular donations in public places. In this connection, Audit has recommended that departments concerned should step up promotion efforts to encourage more charitable organisations to ensure that their volunteers, employees and hired solicitors would act with fairness, integrity, and in accordance with all applicable laws and regulations in organising fund-raising activities.

Part 3 of the Report examines the SWD's administration of Public Subscription Permits (PSPs) for charitable fund-raising activities.

The SWD issues PSPs for flag days and general charitable fund-raising activities in public places. Audit examination revealed that some permittees had failed to comply with the permit conditions. For instance, they had not submitted audited reports of fund-raising activities within the stipulated time. While the SWD had withheld certain non-compliant permittees' applications for new PSPs, they continued to raise funds through other means. Audit also found that the administration costs of some fund-raising activities were high, which might reduce the amount of donations that could reach the beneficiaries. Therefore, Audit has recommended that the SWD should step up enforcement actions on cases of repeated non-compliance with the permit conditions on submission of audited reports, and consider setting an expenses ceiling for general charitable fund-raising activities which are similar in nature to flag days.

Part 4 of the Report examines the Home Affairs Department (HAD)'s administration of lottery licences for charitable fund-raising activities.

Audit examination revealed that some charitable organisations holding lottery licences issued by the HAD had failed to comply with the licence conditions on submission of lottery accounts and other documents within the stipulated time. There was also room for improvement regarding the HAD's follow-up actions on late submission of documents and the arrangements for public inspection of the lottery accounts. Audit has recommended that the HAD should step up monitoring of licensees' compliance with the licence conditions, and take appropriate measures to facilitate public access to the lottery accounts.

Part 5 of the Report examines the Food and Environmental Hygiene Department (FEHD)'s administration of temporary hawker licences for fund-raising activities involving on-street selling.

Audit examination revealed that the FEHD's administrative/licensing requirements were different from those of the other two licensing departments. For instance, it had not imposed any requirements on the safe custody of monies received as well as the need to account for the use of donations. In addition, owing to the lack of one-stop service, an organisation might need to seek approvals from different departments for the same charitable fund-raising activity involving on-street selling, resulting in extra workload to the government departments and the charitable organisations. In this connection, Audit has recommended that the FEHD should consider improving the administrative measures concerned, including streamlining of the licensing procedures, and more effective monitoring of on-street selling activities for charitable fund-raising purposes.

Part 6 of the Report examines the way forward on the monitoring of charitable fund-raising activities with reference to the recommendations of the Law Reform Commission (LRC) Report on Charities published in 2013.

According to the LRC Report, there are deficiencies in the existing regulatory framework of charities, including inconsistent standards or requirements on governance, accounting and reporting by charities and limited control of charitable fund-raising activities. The Government's guidelines stipulate that a public response to the

recommendations of the LRC Report should be provided within 12 months of its publication. However, for three years since the issue of the LRC Report, the Home Affairs Bureau (HAB) was still coordinating comments from relevant bureaux/departments (B/Ds). Hence, Audit has recommended that the HAB should expedite the consultation with relevant B/Ds with a view to formulating a response to the recommendations of the LRC Report.

Our views and recommendations were generally agreed by relevant B/Ds. I would like to take this opportunity to acknowledge with gratitude their full cooperation, assistance and positive response during the course of the audit review.

**Meeting of the Legislative Council Public Accounts Committee
on 16 May 2017**

**Report No. 68 of the Director of Audit (Audit Report)
Chapter 2: Monitoring of charitable fund-raising activities**

Opening remarks by the Secretary for Home Affairs

(Translation)

Mr Chairman,

We are grateful to the Audit Commission for carrying out a value for money audit on the monitoring of charitable fund-raising activities and its various recommendations. The Legislative Council Public Accounts Committee (PAC) has selected this topic for hearings, the relevant Government departments will fully co-operate with PAC and will actively consider and follow up the recommendations made by the Audit Commission and PAC, so as to enhance the transparency and accountability of charitable fund-raising activities.

2. The Law Reform Commission (LRC) published at the end of 2013 its Report on Charities in which recommendations were made on the regulation of charitable fund-raising activities, and the follow-up actions taken by the Government in response to the recommendations in the LRC Report have been highlighted in the Audit Report. As I have mentioned earlier at the PAC's hearing conducted on Chapter 1 of the Audit Report that the recommendations in the LRC Report have far-reaching implications on the operation and development of charities in Hong Kong and are also related to the duties of a number of Government bureaux and departments. Since the issues involved are very complicated, the relevant bureaux and departments are required to consider these recommendations thoroughly and carefully. Home Affairs Bureau (HAB) has been assigned to co-ordinate inputs from the relevant bureaux and departments in formulating responses to LRC's recommendations for the Government's overall consideration.

3. Following the release of the LRC Report in December 2013, HAB conducted an internal consultation exercise within the Government in January 2014 and then convened two inter-departmental co-ordination meetings to discuss the comments made by bureaux and departments. The relevant documents of the two meetings were submitted to PAC for information last week. We will give our specific responses to Members' questions a moment later. To sum up, we mainly discussed at the first meeting the approach to and the framework for regulating charities as proposed in the LRC Report. Some of the proposals were quite complicated, including to provide a statutory definition of charities and to set up a registration system for them without

establishing a single regulatory authority. Relevant bureaux and departments expressed their comments and concerns respectively at the meeting. They generally considered that further deliberations were required before reaching a decision.

4. At the second meeting, we mainly explored with relevant executive departments short-term measures that might be feasible under the existing regulatory framework in the light of the recommendations in the LRC Report. Our discussion basically followed three broad directions. The first one was to enhance the transparency of charities and charitable fund-raising activities and upgrade the functions of the one-stop finder currently performed on “GovHK” to facilitate the search by the public for information on approved charitable fund-raising activities. The second direction was to enhance the accountability of charitable fund-raising activities such as to consider further disclosing financial information on approved fund-raising activities on “GovHK” or providing hyperlinks for public scrutiny. For the third direction, it was to review the Reference Guide on Best Practices for Charitable Fund-raising Activities issued by the Social Welfare Department and encourage charities to follow such practices, while the public may refer to the Guide for assessing the performance of charities in fund-raising activities and for a better understanding of the rights and interests of donors. Such measures are in line with the approach of those recommendations in the Audit Report. While responding to the relevant parts of the Audit Report later on, our Bureau and other departments will explain those improvement measures under consideration.

5. Meanwhile, the HAB will continue to co-ordinate inputs from bureaux and departments for formulating a response to LRC’s recommendations for the Government’s overall consideration. During the process, we will make reference to the recommendations in the Audit Report, as well as the comments of PAC, on monitoring charities and charitable fund-raising activities.

6. As mentioned in the Audit Report, the Government’s regulation on some charitable fund-raising activities is incidental to the legislation that controls nuisances committed in public places, gambling and hawking. The Audit Commission has also examined the management of these licences which are related to charitable fund-raising activities. I was given to understand that the responsible departments, i.e. Social Welfare Department, Home Affairs Department and Food and Environmental Hygiene Department, agree in general to the Audit Commission’s recommendations and will consider taking appropriate follow-up measures. The three Directors would also speak, and we are prepared to answer Members’ subsequent questions on those recommendations and our follow-up measures thereafter.

7. Thank you, Mr Chairman.

**Opening Speech of Director of Social Welfare
Public Accounts Committee - Public Hearing on 16 May 2017**

**Director of Audit's Report No. 68
Chapter 2: Monitoring of charitable fund-raising activities**

Chairman,

In accordance with section 4(17)(i) of the Summary Offences Ordinance (Cap. 228 of the Laws of Hong Kong), the Social Welfare Department (SWD) may issue Public Subscription Permits (PSPs) in respect of fund-raising activities conducted in public places for charitable purposes. The forms of charitable fund-raising activities regulated include any collection of money or sale or exchange for donations of badges, tokens or similar articles. At present, the PSP applications processed by the SWD cover flag days and general charitable fund-raising activities.

2. As far as applications for the aforementioned charitable fund-raising activities are concerned, the SWD has been reviewing from time to time the permit conditions and relevant guidelines. The SWD updated the eligibility criteria and permit conditions of PSP in 2011, 2014 and 2017. They include the following additional requirements -

- (i) when submitting an application, the organisation must have at least three years' track record of charitable activities;
- (ii) regulating the number of staff or fund-raisers and the boundary for moving-around solicitation at each location of fund-raising activities;
- (iii) the organisation must provide proper and adequate care for staff or fund-raisers who are elderly persons or persons with disabilities;
- (iv) the organisation must display prominently the original PSP copy, its service information and the purpose of the fund-raising activities at the approved locations;
- (v) each of the staff or fund-raisers must wear the identification badge in the format specified by the SWD;
- (vi) the organisation must ensure that a tag in the format specified by the SWD is prominently affixed on each of the donation collection tools; and
- (vii) the organisation must publish the audited report before a specified date and retain copies of the report for public inspection.

3. We agree with the Audit Commission's recommendations and plan to further enhance the transparency and accountability of charitable fund-raising

activities through a three-pronged approach -

- (i) we would, in collaboration with relevant government departments, step up promotion efforts to encourage wider adoption of the “Reference Guide on Best Practices for Charitable Fund-raising Activities” (Reference Guide) and the “Guidance Note on Internal Financial Controls for Charitable Fund-raising Activities” (Guidance Note). The SWD will also draw reference to previous experience and conduct a survey to collect views from charitable organisations again on the effectiveness and content of the Reference Guide and Guidance Note;
 - (ii) to tackle cases of serious or repeated non-compliance with permit conditions, the SWD agrees with the Audit Commission’s recommendation to consider publicising relevant information. We shall further examine the appropriate mechanism to handle such cases and seek legal advice. Due regard will be given to the causes and severity of individual cases; and
 - (iii) the SWD will continue to explore the feasibility of defining the scope of “administration costs” and also study whether a ceiling could be set on the administration costs for those on-street general charitable fund-raising activities of a nature similar to that of flag days.
4. Besides, under the Home Affairs Bureau’s efforts to coordinate the responses of government bureaux and departments towards the Law Reform Commission’s recommendations, the SWD will strengthen collaboration with other government departments and is ready to share with them relevant experience and information.
5. I and my colleague would be happy to answer questions raised by Members. Thank you.

(Translation)

16 May 2017

Legislative Council Public Accounts Committee Meeting

Director of Audit's Report No. 68

Chapter 2: Monitoring of Charitable Fund-raising Activities

Opening Remarks by Director of Home Affairs

(Draft)

Chairman,

We welcome the Value for Money Audit on the monitoring of charitable fund-raising activities conducted by the Audit Commission and the improvement measures proposed.

2. Part 4 of the Audit Report covers the “Administration of Lottery Licences for Charitable Fund-raising Activities”. Lottery Licences are issued by the Home Affairs Department (HAD) under section 22 of the Gambling Ordinance (Cap. 148), the primary objective of which is to regulate gambling activities. Clubs, associations or other bodies of persons which intend to arrange promotion or conduct of any lottery activity are required to apply for Lottery Licences from HAD.

3. HAD issues Lottery Licences to regulate lottery activities. Licence conditions imposed on the organizers are related to the lottery activities concerned, such as prize distribution arrangements, design of lottery tickets, arrangements during the activities and documents to be submitted after the activities, etc. Licensees are required under the licence conditions to submit various documents before the due dates specified in the licences upon completion of the lottery activities, so as to ensure all lottery proceeds are used for the approved purposes.

4. On receipt of the relevant documents, HAD will scrutinize the documents, and seek clarification and follow up with the organizers in respect of individual documents. Moreover, to enhance the transparency and accountability of lottery activities for fund-raising, the names of organizers, dates and locations of lottery activities are promulgated in HAD's departmental website and “GovHK”. In addition, the approved number of tickets to be sold and the ticket price are also promulgated in HAD's website.

5. HAD accepts the recommendations on Lottery Licences in Part 4 of the Audit Report, and agrees that these would help further enhance the monitoring of lottery activities. We will also work with relevant departments on the feasibility of the proposed measures recommended in paragraph 2.19(a) of the Audit Report, with a view to further enhancing the transparency and accountability of various types of fund-raising activities. We plan to work along four major aspects –

- (i) to review the monitoring mechanism and consider suitable measures to deter late submission of documents;
- (ii) to enhance the Licensing Information System to facilitate the monitoring of late submission of documents by licensees;
- (iii) to provide more guidance to facilitate licensees in the preparation of annual financial statements; and
- (iv) to study measures to facilitate public access to the lottery accounts.

6. Thank you, Chairman.

本署檔號 OUR REF. : SWD 10/5003/74 VIII
來函檔號 YOUR REF. : CB4/PAC/R68
電 話 TEL NO. : 2832 4323
圖文傳真 FAXLINE : 2151 0573

26 May 2017

Mr Anthony CHU
Clerk
Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr CHU,

Public Accounts Committee

**Consideration of
Chapter 2 of the Director of Audit's Report No. 68**

Monitoring of charitable fund-raising activities

Thank you for your letter of 17 May 2017. Our reply in respect of the various issues covered in your letter is appended below –

Preamble

The Social Welfare Department (SWD) may, under the authority of Section 4(17)(i) of the Summary Offences Ordinance (SOO) (Cap. 228), issue Public Subscription Permits (PSPs) for charitable fund-raising activities conducted in public places. The activities regulated include any collection of money or sale of badges, tokens or similar articles. At present, the SWD processes PSP applications for conducting flag days and general charitable fund-raising activities in accordance with the provision as stipulated in the aforementioned Ordinance. The Home Affairs Bureau (HAB) may also issue permits under Section 4(17)(ii) of the same Ordinance for fund-raising activities



held in public places for other purposes.

All along, the SWD has made efforts to maintain a balance between public interests and the fund-raising needs of charitable organisations. We strive to ensure that the interests of the general public/donors are safeguarded whilst not stifling the charitable organisations (especially those small-scale organisations) to collect donations for their operation and service development. The SWD enhances the transparency and accountability of charitable fund-raising activities regulated by the SWD in the following two aspects –

- firstly, through administrative means to strengthen the monitoring of the charitable fund-raising activities regulated by the SWD under Section 4(17)(i) of the SOO (Cap. 228) by revising the conditions of PSP and the related eligibility criteria; and
- secondly, drawing up and promoting the “Reference Guide on Best Practices for Charitable Fund-raising Activities” (Reference Guide) and the “Guidance Note on Internal Financial Controls for Charitable Fund-raising Activities” (Guidance Note) for voluntary adoption by charitable organisations.

The SWD has been reviewing and updating from time to time the permit conditions and the contents of the Reference Guide over the past years, which has been acknowledged in paragraphs 2.6, 3.6 and 3.7 in Chapter 2 of the Director of Audit Report No. 68 (Audit Report).

In response to the issues raised in your letter, our consolidated reply by modules is set out below –

(I) Processing of PSPs and monitoring of charitable fund-raising activities under PSPs

1. Eligibility criteria and permit conditions [Response to Question (j)]

The Application Form “PSP AF 04/2017” is enclosed at **Appendix A**. Parts B and C of Explanatory Notes of the PSP Application Form spell out the eligibility criteria and permit conditions. In accordance with the prevailing practice, an applicant organisation must possess a valid registration in the territory, or be a charitable institution exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112). The proposed fund-raising activities must be organised for charitable causes. Before the SWD could issue the PSP, the applicant organisation should have obtained prior approval from the



management authority or relevant Government departments for holding the proposed fund-raising activities at the specified venues.

Since April 2014, applicant organisations have been required by the SWD to submit a three-year track record of their charitable activities together with their annual audited financial statements for vetting by the SWD. The SWD would deliberate on the capability of the applicant organisations in carrying out the proposed fund-raising activities, including the applicants' manpower and financial management situations as well as their track records (e.g. any record of non-compliance with permit conditions, any "qualified opinion" expressed by certified public accountants in the audited reports submitted, etc.).

The SWD stipulates over 20 permit conditions for compliance by permittees so as to maintain order and discipline of the general charitable fund-raising activities held in public places which are regulated by Section 4(17)(i) of Cap. 228 as well as ensuring the financial accountability of the permittees. In recent years, further permit conditions have been implemented in 2011, 2014 and 2017 (effective from July 2017) respectively to step up control and monitoring of the permittees particularly in the following aspects (*stipulated in Part C of the Explanatory Notes of the Application Form*) –

(1) Enhancing the transparency of approved fund-raising activities / easier identification by the public

Examples of permit conditions are as follows –

- the original PSP, the service information of the permittee as well as the purpose of the fund-raising activities must be displayed prominently at the approved locations [Permit conditions No. (8) and (9)];
- identification badges and tags (Note: samples at **Appendix B**), both in the format specified by the SWD, must be worn by the fund-raisers and be prominently affixed on each of the donation collection tools respectively [Permit condition No. (11)];

(2) Proper conduct of fund-raising activities

Examples of permit conditions are as follows –

- all donations must be purely voluntary and no persons shall be forced to give donation [Permit condition No. (5)];



- sufficient security measures must be taken for the safekeeping of the funds raised [Permit condition No. (7)];
- no more than a total of eight staff members and fund-raisers should be deployed on public streets; fund-raisers must not cause nuisance or obstruction in public places [Permit conditions No. (10) and (15)];
- the moving-around solicitations on public streets must only be conducted within ten metres from the rim of the stationed counter at the specified location [Permit condition No. (14)] ;

(3) Financial accountability of the permittee

Examples of permit conditions are as follows –

- the funds raised must be used for the purposes specified in the PSP [Permit condition No. (16)];
- within 90 days of the last event day approved in the PSP, the permittee must use the net proceeds from the approved fund-raising activities for the purposes as specified in the PSP or be credited to the bank account concerned [Permit condition No. (17)];
- the audited report for the fund-raising activities approved under PSP (Note: sample at Appendix C) must be prepared by a certified public accountant in accordance with the Practice Note 850 issued by the Hong Kong Institute of Certified Public Accountants (HKICPA), and it must be submitted to the SWD within 90 days of the last event day [Permit condition No. (19)];
- the audited report must be published either on the permittee's website or in its Annual Report/newsletter/special circular to its members within 90 days of the last event day [Permit conditions No. (21) and (22)]; and
- the net proceeds from the approved fund-raising activities and the usage of funds must be listed separately, by respective PSP numbers, in the permittee's audited annual financial statements to be submitted to the SWD for record [Permit condition No. (23)].

2. Non-compliance with permit conditions [Response to Questions (a)(k)(l)(m)(n)]

Handling of complaints

PSP permittees are required to comply with the permit conditions. Established mechanism has been put in place by the SWD in handling relevant



complaints. If the permittee under complaint is suspected to have breached the permit conditions during the general charitable fund-raising activity, the SWD will conduct investigation and require the permittee in question to provide a report on the complaint as well as submitting a proposal of improvement measures. If the complaint against breach of permit conditions is substantiated, the SWD will take the following actions –

- to issue a warning letter to the non-compliant permittee and such record of non-compliance will be taken into account when considering its future applications;
- to suspend processing the PSP applications from the permittee in question in cases of repeated or serious non-compliance with permit conditions, until satisfactory improvements have been made ;
- to revoke the ongoing PSP that has been issued to the permittee where necessary if it has breached the permit condition with grave violation; and
- to refer the case to the Police for investigation if the fund-raising activity under complaint is suspected to have contravened the law (e.g. unauthorised charitable fund-raising activities in public places).

Relevant figures in relation to charitable fund-raising activities regulated by the SWD over the past three years are appended below –

	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>
Total number of complaints received	85	75	59
Number of non-compliance cases with permit conditions substantiated	10	10	8
Number of suspected law-breaching cases referred to the Police	2	2	4
Number of cases prosecuted by the Police	1	0	0



Delays in submission of audited reports

Whenever a PSP permittee fails to submit an audited report to the SWD within 90 days of the last event day and / or publish it according to the permit condition, the SWD will issue written reminders/warnings (or via email) to the permittee concerned and to suspend its already-submitted or new PSP applications until all the required documents are received and checked in order. The non-compliant permittee will be put on a withholding list by the SWD if the audited report is still outstanding upon the deadline specified in the written reminders/warnings. No new PSP will be issued to the permittee to safeguard public interests.

Up to the end of March 2017, the SWD received 4 out of the 6 long overdue audited reports in question. The two permittees that are responsible for the remaining 2 long overdue cases have not been issued any PSPs since the due date of the audited reports concerned, and both organisations have been put on the withholding list after the issue of repeated written reminders and warnings.

Audit's recommendations

With reference to paragraph 3.25(b) of the Audit Report which recommends that the SWD should step up enforcement actions on cases of repeated non-compliance with the permit condition on submission of audited reports (such as considering publicising information on cases of serious or repeated non-compliance with permit conditions after warnings), the SWD agrees to the recommendation and intends to strengthen the mechanism in addressing the cases of serious / repeated non-compliance with permit conditions through the following measures –

Short-term Measures

- i. the SWD reiterated to some 150 representatives from non-governmental organisations, who attended a briefing session held on 8 March 2017 on revised measures to monitor the general charitable fund-raising activities, a permittee's obligation to fully comply with permit conditions. The common situations of non-compliance were also shared in the session.
- ii. the SWD announced in April 2017, via the SWD's website and the issue of a letter, the revised measures to enhance the monitoring of general charitable fund-raising activities which will be rolled out with effect from July 2017. Among other things, the SWD has spelt out



in the eligibility criteria for a PSP that “applications might be rejected or only processed in phases, etc.” if an applicant organisation is associated with records of non-compliance with permit conditions.

Medium-term Measures

- iii. the SWD will further explore the feasibility of devising a mechanism to handle and publicise information on cases of serious / repeated non-compliance with permit conditions. Due regard will be given to the causes and severity of individual cases before considering to publish relevant information.

3. Repeated “no-show” cases [Response to Question (o)]

It has been prevailing practice that the SWD may, in the course of processing their applications, appeal to all PSP applicant organisations to fully utilise the approval for using government land / venue for the conduct of charitable fund-raising activities to avoid wastage of public resources. In a bid to enhance the monitoring of PSP permittees’ compliance with permit conditions, the SWD has since 2015 been conducting random on-site surprise inspections on some general charitable fund-raising activities. If “no-show” case is found, the SWD will take follow-up actions including giving verbal or written reminders to urge the organisations to be prudent in planning their fund-raising activities, arranging manpower and making good use of related public resources. The organisations will also be requested to give reasons therefor.

Generally speaking, the “no-shows” are mostly attributed to the following reasons –

- Unanticipated inclement weather (such as bad weather forecast on the event day and days before), which may have significant impact on the deployment of fund-raisers with disabilities.
- Unforeseeable manpower shortage as claimed by the permittees (e.g. unanticipated absence of fund-raisers which has rendered only one fund-raiser available, thereby leading to the eventual call-off of the event due to security concern).
- The fund-raising activities had ended before the staff of the SWD arrived at the locations, or started only after the departure of the SWD staff.



Audit's recommendations

With reference to paragraph 3.25(c) of the Audit Report which recommends that the Director of Social Welfare (DSW) should, in collaboration with the Director of Food and Environmental Hygiene (DFEH) and the Director of Lands, explore the feasibility of sharing enforcement information on charitable fund-raising activities held in public places and taking concerted actions on repeated “no-show” cases without valid reasons, the SWD agrees with the recommendation and intends to take the following actions –

Short-term Measures

- i with effect from late May 2017, the SWD will reiterate to the permittee upon issue of the PSP that it should exercise prudence in planning and making manpower arrangements for the charitable fund-raising activities, and use the government land/venue granted for the approved fund-raising activities effectively.

Medium-term Measures

- ii to strengthen the liaison with the Food and Environmental Hygiene Department (FEHD) and the Lands Department on the feasibility of sharing enforcement information and taking concerted actions against organisations involved in repeated “no-show” cases as well as their relevant applications in the future.

4. Administration Cost of a Fund-raising Activity [Response to Questions (p)(q)(r)]

It has been operating effectively for the SWD to impose the permit condition that the fund-raising expenses of a flag day should not exceed 10% of the gross proceeds. This is because the nature and expenses of a flag day are quite standardised.

As spelt out in paragraph 3.21 of the Audit Report, it might not be practical to set an across-the-board ceiling for all general charitable fund-raising activities given the diversity of their nature and mode of operation, and the absence of a commonly agreed definition of “administration costs” of a fund-raising activity. Hence, an across-the-board ceiling for the expenses of all general charitable fund-raising activities has not been formulated in the past reviews on the monitoring of charitable fund-raising activities.



At present, it is not considered non-compliant with any permit condition for high percentage of fund-raising expenses vis-à-vis the gross proceeds of general charitable fund-raising activities. However, if dubious expenses are noted in the audited report of the fund-raising activities, the SWD will request explanation from the organisation concerned. Most of the 60 deficit cases quoted in Table 6 of paragraph 3.18 and paragraph 3.20(a) were primarily for large-scale events of public education or religious purposes. Fund-raising only accounted for a small part of the events and the majority of expenses were related to promotion and production. During the period from 2012-13 to 2015-16, only nine organisations each submitted more than one audited report recorded with deficits. Details are listed as follows –

- 4 audited reports recorded with deficit: 3 organisations
- 3 audited reports recorded with deficit: 1 organisation; and
- 2 audited reports recorded with deficit: 5 organisations

Among the above deficit cases, there was only one case which involved raising funds for the organisation's operation and its projects, while the remaining cases were fund-raising activities conducted on an event-basis such as annual large-scale activities of the organisations.

Audit's recommendations

Audit Report recommends in paragraph 3.25(e) that the SWD should explore the feasibility of defining the term "administration costs" with a view to setting an expenses ceiling for on-street general charitable fund-raising activities which are similar in nature to flag days.

Short-term Measures

- i although the Lotteries Fund Advisory Committee (LFAC) considered it not feasible to set an objective ceiling in the last year's review, it agreed to explore the feasibility of defining the scope of "administration costs" involved in charitable fund-raising activities, and started to liaise with the fund-raising sector in early 2017. In parallel, the SWD will consider seeking advice from the HKICPA on this issue.

Medium-term Measures

- ii the SWD will consult the LFAC on exploring the feasibility to set a



ceiling of “administration costs” for on-street general charitable fund-raising activities similar to the nature and pattern of flag days.

(II) Issuance of Reference Guide and Guidance Note for voluntary adoption by fund-raising organisations
[Response to Question (b)(c)(f)(h)]

1. Promotion of the Reference Guide

Since the release of the Reference Guide at the end of 2004, the SWD has promoted it for voluntary adoption by charitable organisations through different channels. Every year, the SWD will invite the organisations applying for PSPs or the permittees to adopt the Reference Guide on a voluntary basis. The relevant invitation letter is uploaded onto the SWD’s website for promotion purpose.

Concerning the organisations which need to apply for PSPs from the SWD, paragraph 2.9 of the Audit Report states that the SWD had invited 961 charitable organisations to adopt the Reference Guide up to September 2016. Among those 426 organisations which had responded, 400 organisations indicated that they would adopt the Reference Guide. Except a small number of organisations which have not applied for PSPs again, the SWD keeps on sending letters to those yet-to-reply organisations every year to invite them to reconsider or confirm adoption of the Reference Guide. Along with the SWD’s requirement for PSP applicant organisations to indicate their decision on whether to adopt the Reference Guide in the application form, we expect more permittees would adopt the Reference Guide.

Appeal for donations through the Internet and face-to-face solicitation of regular donations in public places by means of signing direct debit authorisation forms mentioned in paragraph 2.12 of the Audit Report is outside the charitable fund-raising activities regulated by the SWD under the purview of Section 4(17)(i) of Cap. 228. Under the coordination of HAB in the context of formulating the government’s response to the recommendations of the Law Reform Commission (LRC), the SWD will work jointly with other relevant departments, in the light of paragraph 6.10(a) and Appendix I(1) of the Audit Report on facilitation of good practice, to study if the best practices set out in the Reference Guide are applicable to other forms of fund-raising activities.

Audit’s recommendations



Audit recommends in paragraph 2.19(a)(i)(ii) of the Audit Report that DSW, the Director of Home Affairs (DHA) and DFEH should –

- (i) Launch large-scale promotional programmes to enhance the awareness and recognition among the charitable organisations and the general public on the best practices for organising charitable fund-raising activities.
- (ii) Step up promotion efforts to encourage more charitable organisations in adopting the best practices for organising charitable fund-raising activities and endeavour to reach out to more organisations by seeking assistance from relevant bureaux / departments (B/Ds) to provide their contact information.

Short-term Measures

In mid-2016, the SWD initiated to explore the possible means to step up the promotion of the Reference Guide. As endorsed by the LFAC in its meeting in January 2017, the SWD has gradually implemented the enhanced promotional efforts relating to the Reference Guide as follows –

- i since April 2017, Flag Day applicant organisations for the year 2018-19 are requested to indicate whether they will adopt the Reference Guide in the application form and to state the reasons for partially adopting or not adopting the Reference Guide.
- ii the same arrangement will be applicable to applicant organisations for general charitable fund-raising activities with effect from July 2017.
- iii the webpage of WiseGiving under The Hong Kong Council of Social Service (HKCSS) (<http://www.wisegiving.org.hk/en/footer/links.aspx>) has included a hyperlink to the Reference Guide. The SWD will liaise with HKCSS again to welcome and encourage its members (especially the new members) to promote the Reference Guide, with a view to enhancing the recognition and adoption of the guidelines and principles of the Reference Guide among the charitable organisations.

Medium-term Measures

- iv HAB plans to convene the third inter-departmental meeting in June/July 2017 with a view to coordinating B/Ds' views for government's overall consideration of its responses to the LRC



recommendations. The SWD will join to work with relevant departments on the possible short-term measures with a view to further improving the monitoring of charitable fund-raising activities, including the recommendations mentioned in paragraph 2.19(a)(i)&(ii) of the Audit Report. The effectiveness in promotion of these measures will only be enhanced through the joint efforts and collaboration among all relevant departments.

- v Since different charitable fund-raising activities are under the regulation of the respective government departments, the SWD will invite these departments to consider if the Reference Guide would be applicable to the charitable fund-raising activities under their purview. If so, the SWD will encourage them to promote the Reference Guide to their charitable organisations.

2. Review and Update of Reference Guide and Guidance Note [Response to Question (d)]

The SWD promulgated the Reference Guide at the end of 2004 and conducted a survey among the charities to review the effectiveness of the Reference Guide in 2006. To address the public concern on the monitoring of charitable fund-raising activities, the the SWD updated the contents of the Reference Guide in 2014 and 2017. Besides, the SWD firstly issued the Guidance Note in 1998 and revised it in November 2004 with the assistance of HKICPA and the Independent Commission Against Corruption.

Audit's recommendations

Audit recommends in paragraph 2.19(b) of the Audit Report that the SWD should –

- (i) conduct a review of the effectiveness of the Reference Guide to evaluate the extent of achieving the Government's objective of enhancing transparency and accountability of charitable fund-raising activities in public places; and
- (ii) review and update the Reference Guide and the Guidance Note in the light of changed circumstances.

Medium-term Measures



- i As illustrated in the SWD's response to the audit's recommendations set out in paragraph 2.20 of the Audit Report, the SWD will draw reference to previous experience in September 2006 to conduct another survey among the charitable organisations to review the effectiveness and content of the Reference Guide and the Guidance Note, with a view to collecting their views and updating these two documents. We plan to kick-start the review of the Reference Guide and the Guidance Note within 2017 through consulting relevant government departments, professional bodies, social welfare sector, representatives of the organisations that have adopted/not adopted the Reference Guide, etc.
- ii We will regularly review whether it warrants a timely update / refinement on the content of the Reference Guide and the Guidance Note every year.

(III) SWD's timetable of the follow-up actions [Response to Question (s)]

Regarding the SWD's responses to the audit recommendations in paragraph 3.26 of the Audit Report, our feedback and timetable for follow-up actions are as follows –

SWD's follow-up Actions	Timetable
(a) To sustain the efforts to remind permittees of the permit condition to display the permits prominently at the approved locations of the fund-raising activities	Continuous efforts to remind the permittees of observing the permit condition of displaying the permit
(b) To examine the feasibility of issuing general guidelines on the scope of the PSP	Expects to complete the first draft of the guidelines by the end of 2017
(c) To consider publicising information on non-compliance with the permit condition on submission of audited reports	Expects to implement the mechanism of publicising information on non-compliance cases within the 4th quarter of 2017
(d) To examine the existing accounting requirements for charitable fund-raising activities in public places	Have kick-started the discussion with HKICPA in May 2017 to explore the feasibility of revising the prevailing accounting requirements



(IV) Recommendations of the LRC Report on Charities **[Response to Questions (e)(g)(i)(t)]**

Audit's recommendations

Audit recommends in paragraph 2.19(a)(iii)&(iv) of the Audit Report that DSW, DHA and DFEH should –

- (iii) incorporate more guidance on other forms of fund-raising activities in the publications on best practices for organising charitable fund-raising activities as far as practicable; and
- (iv) consider stepping up or renewing the publicity efforts to raise public awareness of the one-stop finder service on charitable fund-raising activities on the government portal “GovHK”

In the context of HAB's coordination efforts to formulate the Government's responses towards the LRC recommendations, the SWD has all along provided views and shared experience on relevant matters. As regards the 18 recommendations of the LRC report, the aspects which are more relevant to the current scope of work under the purview of the SWD are as follows –

- (a) **Filing requirements** (LRC's Recommendation 6):
 - The SWD has required the charitable organisations to submit their audited financial statement for the past 3 years during application for PSPs.
- (b) **Facilitation of good practice** (LRC's Recommendation 12):
 - The SWD has already promoted to organisations applying for PSP to adopt the Reference Guide. The SWD will also draw reference to the past experience to conduct another review among the charitable organisations with a view to collating their views on the effectiveness and content of the Reference Guide and Guidance Note; and
 - The SWD is ready to step up the communication and collaboration with other government departments. HAB plans to convene the third inter-departmental meeting in June/July to coordinate B/Ds' views for government's consideration of the overall responses to the LRC recommendations. The SWD will participate and jointly



discuss the short-term measures to further enhance the monitoring of charitable fund-raising activities, including the recommendations in paragraph 2.19(a)(iii) of the Audit Report.

(c) **Public Education** (LRC's Recommendation 13):

- The SWD will continue to publicise the message of “Be a Smart Donor” through its website and distribution of the publicity items to the public.

(d) **Information available to the public** (LRC's Recommendation 7):

- The HAB is coordinating B/Ds' views for government's consideration of the overall responses to the LRC recommendations. In this context, the SWD is ready to work together with other B/Ds to further develop the function of the one-stop finder on the government portal of “GovHK”, for example, to serve as a single online platform for uploading the financial information on the approved charitable fund-raising activities.
- The SWD is also willing to share its relevant experience with other government departments and strengthen the inter-departmental cooperation, in order to facilitate the public's access to the information about the approved charitable fund-raising activities (including the audited reports). HAB plans to convene the third inter-departmental meeting in June/July to coordinate B/Ds' views for government's consideration of the overall responses to the LRC recommendations.
- As stated in paragraph 2.18(b)(c)&(e) of the Audit Report, the SWD will continue its efforts to promote the one-stop finder on the government portal of “GovHK” by the following means -
 - (a) to print the website link of the one-stop finder and its Quick Response Code (also known as QR code) on all the permits and publicity items.
 - (b) to promote concurrently the one-stop finder through the verbal/written replies to enquires and/ or



complaints.

Should you have any enquiries, please contact the undersigned.

Yours sincerely,

(Manfred WONG)

for Director of Social Welfare

c.c. Secretary for Labour and Welfare
 Secretary for Home Affairs
 Secretary for Financial Services and the Treasury
 Director of Home Affairs
 Director of Food and Environmental Hygiene
 Director of Lands
 Director of Audit



公開籌款許可證申請表格

Public Subscription Permit Application Form

(根據香港法例第228章《簡易程序治罪條例》第4(17)(i)條簽發的許可證)

(A Permit issued under Section 4(17)(i), Summary Offences Ordinance, Cap. 228)

- 在填寫本表格前，請先閱讀載於附錄的公開籌款許可證申請須知。
Please read the Explanatory Notes on Application for Public Subscription Permit at Appendix before completing this application form.

- 填妥的申請表格正本必須在擬舉辦的活動開始最少四個星期（但不超過兩個月）前，送達以下地址：

香港灣仔皇后大道東248號

陽光中心36樓3601至02室

社會福利署

獎券基金計劃組

[經辦人：二級行政主任（慈善籌款監管）]。

(註：如透過電郵遞交申請書，則須透過電子證書經數碼簽署電郵至 afc@swd.gov.hk)

The completed original application form should reach the following address **at least four weeks (but not more than two months)** before the commencement of the proposed activity:

Lotteries Fund Projects Section

Social Welfare Department

Rooms 3601-02

36/F, Sunlight Tower

248 Queen's Road East, Wan Chai, Hong Kong

[Attention: Executive Officer II (Fund-raising Control)]

(Note: If the application form is submitted by email, it should be sent to afc@swd.gov.hk with digital signature supported by e-Certificate.)

- 請於適當項目 ☐ 加 ☒。

Please tick the appropriate item.

- * 請刪去不適用者。

Please delete as appropriate.

A. 申請機構的資料

Particulars of Applicant Organisation

(請提交貴機構目前有效的註冊證書及註冊地址證明，例如由公司註冊處所簽發的公司註冊證書副本一份。)

(Please enclose a copy of the valid certificate of registration and proof of registered address of your organisation, e.g. Certificate of Incorporation issued by the Companies Registry.)

- 機構的中文註冊名稱

Registered Name of Organisation in Chinese _____

機構的英文註冊名稱

Registered Name of Organisation in English _____

2. 機構聯絡資料（公開籌款許可證上會顯示機構的中文及英文註冊地址、電話及網址）
Contact Details of Organisation (The Public Subscription Permit will show the registered address in Chinese and English, telephone number and website of the organisation)

中文註冊地址

Registered Address in Chinese _____

英文註冊地址

Registered Address in English _____

通訊地址（如與註冊地址不同）

Correspondence Address (If different from registered address) _____

網址（如有）

Website (if available) _____

電郵

E-mail _____

電話

Tel. No. _____

傳真

Fax No. _____

3. 機構主席或機構負責人姓名
Name of Chairperson / Head of Organisation

（中文）_____（先生／太太／小姐／女士）*

(English) (Mr/Mrs/Miss/Ms)* _____

香港身份證／護照號碼

Hong Kong Identity Card / Passport No. _____

職位

Post Title _____

聯絡電話

Contact Telephone No. _____

4. 負責管理上述機構人士的資料
Details of office bearers responsible for the administration of the organisation

職位

Post Title

姓名

Name

會長／主席*

President / Chairperson* _____

秘書

Secretary _____

司庫

Treasurer _____

5. 機構的宗旨（請簡要寫出機構的宗旨，並提交載有機構宗旨的章程細則或會章副本。）
Objectives of the organisation (Please provide the objectives in brief and enclose a copy of the Articles of Association or the Constitution of your organisation.)
-
-

6. 貴機構是否根據《稅務條例》第88條獲豁免繳稅的慈善機構或信託團體？
Is your organisation a charitable institution or trust exempt from tax under Section 88 of the Inland Revenue Ordinance ?
（若答案為是，請夾附稅務局局長最近發出的有效證明信件副本一份。）
(If yes, please enclose a copy of a valid approval letter most recently issued by the Commissioner of Inland Revenue.)
- ☐ 是 ☐ 否
Yes No

7. 貴機構會否採納社會福利署的《慈善籌款活動最佳安排參考指引》（《參考指引》）？
Will your organisation adopt the “Reference Guide on Best Practices for Charitable Fund-raising Activities” (“Reference Guide”) promulgated by the Social Welfare Department?

☐ 會／Yes

☐ 不會／No

☐ 只採納部分／Partial adoption only

請註明不會採用的項目

Please specify the provision(s) that would not be adopted:

不會／只採納部分《參考指引》的原因

Reason(s) for non-adoption / partial adoption of the Reference Guide:

註：社會福利署於部門網頁上載了《參考指引》
(http://www.swd.gov.hk/tc/index/site_pubsvc/page_controlofc/sub_referenceg/)，以供慈善機構參考和自願遵守。申請機構於此處提供的資料有可能會在社會福利署網頁上發佈。

Note: The Social Welfare Department has uploaded the Reference Guide onto its website
(http://www.swd.gov.hk/en/index/site_pubsvc/page_controlofc/sub_referenceg/) for reference and voluntary compliance by charitable institutions. Information provided in this section by the Organisation may be promulgated on the website of the Department.

B. 有關籌款活動的資料

Particulars of the Fund-raising Activity

1. 活動名稱（如適用者）／性質
Title (if applicable) / Nature of the activity

2. 籌款活動的詳情
Details of the fund-raising activity(ies)

日期〔註(a)〕 Date [Note(a)]			時間（24小時格式） 〔註(b)〕 Time (in 24-hr format) [Note(b)]		舉行活動的指定地點〔註(c)〕 Specific location of the activity [Note(c)]	
年 Year	月 Month	日 Day	開始時間 Start time	完結時間 End time	地點（中文） Location (in Chinese)	地點（英文） Location (in English)

註 Notes:

- (a) 如活動連續舉行兩天以上，請註明活動舉辦期間〔由（開始日期）至（結束日期）〕。
If the activity(ies) is/are to be held for more than two consecutive days, please specify the activity period [i.e. from (start date) to (end date).]
- (b) 如在賣旗日舉行籌款活動，只可於下午一時正或之後開始，有關賣旗日資料，請參閱社署網頁。
If the fund-raising activity(ies) is/are to be held on flag day(s), the starting time must be at or after 1:00 p.m. For information about flag day(s), please browse the SWD homepage.
- (c) 為方便市民於香港政府一站通網頁查閱有關慈善籌款活動的資料，請提供擬舉行活動的指定地點之中英文名稱。如不敷應用，請填妥於社署網頁的籌款活動詳細表格，並提交電子檔案。請勿自行編製表格，以免影響上載獲批核的籌款活動至香港政府一站通網頁。
To facilitate public access to the details of fund-raising activities through the GovHK website, please provide the specific location(s) of the activity(ies) in both English and Chinese. If more space is required, please use the Proforma on Fund-raising Activities on the SWD website and submit the soft copy. Please do not create your own proforma as this may affect the uploading of approved activities onto the GovHK website.

3. 收集款項的方法
Method of money collection

（所有申請須附有籌款活動地點的管理機構所發出的批准通知書副本一份及設置捐款收集箱的確切地點的樓面圖則。）

(Please enclose a copy of the written approval issued by the management authority of the venue for holding fund-raising activities and a floor plan indicating the specific locations where the donation box(es) would be set up.)

☐ (a) 設置捐款收集箱
Setting up of donation box(es)

☐ (b) 設置捐款收集箱並攜帶捐款收集箱 / 袋以流動方式募捐
Setting up of donation box(es) and moving-around solicitation with donation box(es) / bag(s)

機構如擬以流動方式募捐，必須獲籌款活動地點的管理機構明確批准。如在公共街道上以流動方式募捐，必須同時申請設置固定捐款收集箱，並獲地政總署發出暫時佔用指定地點的政府土地的批准通知書，方獲考慮。

Application for moving-around solicitation will only be considered if the applicant organisation has obtained the specific approval of the management authorities of the venues for holding fund-raising activities. For moving-around solicitation on public streets, the applicant organisation must also apply for setting up donation box(es) at stationed counter(s) at the same time and obtain written approval from the Lands Department for temporary occupation of the government land at specific locations.

為維持公共秩序，本署通常不會批准在下述節日假期攜帶捐款收集箱／捐款收集袋在公共街道上以流動方式募捐：元旦日、農曆新年、清明節、香港特別行政區成立紀念日、重陽節及國慶日。

For maintaining public order, approval would normally not be granted for moving-around solicitation on public streets on the following festive public holidays: **New Year Day, Chinese New Year, Ching Ming Festival, Hong Kong Special Administrative Region Establishment Day, Chung Yeung Festival and National Day.**

☐ (c) 慈善義賣（請填寫以下各欄）

Charity sale (please fill in the following)

出售物品的詳情〔註 [^] 〕 (請提交每項物品的相片， 並按相應編號註明物品名稱。) Details of items for sale [Note [^]] (Please submit photos of each item which should be labeled with reference to the corresponding serial number.)	售價 Price 指定 最低 Fixed Minimum	附有申請機構及／或 受益機構的 徽號或名稱 Bearing the logo or name of the applicant organisation and/or the beneficiary organisation(s)
1. (中文)	\$ <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> 是Yes／ <input type="checkbox"/> 否No
(English)		
2. (中文)	\$ <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> 是Yes／ <input type="checkbox"/> 否No
(English)		

註 Note:

[^] 根據簡易程序治罪條例（第228章）第4(17)(i)條，為慈善用途在公眾地方售賣徽章、紀念品或類似物件的活動，或為獲取捐款而交換徽章、紀念品或類似物件的活動，須獲由社會福利署署長發出的許可證。若擬舉辦的活動另涉及在公眾地方販賣貨品，請向食物環境衛生署查詢是否需要申請臨時小販牌照。

[^] Under Section 4(17)(i) of the Summary Offences Ordinance (Cap. 228), a permit issued by the Director of Social Welfare is required for sale or exchange for donations of badges, tokens or similar articles in a public place for charitable purposes. If the proposed activities also involve the hawking of any goods in public places, please seek advice from the Food and Environmental Hygiene Department on whether application for a Temporary Hawker Licence is required.

☐ (d) 其他（請提供詳細資料）

Others (Please provide details)

4. 該籌款活動的募捐對象（例如市民大眾、會員）

Target donors of the proposed fund-raising activity (e.g. the general public, members)

5. 該籌款活動的目的

Purposes of the proposed fund-raising activity

(由於公開籌款許可證上會以中英文顯示機構舉辦該籌款活動的目的，此欄請同時以中文及英文填寫。)

(Please complete in both Chinese and English as the purposes of the proposed fund-raising activity will be shown in bilingual format in the Public Subscription Permit.)

(a) 籌款用作_____

To raise funds for _____

(b) 籌得款項將用於：

The funds raised will be used：

☐ 香港

in Hong Kong

☐ 香港以外地方 (請註明：_____)

outside Hong Kong (Please specify: _____)

6. 該籌款活動的會計師或會計師事務所或執業法團的名字 (有關的會計師或會計師事務所或執業法團，須屬香港會計師公會註冊主任按《專業會計師條例》(第50章)第32(1)條的規定，在香港特別行政區政府的憲報公布的持有執業證書的會計師或根據《專業會計師條例》註冊的事務所或執業法團。)

Name of the accountant or firm or corporate practice of the proposed fund-raising activity (the 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.)

7. 如擬將籌得款項捐贈予本港的指定機構，請填報下列資料：

If the money so collected is intended to be donated to the designated organisation(s) in Hong Kong, please complete the following:

(a) 受益機構名稱

Name of beneficiary organisation(s) _____

(請夾附受益機構所發的有關文件副本一份，以證明該機構已同意接受貴機構透過是次籌款活動所得的捐款。)

(Please enclose a copy of relevant document from the beneficiary organisation(s) giving consent to receive donation from your organisation through the fund-raising activity under application.)

(b) 該受益機構是否《稅務條例》第88條所指的認可機構或公共信託機構？

Is / Are the beneficiary organisation(s) an approved institution(s) or trust(s) of a public character under Section 88 of the Inland Revenue Ordinance?

(若答案為是，請夾附稅務局局長最近發出的證明信件副本一份。)

(If yes, please enclose a copy of an approval letter most recently issued by the Commissioner of Inland Revenue.)

8. 如擬將籌得款項用在本港以外地區，請指明在本港代收款項的代理機構。

If the money so collected is intended to be used outside Hong Kong, please specify the agent organisation which is collecting such funds in Hong Kong for onward transmission.

代理機構名稱

Name of agent organisation _____

(請夾附(i)代理機構發出的有關信件副本一份，以證明該機構同意是次舉辦的籌款活動，並承諾會代收籌得的款項以捐贈予受益機構(如申請機構並非代理機構)；以及(ii)受益機構發出的有關信件副本一份，以證明該機構同意接受捐款。)

(Please enclose a copy of the letter(s) from (i) the agent organisation giving consent to the fund-raising activity and undertaking to collect the donated money for onward transmission to the beneficiary organisation(s) (applicable if the applicant organisation is not the agent organisation); and (ii) the beneficiary organisation(s) giving consent to accept the donation.)

C. 補充資料

Additional Information

若對本申請有任何補充資料，請貴機構在此說明(例如：貴機構如欲於活動前某日期獲通知申請結果，請在此列明，並提供理由。)

Please state here any additional information for this application (e.g. Regarding your organisation's request for notification of the application result on a specified date before the activity, please specify the date and provide justifications.)

D. 聯絡人

Contact Person

如申請機構主席／機構負責人授權聯絡人處理與本許可證申請有關的事宜，請填寫以下部分。

Please complete this section if the Chairperson / Head of applicant organisation has authorised a contact person to handle matters related to this Public Subscription Permit application.

聯絡人中文姓名 _____ (先生／太太／小姐／女士)*

Name of Contact Person in English (Mr/Mrs/Miss/Ms)* _____

香港身份證／護照號碼

Hong Kong Identity Card / Passport No. _____

於申請機構之職位

Post Title at Applicant Organisation _____

辦事處電話

Office Phone No. _____

其他聯絡電話

Other Contact Telephone No. _____

電子郵箱

Email Address _____

傳真號碼

Fax No. _____

E. 機構主席／機構負責人的聲明

Declaration by the Chairperson / Head of Organisation

茲聲明據本人所知，本人或本機構的代表在本申請表格內所填報的資料及提交的文件，以及就是項申請所作出的一切陳述及聲明，均屬真確無訛。本人明白倘若本人或本機構的代表故意在填寫本申請表格時虛報資料或隱瞞重要事實，或未有通知社會福利署在申請表格內所提供資料已作更改，會令本機構的公開籌款許可證申請被拒或導致已發出的公開籌款許可證被撤銷。

I declare that the information provided in this application form and the supporting documents submitted by me or the delegates of this organisation, as well as all the statements and declarations made in relation to this application are, to the best of my knowledge, both true and correct. I understand that if I or the delegates of this organisation wilfully give any false information or conceal any material facts in completing this application form, or fail to notify the Social Welfare Department of any subsequent changes of the information provided in this application form, it will lead to our application for Public Subscription Permit being rejected, or issued Public Subscription Permit being revoked.

本人已詳細閱讀及明白“公開籌款許可證申請須知”。若獲發許可證，本人定會確保申請機構遵守所有相關的規定／安排和許可證的條件。

I have carefully read and understood the "Explanatory Notes on Application for Public Subscription Permit". I shall ensure that the applicant organisation will comply with all the requirements / arrangements and permit conditions stipulated therein should a Public Subscription Permit be granted.

機構主席／機構負責人簽署

Signature of Chairperson / Head of Organisation

簽署人姓名及職銜（正楷）

Name and Post Title (in BLOCK letters)

機構蓋章

Official Stamp of Organisation

日期

Date

F. 所須文件

Documents Required

遞交申請表時，請一併提交以下文件，並於空格內加上「✓」號以作註明。如未有遞交所需的文件，可能會導致申請不獲批准。此外，本署可因應個別情況要求貴機構提交其他補充資料或文件，以協助審批是次申請。

Please submit all the documents as listed below and tick the appropriate boxes when you make your application. Failure to submit the required documents may lead to the application being rejected. In addition, **your organisation may need to submit other additional information or documents as the case may require**, to facilitate the assessment of the current application.

- ☐ 貴機構目前有效的註冊證書副本一份。
A copy of the valid certificate of registration of your organisation.
- ☐ 貴機構最新的註冊地址證明副本一份。
A copy of the latest proof of registered address of your organisation.
- ☐ 貴機構章程細則或會章副本一份。
A copy of the Articles of Association or the Constitution of your organisation.
- ☐ 稅務局最近發出的有效證明信件副本一份，證明貴機構／受益機構是根據《稅務條例》第88條認可的慈善團體或公共信託機構。
A copy of a valid approval letter most recently issued by the Inland Revenue Department certifying that your organisation / beneficiary organisation(s) is / are approved charitable institution(s) or trust(s) of a public character under Section 88 of the Inland Revenue Ordinance.
- ☐ 貴機構及／或受益機構過往三年舉辦慈善活動的記錄，包括：
 - ☐ 年報、通訊及／或經機構主席／負責人核准的服務記錄（可填寫上載於社會福利署網頁的《慈善活動記錄表》）
 - ☐ 經審計的周年財務報表副本
〔註：獲批首次公開籌款許可證後的申請，貴機構只需提交相關的更新文件，作為機構過往三年的慈善活動記錄。〕Documents showing the track record of charitable activities held by your organisation / beneficiary organisation(s) in the past three years including:
 - ☐ annual reports, newsletters and/or reports of service record endorsed by the organisation chairman/head (you may fill in the **Charitable Service Record Form** which has been uploaded onto the website of the Social Welfare Department.)
 - ☐ copies of the audited annual financial statements.*[Note: For the application(s) subsequent to the first approved Public Subscription Permit, your organisation will only be required to submit updated copies of the relevant documents to support its three years' track record of charitable activities.]*
- ☐ 活動舉辦地點的管理機構所發出的批准通知書副本一份。
A copy of written approval from the management authority of the venue for fund-raising activities.
- ☐ 舉行活動的確切地點的樓面圖則副本一份。
A copy of floor plan indicating the specific location where the activity would take place.
- ☐ 受益機構發出的確認文件副本一份，以證明受益機構同意接受貴機構擬舉辦的活動所籌得的捐款（如適用）。
A copy of the confirmation document from the beneficiary organisation(s) giving consent to accept the donations collected from the proposed activity organised by your organisation, where applicable.
- ☐ 代理機構發出的確認信件副本一份，以證明該機構同意代收籌得的款項以捐贈予受益機構（如適用）。
A copy of the confirmation letter from the agent organisation as evidence of their agreement to collect the donated money for onward transmission to the beneficiary organisation(s), where applicable.

- 每項慈善義賣物品的相片(如適用),並按申請表格內填寫的相應編號以中文及英文註明物品名稱。相片應清晰顯示慈善義賣物品是否附有申請機構及／或受益機構的徽號或名稱。
- Photos of each charity sale item labeled in Chinese and English with reference to the corresponding serial number stated in the application form, where applicable. The photos should show clearly whether the charity sale item(s) bear the logo or name of your organisation and/or the beneficiary organisation(s).

二零一七年四月修訂
Revised in April 2017

公開籌款許可證申請須知

Explanatory Notes on Application for Public Subscription Permit

A. 申請手續

Application Procedures

- (1) 公開籌款許可證申請表格可於社會福利署網站 (<http://www.swd.gov.hk>) 下載。本申請表格亦可於香港灣仔皇后大道東248號陽光中心36樓3601至02室社會福利署獎券基金計劃組索取。

Application form for Public Subscription Permit can be downloaded from the website of the Social Welfare Department at <http://www.swd.gov.hk>. It is also obtainable from the Lotteries Fund Projects Section of the Social Welfare Department at **Rooms 3601-02, 36/F, Sunlight Tower, 248 Queen's Road East, Wan Chai, Hong Kong**.

- (2) 申請機構須在擬舉行的活動開始前最少四個星期(但不超過兩個月)，將已填妥的申請表格正本，連同一切所須文件，按上述地址交回社會福利署獎券基金計劃組〔經辦人：二級行政主任（慈善籌款監管）〕。（註：如透過電郵遞交申請表格，則須透過電子證書經數碼簽署電郵至 afc@swd.gov.hk）申請機構一般會於本署收到申請表格起計的三個工作天內，收到本署以圖文傳真或電子郵件發出的確認通知。若申請機構屆時仍未收到確認通知，請致電 2832 4375 與慈善籌款監管小組聯絡。

The completed **original** application form together with all of the required documents should reach the Lotteries Fund Projects Section of the Social Welfare Department [Attn: Executive Officer II (Fund-raising Control)] at the above address **at least four weeks (but not more than two months)** before the commencement of the proposed activity. (Note: If the application form is submitted by email, it should be sent to afc@swd.gov.hk with digital signature supported by e-Certificate). Applicant would normally receive an acknowledgement from this Department by fax or email within three working days following receipt of the application. If the organisation does not receive the acknowledgement by then, please contact the Charitable Fund-raising Control Team on 2832 4375.

- (3) 社會福利署一般需要四個星期處理資料齊備的申請。申請機構如欲於活動前某指定日期獲通知申請結果，須在申請表格C部分列明理由，並在該指定日期前不少於四個星期將申請表格及所須文件送交本署。

The Social Welfare Department normally requires four weeks to process an application with all the requisite information. If the applicant organisation wishes to learn of the application result on a specified date before the activity, it should indicate this in Part C of the application form with justifications and forward the completed application form together with the required documents to the Department at least four weeks before the specified date.

- (4) 獲發許可證的機構必須在各獲准舉辦籌款活動地點的當眼處展示公開籌款許可證正本。在一般情況下，機構可於擬舉行的籌款活動日期前三個工作天到社會福利署獎券基金計劃組領取許可證。

The Permittee shall display the original copy of the Public Subscription Permit prominently at each of the approved locations of the fund-raising activities. Under normal circumstances, the Permittee can collect the Permit(s) from the Lotteries Fund Projects Section of the Social Welfare Department three working days before the commencement of the proposed fund-raising activities.

B. 審核申請資格的準則

Eligibility Criteria

申請機構必須符合下列準則，才可獲發准許在公眾地方進行慈善籌款活動的公開籌款許可證：

To be eligible for a Public Subscription Permit for organising charitable fund-raising activity(ies) in public places, the applicant organisation must satisfy the following criteria:

- (1) 擬舉辦之籌款活動是為慈善用途而在公眾地方進行的收取捐款的活動，或售賣或交換徽章、紀念品或類似物件而獲取捐款的活動。

The proposed fund-raising activities are for the collection of money or sale or exchange for donations of badges, tokens or similar articles in public places for charitable purposes.

- (2) 申請機構須在香港特別行政區根據《公司條例》（第 622 章）、《社團條例》（第 151 章）等條例作有效註冊，或為根據《稅務條例》（第 112 章）第 88 條獲豁免繳稅的屬公共性質的慈善機構或慈善信託。個別人士的申請將不獲考慮。

The applicant organisation must possess a valid registration in the Hong Kong Special Administrative Region under the Companies Ordinance (Cap. 622), the Societies Ordinance (Cap. 151), etc., or be a charitable institution or trust of a public character exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112). Any application made by an individual will not be considered.

- (3) 申請機構及／或受益機構(如適用)須由根據《稅務條例》（第112章）第88條獲豁免繳稅起至是次申請日期計，最少具備過往三年的慈善活動記錄。

The applicant organisation and/or the beneficiary organisation(s) (if applicable) must have at least three years' track record of charitable activities from its registration for tax exemption under Section 88 of the Inland Revenue Ordinance (Cap. 112) up to the date of this application.

- (4) 社會福利署署長必須滿意申請機構及／或受益機構(如適用)是合適團體舉辦擬議的籌款活動的，包括考慮機構的誠信、管理能力、舉辦慈善活動往績等。

The Director of Social Welfare must be satisfied that the applicant organisation and/or the beneficiary organisation(s) (if applicable) is/are suitable for organising the fund-raising activities under the application, taking into consideration the integrity, management capability, track record of the previous charitable activities, etc., of the organisation(s) concerned.

- (5) 申請機構已獲所擬舉辦慈善籌款活動的場地管理機構發出的批准通知書。

The applicant organisation has obtained written approval from the management authority of the venue for holding the proposed fund-raising activity.

- (6) 申請機構如在過去只曾獲發一個公開籌款許可證，須先按本須知C部分的條件(19)向社會福利署署長提交獲批准籌款活動的審計報告，否則機構其後的申請將不獲處理。

For an applicant organisation that has previously been granted only one Public Subscription Permit, any subsequent application(s) will not be processed until the audited report for the approved fund-raising activities has been submitted to the Director of Social Welfare in accordance with condition (19) in Part C of these Explanatory Notes.

- (7) 申請機構如在過去曾經違反任何公開籌款許可證（賣旗日或其他籌款活動）所列的條件，其日後申請許可證的審批或將受影響（例如申請將不獲接納或只能作分階段處理等）。

Previous non-compliance with the permit conditions of a Public Subscription Permit (for flag days or other fund-raising activities) may affect the assessment of the applicant organisation's subsequent applications (e.g. applications might be rejected or only processed in phases, etc.).

- (8) 申請機構須同意讓社會福利署職員探訪申請機構和其有關連的中心及舉辦的活動。

The applicant organisation must allow the staff of the Social Welfare Department to conduct on-site inspection of the organisation and its service unit(s) as well as the concerned activities.

C. 公開籌款許可證的條件

Conditions of Public Subscription Permit

根據香港法例第228章《簡易程序治罪條例》第4(17)(i)條發出的許可證有以下條件：

A Permit under Section 4(17)(i) of the Summary Offences Ordinance, Cap. 228 is issued on the following conditions:

- (1) 獲發許可證的機構須遵守並確保所有員工及籌款人員均遵守許可證所載列的規定。
The Permittee must comply with and ensure that all staff and fund-raisers comply with the conditions stipulated in the Permit.
- (2) 許可證不得轉讓。
The Permit is not transferable.
- (3) 許可證不得由獲發許可證機構的員工及籌款人員以外的人士持有。
The Permit must not be possessed by persons other than the staff and fund-raisers of the Permittee.
- (4) 獲批准籌款活動只可在許可證指定的日期、時間、地點以及收集款項的方法舉行。
The fund-raising activity permitted can only be held at the date(s), time(s) and location(s) and by the method(s) of money collection as specified in the Permit.
- (5) 所有捐款必須純粹出於自願；不得強迫任何人捐款、收集捐款，或以任何其他方式捐助。
All donations must be purely voluntary and no person shall be forced to donate, collect donation or contribute in any other way.
- (6) 除指定的捐款受益機構外，其他人士不得從籌得的捐款中獲取利益。
No person shall benefit from the proceeds of the fund-raising activities except the designated beneficiary organisation(s).
- (7) 獲發許可證的機構須採取足夠的保安措施，妥善保管所籌得的款項。獲發許可證的機構亦須確保所有捐款收集箱均屬堅固密封，以防止捐款被竊。
The Permittee must take sufficient security measures for the safekeeping of the funds raised and ensure that all the donation boxes are secure and properly sealed to prevent pilfering.
- (8) 獲發許可證的機構須確保為已獲准舉辦的籌款活動安排足夠宣傳，在獲批准舉辦籌款活動地點的當眼處擺放其本身和受益機構（如適用）的服務資料及是次籌款活動的詳情，並以清晰易讀的字體（字體應不小於 36 點）展示相關籌款活動目的。
The Permittee must ensure that there is sufficient publicity for the approved fund-raising activities. Service information of the Permittee and the beneficiary organisation(s) (if applicable), as well as details of the fund-raising activities, must be displayed prominently at the approved locations of the fund-raising activities, whilst the purpose of the fund-raising activities concerned must be shown in a readily legible typeface (with font size not smaller than 36-point).
- (9) 除了不涉及籌款人員募捐的籌款活動地點外，獲發許可證的機構須在獲批准舉辦籌款活動地點的當眼處展示許可證正本，以便讓市民得知有關籌款活動已獲社會福利署署長簽發許可證。以流動方式募捐的籌款人員不得向市民出示許可證（附錄除外）的影印本。
Except for those approved locations without the attendance of the fund-raisers, the Permittee must display the original copy of the Permit prominently at the approved locations of the fund-raising activities so as to inform the public that a Permit for such activities has been issued by the Director of Social Welfare. Presentation of the photocopy of the Permit (except the appendices) to the public by the fund-raisers engaging in moving-around solicitation is prohibited.

- (10) 如獲發許可證的機構獲准在公共街道上進行籌款活動，機構於每個獲批准的地點最多可安排不超過八位員工或籌款人員（包括於固定攤位駐守及以流動方式募捐的人員）。至於在公共街道以外的公眾地方（例如港鐵站、體育場、文娛中心、公共屋邨等）進行籌款活動，機構須按有關場地管理機構的規定，安排籌款人員的數目。

If the Permittee is allowed to conduct fund-raising activities on public streets, it may deploy no more than eight staff members or fund-raisers (including those in the stationed counter and those moving around for solicitation) at each approved location. For fund-raising activities to be conducted in public places other than public streets (e.g. MTR stations, stadia, civic centres, public housing estates, etc.), the Permittee may deploy the number of fund-raisers as stipulated by the management authority of the venues concerned.

- (11) 獲發許可證的機構須確保籌款人員佩帶符合社會福利署指定樣式的籌款人員證。籌款人員證上須印有適用的許可證編號和有效期、獲發許可證的機構名稱、徽號（如適用）、機構聯絡人及電話號碼。上述資料不能塗改及手寫。此外，獲發許可證的機構亦須確保每一個捐款收集箱及／或其他捐款收集工具的當眼處均貼有符合社會福利署指定樣式的標籤，標籤上須印有適用的許可證編號和有效期。

The Permittee must ensure that its fund-raisers wear identification badges in the format specified by the Social Welfare Department. The corresponding Permit number and its validity period, as well as the name, logo (if applicable), contact person and telephone number of the Permittee must be printed on the identification badges. The above-mentioned information shall not have been altered or handwritten. Besides, the Permittee must ensure that a tag in the format specified by the Social Welfare Department is prominently affixed on each of the donation boxes and/or other donation collection tools. The corresponding Permit number and its validity period must be printed on the tag.

- (12) 獲發許可證的機構在安排員工或籌款人員進行籌募活動時，須考慮各種因素，包括員工或籌款人員的年齡、身體需要和健康狀況（例如部分兒童、長者或行動不便的人士或不宜長時間站立），以及籌款活動當日的天氣情況等，以就他們的個別狀況提供適當及足夠的照顧。

In deploying staff or fund-raisers to conduct solicitation, the Permittee must take into consideration various factors, such as age, physical needs and health conditions of the staff or fund-raisers (e.g. standing for an extended period of time may not be suitable for some children, elderly persons or mobility-handicapped persons), as well as the weather condition on the fund-raising days, etc., so as to provide them with proper and adequate care based on their individual conditions.

- (13) 除非有家長或監護人陪同，否則十四歲以下的兒童不得參與擬舉辦的籌款活動〔監護人指根據《未成年人士監護條例》（第13章）或其他法定條款委任的監護人〕。

Unless accompanied by their parents or guardians, no children under 14 years of age shall be permitted to participate in the proposed fund-raising activities [Guardian refers to a guardian appointed under the Guardianship of Minors Ordinance (Cap. 13) or other statutory provisions].

- (14) 如獲發許可證的機構獲准在公共街道上攜帶捐款收集箱／袋以流動方式募捐，機構只可於許可證指定地點設置捐款收集箱的固定攤位周邊起計的十米範圍內（一輛巴士的長度約十至十二米）募捐。如該十米範圍內有某些地方不屬於地政總署的管轄範圍，機構只可於地政總署所管轄的範圍內進行籌款。至於在公共街道以外的公眾地方（例如港鐵站、體育場、文娛中心、公共屋邨等）進行籌款活動，機構須獲有關場地管理機構明確批准，才可於該場地管理機構的指定範圍內以流動方式募捐。

If the Permittee is allowed to solicit donations with donation boxes/bags by moving around on public streets, the solicitations must only be conducted within ten metres (the length of a bus is about ten to twelve metres) from the rim of the stationed counter where the donation boxes are placed, as specified in the Permit. If part of the ten-metre area is beyond the purview of the Lands Department, the Permittee must only conduct fund-raising solicitations within the boundary under the purview of the Lands Department. For fund-raising activities conducted in public places other than public streets (e.g. MTR stations, stadia, civic centres, public housing estates, etc.), the Permittee may conduct moving-around solicitation within the boundary designated by the management authority of the venue only upon specific approval being granted.

- (15) 籌款人員不得在公眾地方阻礙他人或造成滋擾／阻塞，包括但不限於接近各公共交通的出入口（例如渡輪碼頭、港鐵站、山頂纜車站及機場客運大樓等）。如有市民投訴籌款活動造成滋擾或帶來不便，籌款機構應遵照現場警方人員或場地的管理機構所發出的指示。

Fund-raisers must not cause nuisance or obstruction in public places, including but not limited to areas near the entrances/exits of public transport (e.g. ferry piers, MTR stations, Peak Tram stations, Airport Passenger Terminal Building, etc.). If any complaint is received from the public about nuisance or inconvenience caused by the fund-raising activities, the organisers should follow the instructions given by police officers or the venue management authorities at the site.

- (16) 籌得的款項必須用於許可證註明的籌款目的。獲發許可證的機構須在提交社會福利署的審計報告內述明所籌得款項的用途及是次籌款活動的收入及支出。

The funds raised must be used for purposes specified in the Permit. The Permittee must state the purposes of fund-raising as well as the income and expenditure of the fund-raising activities in the audited report submitted to the Social Welfare Department.

- (17) 獲發許可證的機構必須在許可證所批准的最後一個活動日期起計九十日內，把扣除任何開支後所得的捐款餘額用於許可證註明的目的或存入有關的銀行帳戶。

Within 90 days of the last event day approved in the Permit, the Permittee must cause the balance of the donations after deducting any expenses incurred to be used for the purposes as specified in the Permit or be credited to the bank account concerned.

- (18) 獲發許可證的機構須對許可證所批准的籌款活動籌得的款項及支出負責，並必須編製一份收支結算表，包括所有公開籌款的收入及每項與籌款活動有關的支出細項（例如審計、運輸、印刷及文具費用等），並交由會計師或會計師事務所或執業法團審計（收支結算表的樣本已上載於社會福利署網頁）。有關的會計師或會計師事務所或執業法團須屬香港會計師公會註冊主任按《專業會計師條例》（第50章）第32(1)條的規定，在香港特別行政區政府憲報公布的持有執業證書的會計師或根據《專業會計師條例》註冊的事務所或執業法團。

The Permittee shall be held accountable for the funds raised and disbursements made in relation to the fund-raising activities approved in the Permit. The Permittee is required to prepare an income and expenditure account, including all the income from public donation and a detailed breakdown of each disbursement item (e.g. expenses in auditing, transportation, printing and stationery, etc.) related to the fund-raising activities covered by the Permit (a sample of the income and expenditure account has been uploaded onto the website of the Social Welfare Department) for audit by an accountant or an accounting firm or a corporate practice being a certified public accountant holding a practising certificate or a firm or a corporate practice registered under the Professional Accountants Ordinance as published in the Gazette of HKSAR Government by the Registrar of the Hong Kong Institute of Certified Public Accountants under Section 32(1) of the Professional Accountants Ordinance, Cap. 50.

- (19) 獲發許可證的機構須在許可證所批准的最後一個活動日期起計九十日內，將審計報告的正本遞交社會福利署署長。執業會計師根據香港會計師公會於二零一五年十二月十八日修訂的實務說明第850號「有關獲發社會福利署公開籌款許可證的賣旗日和一般慈善籌款活動之報告」擬備的報告，可獲社會福利署接納為遵照相關許可證條件提交的報告。

An original of the audited report thereon must be submitted to the Director of Social Welfare within 90 days of the last event day approved in the Permit. The report prepared by a certified public accountant in accordance with the Practice Note 850 “Reporting on Flag Days and General Charitable Fund-raising Activities Covered by Public Subscription Permits issued by the Social Welfare Department” revised by the Hong Kong Institute of Certified Public Accountants on 18 December 2015 is deemed acceptable for compliance of the relevant permit conditions by the Social Welfare Department.

- (20) 若籌得的款項捐贈予任何機構作慈善用途，則獲發許可證的機構須在許可證所批准的最後一個活動日期起計九十日內提交該接收款項機構發出的收據副本一份。

If the funds raised are donated to any organisation or institution for charitable purposes, the Permittee is required to submit a copy of the receipt from the organisation or institution within 90 days of the last event day approved in the Permit.

- (21) 若籌得的款項會在本港使用，獲發許可證的機構須在許可證所批准的最後一個活動日期起計九十日內，選擇在以下其中一種途徑刊載審計報告：

- (i) 機構的網頁，網頁須容許公眾人士隨意閱覽；
- (ii) 機構的年報；

(iii) 機構的通訊；或

(iv) 機構發給會員的特別通告。

採用途徑(i)的機構須在許可證所批准的最後一個活動日期起計九十日內，向社會福利署署長遞交其網址（連同網頁的螢幕截圖）及從網上下載的審計報告副本，並在其網頁連續刊載審計報告最少六個月及保存該審計報告的副本供公眾人士查閱。採用途徑(ii)、(iii)或(iv)的機構，亦須在許可證所批准的最後一個活動日期起計九十日內，向社會福利署署長遞交一份有關刊物以供存案，並按公眾人士的要求向其提供有關刊物。

If the funds raised are to be spent in Hong Kong, the Permittee must publish the audited report by one of the following means within 90 days of the last event day approved in the Permit:

- (i) on the Permittee's website which must be readily accessible to the public;
- (ii) in the Permittee's Annual Report;
- (iii) in the Permittee's newsletter; or
- (iv) in the Permittee's special circular to its members.

For option (i), the Permittee must submit the link (with print-screen image of the website) and a downloaded copy of the audited report to the Director of Social Welfare within 90 days of the last event day approved in the Permit, publish the audited report on its website for at least six months continuously and retain copies of the report for public inspection. For options (ii), (iii) or (iv), the Permittee must forward a copy of the publication to the Director of Social Welfare for retention within 90 days of the last event day approved in the Permit and make the publication available to the public upon request.

- (22) 若籌得的款項會在本港以外地方使用，獲發許可證的機構須在許可證所批准的最後一個活動日期起計九十日內，將審計報告(i)以中文刊登在本港至少一份中文報章及以英文刊登在本港至少一份英文報章內，並同時把該剪報遞交社會福利署署長；或(ii)在其網頁連續刊載最少六個月（中文網頁上載中文審計報告及英文網頁上載英文審計報告），網頁須容許公眾人士隨意閱覽。機構須向社會福利署署長遞交其網址（連同網頁的螢幕截圖）及從網上下載的審計報告副本，並保存該審計報告的副本供公眾人士查閱。

如相關籌款活動的總收入不超過港幣伍萬圓，獲發許可證的機構則可選擇於所批准的最後一個活動日期起計九十日內在機構的年報、通訊或發給會員的特別通告刊載中、英文審計報告，並向社會福利署署長遞交一份有關刊物以供存案，並按公眾人士的要求向其提供有關刊物。

If the funds raised are to be spent outside Hong Kong, the Permittee must, within 90 days of the last event day approved in the Permit, (i) publish the audited report in Chinese in at least one local Chinese-language newspaper and one in English in at least one local English-language newspaper, and forward the copies of the said newspaper cuttings to the Director of Social Welfare at the same time; or (ii) publish the audited reports on the Permittee's website which must be readily accessible to the public for at least six months continuously (Chinese website for the audited report in Chinese whereas English website for the audited report in English). The Permittee must submit the links (with print-screen image of the websites) and a downloaded copy of the audited report to the Director of Social Welfare for retention and retain copies of the report for public.

For fund-raising activities a gross income not exceeding HK\$50,000, the Permittee may opt to publish the audited report in Chinese and English in the Permittee's Annual Report, newsletter or special circular to its members, forward a copy of the publication to the Director of Social Welfare for retention within 90 days of the last event day approved in the Permit and make the publication available to the public upon request.

- (23) 獲批准籌款活動的捐款淨收入及善款用途，必須按各個別許可證編號，獨立載列（例如：以註腳方式顯示）於獲發許可證機構相關年度經審計的周年財務報表內。經審計的周年財務報表的副本須提交社會福利署作紀錄。

The net proceeds from the fund-raising activities approved in the Permit(s) and the usage of funds must be listed separately (e.g. in the form of footnotes), by respective Permit Number(s), in the audited annual financial statements (AFS) of the Permittee for the year concerned. A copy of the audited AFS must be submitted to the Social Welfare Department for record purpose.

D. 其他須遵守事項

Other Points to Observe

申請機構／獲發公開籌款許可證的機構除必須遵守許可證條件外，亦須按照個別情況遵守下列各項：
Apart from complying with the conditions specified in the Permit, the applicant organisation/Permittee must also observe the following points where appropriate:

- (1) 在任何情況下，許可證並未免除貴機構須遵從擬舉辦的籌款活動的任何法定要求／其他規定的責任，亦不會影響或修改貴機構與其他有關當局所協議的任何規定，例如貴機構必須取得有關場地的管理機構或地政總署的批准（視乎何者適用）。若貴機構仍未取得有關批准，請立即提出申請。若有獎券籌款活動與許可證所批准的籌款活動同時進行，貴機構須向民政事務總署牌照事務處申請牌照。若有其他綜合表演或娛樂節目形式的籌款活動在公眾地方舉行，也必須向食物環境衛生署申領公眾娛樂牌照。若於公眾地方舉行慈善義賣，亦可能須向食物環境衛生署申領臨時小販牌照。

Under no circumstances will the Permit release your organisation from compliance with any statutory/other requirements of the proposed fund-raising activities or affect or modify any requirements under agreements your organisation may have already entered with other authorities. For example, your organisation must obtain an approval from the relevant management authority of the venue or from the Lands Department as appropriate. If such approval has not yet been obtained, please make an application immediately. If a fund-raising lottery is organised at the same time with the fund-raising activities approved under the Permit, a licence from the Office of the Licensing Authority of the Home Affairs Department is required. If there are other fund-raising activities to be organised in the form of variety shows or entertainment in public places, a Places of Public Entertainment Licence is also required from the Food and Environmental Hygiene Department. A Temporary Hawker Licence may also be required from the Food and Environmental Hygiene Department for any charity sale in public places.

- (2) 貴機構應就籌款活動的安排為員工及籌款人員制定清晰指引。若懷疑出現詐騙行為，貴機構應立即聯絡警方。

Your organisation should prepare clear guidelines in respect of the arrangements for fund-raising activities for the staff and fund-raisers. Any suspected fraudulent activity should be reported to the Police immediately.

- (3) 為提高機構財務狀況的透明度，貴機構應將經審計的周年財務報表上載至機構網頁，或透過其他途徑（如機構刊物）公布，以便公眾人士查閱。

To enhance the transparency of the organisation's financial situation, your organisation should publish the audited AFS on the organisation's website or through other channels (e.g. publications of the organisation) for public inspection.

- (4) 如貴機構在舉辦已獲公開籌款許可證批准的籌款活動期間，出現嚴重違反許可證條件的情況，又或社會福利署署長不再信納貴機構適合舉辦籌款活動，社會福利署保留撤銷已發出許可證的權利。

The Social Welfare Department reserves the right to revoke the Public Subscription Permit issued in the event of serious breach of permit conditions by your organisation during the course of the fund-raising activities approved in the Public Subscription Permit, or in the event that the Director of Social Welfare could no longer be satisfied that your organisation is suited to organise the fund-raising activity.

- (5) 如貴機構向捐款者派發紀念品，則應避免使用標籤／貼紙／小旗等，以免公眾人士誤會該籌款活動為賣旗活動。

If your organisation is distributing souvenirs to donors, the use of such items as labels/stickers/small flags, which may result in the fund-raising activities being mistaken for flag selling activities by the public, should be avoided.

- (6) 獲發公開籌款許可證於公眾地方進行慈善籌款活動的活動資料，將上載於香港政府一站通網頁 (<http://www.gov.hk/fundraising>) 及資料一線通網頁 (<http://data.gov.hk/>)。

The information about charitable fund-raising activities in public places granted with Public Subscription

Permits will be uploaded onto the GovHK website (<http://www.gov.hk/fundraising>) and DATA.GOV.HK website (<http://data.gov.hk/>).

- (7) 社會福利署已公布《慈善籌款活動內部財務監管指引說明》及《慈善籌款活動最佳安排參考指引》，以供慈善機構參考和自願遵守。慈善機構可於本署網頁瀏覽或下載這兩份文件：http://www.swd.gov.hk/tc/index/site_pubsvc/page_controlofc/。廉政公署已印製「慈善機構及籌款活動管理」防貪錦囊，以供慈善機構參考。慈善機構可於廉政公署網頁瀏覽或下載這份文件：http://www.icac.org.hk/filemanager/tc/Content_1031/fund_raising.pdf。

The Social Welfare Department has promulgated the “Guidance Note on Internal Financial Controls for Charitable Fund-raising Activities” and the “Reference Guide on Best Practices for Charitable Fund-raising Activities” for the reference and voluntary compliance by the charitable institutions. They may browse or download these documents at the SWD website: http://www.swd.gov.hk/en/index/site_pubsvc/page_controlofc/. The Independent Commission Against Corruption (ICAC) has published the “Best Practice Checklist – Management of Charities and Fund-raising Activities” for reference by charitable institutions. They may browse or download the document at the ICAC website: http://www.icac.org.hk/filemanager/tc/Content_1031/fund_raising.pdf.

E. 查詢

Enquiries

有關公開籌款許可證申請的查詢，可致電2832 4311或2832 4333與慈善籌款監管小組聯絡。

Enquiries relating to applications for Public Subscription Permits may be directed to the Charitable Fund-raising Control Team on 2832 4311 or 2832 4333.

F. 收集個人資料之前致資料當事人的通知書

Notice to Data Subject Before Collection of Personal Data

向社會福利署提供個人資料之前，請先細閱本通知書。

Please read this notice before you provide any personal data to the Social Welfare Department.

收集資料的目的

Purposes of Collection

社會福利署（社署）會使用你所提供的個人資料，向你提供你所需要的適當援助或服務，包括但不限於監察及檢討各項服務、進行研究及調查，以及履行法定職責。向社署提供個人資料，純屬自願。如你未能提供足夠的個人資料，本署可能無法處理你的申請或向你提供援助／服務。

The personal data supplied by you will be used by the Social Welfare Department (SWD) to provide appropriate assistance or service which is relevant to your needs, including but not limited to monitoring and review of services and conducting of research and surveys, and for discharging statutory duties. The provision of personal data to SWD is voluntary. If you do not provide sufficient personal data, we may not be able to process your application or provide assistance/service to you.

可能經由社署轉介資料的人士的類別

Classes of Transferees

你所提供的個人資料，會供本署在工作上需要知道該等資料的職員使用。除此之外，本署職員在需要時亦只會向下列有關方面或在下列情況披露該等資料：

- (1) 其他涉及評定你的申請，或向你提供服務／援助的有關方面，例如政府決策局／部門、非政府機構及公用事業公司；或
- (2) 由法律授權或法律規定須向其披露資料的有關方面；或
- (3) 你曾同意向其披露資料的有關方面。

The personal data you provide will be made available to persons working in the Department on a need-to-know basis. Apart from this, they may only be disclosed to the relevant parties or in the circumstances listed below:

- (1) Other parties such as government bureaux/departments, non-governmental organisations and public utility companies if they are involved in the assessment of application from or provision of service/assistance to you;
- (2) Where such disclosure is authorised or required by law; or
- (3) Where you have given consent to such disclosure.

查閱個人資料

Access to Personal Data

除了《個人資料（私隱）條例》規定的豁免範圍之外，你有權就社署備存有關你的個人資料提出查閱及改正要求。不過，在一般情況下，如收集資料的目的已經完成，本署會刪除有關的個人資料。在條例內訂下的查閱權利是指在繳付所需費用後，取得你的個人資料的複本一份。查閱資料要求須以申請表格或書信提

出。你可到社署各辦事處／中心索取查閱資料申請表格。

Except where there is an exemption provided under the Personal Data (Privacy) Ordinance, you have a right of access to and correction of personal data held on you when the data have not been erased. However, data will usually be erased after fulfilling the purposes of collection. Your right of access under the Ordinance means the right to obtain a copy of your personal data subject to payment of a fee. Applications for access to data should be made either on application form or by a letter. Application forms for access to data are available at offices/centres of SWD.

對你申請的服務的查詢、查閱及改正個人資料的要求

Enquiries, Access to and Correction of Personal Data

請確保你向社署提供的資料正確無誤。如你對所提交的援助／服務申請有任何查詢，或對所提供的資料有任何更改，亦請聯絡向你收集資料的辦事處。

Please ensure that the data you provide to SWD are accurate. If you have enquiries concerning your application for assistance/service or if there are changes in the data you provide, please contact the office which collected the data from you.

如果你希望查閱你的個人資料，以及在查閱個人資料後要求改正所得的資料，請向下列人士提出：

Requests for access to personal data or for correction of data thus obtained should be addressed to –

社會福利署署長

〔經辦人：行政主任（慈善籌款監管）〕

辦事處地址：香港灣仔皇后大道東248號
陽光中心36樓3601至02室

電話號碼：2832 4311

（辦公時間：星期一至星期五
上午八時四十五分至下午一時及
下午二時至六時）

傳真號碼：2838 0441

電郵地址：eoifc@swd.gov.hk

Director of Social Welfare

[Attn: Executive Officer (Fund-raising Control)]

Office Address：Rooms 3601-02, 36/F, Sunlight Tower,
248 Queen's Road East, Wanchai,
Hong Kong

Tel. No.：2832 4311

(Office hours: 8:45 a.m. to 1:00 p.m.
and 2:00 p.m. to 6:00 p.m., Monday to
Friday)

Fax No.：2838 0441

Email Address：eoifc@swd.gov.hk

二零一七年四月修訂

Revised in April 2017

社署指定樣式的籌款人員證 / Fund-raiser identification badges in the format specified by SWD

[獲發許可證機構須在此位置印上
其中、英文名稱及徽號(如適用)]
[The name (in bilingual) and logo (if applicable) of the
Permittee should be printed on this part of the badge]

電話 Telephone No.: _____
負責人名稱: _____
Name of Person-in-charge: _____

籌款人員證
FUND-RAISER BADGE

公開籌款許可證編號
PUBLIC SUBSCRIPTION PERMIT NO.
2017/ /1

獲社會福利署批准
Approved by the Social Welfare Department

有效期由 DD-MM-YYYY 至 DD-MM-YYYY
Valid from _____ to _____



GovHK 香港政府一站通
獲批准的籌款活動搜尋網頁
Finder for Approved
Fund-raising Activities
(<http://www.gov.hk/fundraising/>)

社署指定樣式的捐款收集工具標籤/ Tags for donation collection tools in the format specified by SWD

公開籌款許可證編號
PUBLIC SUBSCRIPTION PERMIT NO.
2017/ /1

獲社會福利署批准
Approved by the Social Welfare Department

有效期由 DD-MM-YYYY 至 DD-MM-YYYY
Valid from _____ to _____



GovHK 香港政府一站通
獲批准的籌款活動搜尋網頁
Finder for Approved
Fund-raising Activities
(<http://www.gov.hk/fundraising/>)



Statement of Income and Expenditure of the Fund-raising
Activities held during for the period from [REDACTED], 2017
to [REDACTED], 2017

TO THE EXECUTIVE COMMITTEE OF

(Public Subscription Permit No.: 2017/ /1)

Responsibilities of the Executive Committee of the Permittee

Our Independence and Quality Control

The firm applies Hong Kong Standard on Quality Control 1 and accordingly maintains a comprehensive system of quality control including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

INDEPENDENT PRACTITIONER'S ASSURANCE REPORT

TO THE EXECUTIVE COMMITTEE OF

[REDACTED] ("the Permittee") -

continued

[REDACTED]
(Public Subscription Permit No.: 2017/[REDACTED]/1)

Practitioner's Responsibilities

Our responsibility is to form a conclusion on the attached income and expenditure account, based on our engagement, and to report our conclusion to you.

We conducted our engagement in accordance with Hong Kong Standard on Assurance Engagements 3000 (Revised), Assurance Engagements Other Than Audits or Reviews of Historical Financial Information and with reference to Practice Note 850 "Reporting on Flag days and General Charitable Fund-raising Activities Covered by Public Subscription Permits issued by the Social Welfare Department" issued by the HKICPA. We have planned and performed our work to obtain limited assurance for giving our conclusion below.

The work undertaken in connection with this engagement is less in scope than an audit conducted in accordance with Hong Kong Standards on Auditing and consequently does not enable us to obtain assurance that we would become aware of all significant matters that might be identified in an audit. Accordingly, we do not express an audit opinion.

Our engagement included carrying out limited procedures for obtaining sufficient appropriate evidence to be able to draw a conclusion, such as inquiries primarily of persons responsible for financial and accounting matters and other procedures we considered necessary. The procedures performed in a limited assurance engagement vary in nature and timing from, and are less in extent than for, a reasonable assurance engagement. Consequently, the level of assurance obtained in a limited assurance engagement is substantially lower than the assurance that would have been obtained had a reasonable assurance engagement been performed.

Inherent Limitations

Due to the nature of cash receipts and expenses relating to the Event, it was not practicable for us to determine whether the income and expenditure account and the books and records of the Permittee include all transactions relating to the Event. It was impracticable for us to quantify the potential impact of this on the income and expenditure account. Accordingly, our report relates solely to the income and expenditure account prepared from transactions that have been recorded in the Permittee's books and records.

Conclusion

Based on the foregoing, we report that nothing has come to our attention that causes us to believe that the attached income and expenditure account does not reflect, in all material respects, the gross subscriptions raised and the expenses incurred by the Permittee in respect of the Event that have been recorded in its books and records made available to us in accordance with the basis of preparation set out in note 2.

INDEPENDENT PRACTITIONER'S ASSURANCE REPORT

TO THE EXECUTIVE COMMITTEE OF

[REDACTED] ("the Permittee") -
continued

[REDACTED]
(Public Subscription Permit No.: 2017/[REDACTED]/1)

Intended Users and Purpose

This report is intended solely for the purpose of assisting the Permittee to satisfy the conditions stated in the Public Subscription Permit issued by SWD in connection with the Event and is not intended to be, and should not be, used for any other purpose. We agree that a copy of this report may be provided to the Director of Social Welfare without further comment from us.

Deloitte Touche Tohmatsu

Deloitte Touche Tohmatsu
Certified Public Accountants
Hong Kong
[REDACTED], 2017

STATEMENT OF INCOME AND EXPENDITURE

HELD DURING THE PERIOD FROM [REDACTED], 2017 TO [REDACTED], 2017

Permit No.
2017/[REDACTED]/1
HK\$

INCOME

Donation received	34,243
-------------------	--------

EXPENDITURE

Catering for volunteers	894
License	700
Miscellaneous	757
Transportation	320

2,671

SURPLUS

31,572

The statement of income and expenditure was approved and authorised by the Board of Directors on [REDACTED], 2017 and are signed on its behalf by:

[REDACTED]
Chairman,
Executive Committee

[REDACTED]
Honorary Treasurer,
Executive Committee

NOTES TO THE STATEMENT OF INCOME AND EXPENDITURE

HELD DURING THE PERIOD FROM [REDACTED], 2017 TO [REDACTED], 2017

1. GENERAL

[REDACTED] (" [REDACTED] ") is incorporated in Hong Kong as a company limited by guarantee and not having a share capital. It is a charitable body engaged in [REDACTED] as well as [REDACTED] through its various service units.

The statement of income and expenditure is prepared solely for the purpose of satisfying the conditions stated in the Public Subscription Permit issued by the Social Welfare Department of the Government of the Hong Kong Special Administrative Region ("SWD") for the fund-raising event.

2. SIGNIFICANT ACCOUNTING POLICIES

The statement of income and expenditure has been prepared in accordance with the following significant accounting policies which comply with Hong Kong Financial Reporting Standards issued by the Hong Kong Institute of Certified Public Accountants.

Income recognition

Income is recognised when the [REDACTED]'s right to receive payment has been established.

Expenditure recognition

Expenses are recognised using the accrual basis.

3. The fund-raising event was held during the period from [REDACTED], 2017 to [REDACTED], 2017 under the conditions stated in the Public Subscription Permit issued by the SWD.

The purpose of the fund-raising event was for raising funds for [REDACTED] scheme to support [REDACTED] in need.

民政事務總署
第四科
香港灣仔軒尼詩道一百三十號
修頓中心三十一樓



Home Affairs Department

Division IV
31st Floor, Southorn Centre,
130 Hennessy Road,
Wan Chai, Hong Kong.

本署檔號 Our Ref. HAD HQ CR/4-35/13(C)
來函檔號 Your Ref. CB4/PAC/R68
電話 Tel.: 2835 2223
傳真 Fax.: 2891 8288

25 May 2017

Mr Anthony CHU
Clerk, Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr Chu,

Public Accounts Committee
Chapter 2 of the Director of Audit's Report No. 68
Monitoring of charitable fund-raising activities

Thank you for your letters of 17 May 2017 and 18 May 2017. Our response is set out in the ensuing paragraphs.

Lottery licences are issued by the Home Affairs Department (HAD) under section 22 of the Gambling Ordinance (Cap. 148), the primary objective of which is to regulate gambling activities.

In respect of the recommendations in the 2013 Law Reform Commission Report on charities, we will work with relevant government departments on possible short-term measures under the coordination of the Home Affairs Bureau with a view to improving the monitoring of charitable fund-raising activities. We will join the inter-departmental meeting planned to be held in June/July 2017 to discuss in more detail the concrete plans to take forward the short-term measures, in particular possible measures of enhancing the provision of information on approved charitable fund-raising activities in the

one-stop finder service on fund-raising activities on the government portal “GovHK” mentioned in paragraph 2.17 of the Audit Report as well as measures proposed under paragraph 2.19(a) of the Audit report on (i) launching large-scale promotional programmes to enhance the awareness and recognition of the best practices for organising charitable fund-raising activities; (ii) stepping up promotion efforts to encourage more charitable organisations to adopt the best practices; (iii) incorporating more guidance on various fund-raising activities in the publication of best practices; and (iv) stepping up or renewing the publicity efforts to raise public awareness of the one-stop finder service. These proposed measures require the joint efforts of all relevant departments to work out common platforms, having regard to legislative and technical considerations, to facilitate the launching of promotional or publicity programmes.

To enhance the transparency and accountability of lottery activities for fund-raising, the names of organisers, dates and locations of lottery activities are promulgated in HAD’s departmental website and the government portal “GovHK”. In addition, the approved number of tickets to be sold and the ticket price are also promulgated in HAD’s website. We are working with the Office of the Government Chief Information Officer to upload the information on approved number of tickets and ticket price onto the “GovHK”. In parallel, we are also working with relevant departments on the feasibility of uploading the lottery accounts onto “GovHK”.

To raise public awareness of the best practices of charitable fund-raising activities and the one-stop finder service, we are working to provide relevant links and information in HAD’s “Reference Guide on Organisation of Lottery Activities” and distribute relevant information in the Office of the Licensing Authority.

As regards “administration costs/expenses” for a lottery event, it is stipulated in HAD’s Reference Guide that the costs/expenses refer to the basic administrative outgoings incurred in the conduct of the lottery, such as the purchase of prizes, costs of printing the lottery tickets, publishing the results of the draw in newspapers and audit fee, etc. As pointed out in paragraph 4.3 of Chapter 2 of the Audit Report, licensees are required to keep the administration costs of the lottery event as low as possible, which should not be more than 20% of the total proceeds received from the sale of lottery tickets.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'JC' with a large loop and a dot at the end.

(Josephine Cheung)
for Director of Home Affairs

c.c. Secretary for Home Affairs
Director of Social Welfare
Director of Food and Environmental Hygiene
Director of Lands
Secretary for Financial Services and Treasury
Director of Audit

Your Ref. : CB4/PAC/R68
Our Ref. : FEHD H&M-H 33-70/5/3C

26 May 2017

Mr Anthony CHU
Clerk to the Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr CHU,

**Public Accounts Committee
Consideration of Chapter 2 of the
Director of Audit's Report No.68
Monitoring of Charitable Fund-raising Activities**

Thank you for your letters dated 17 and 18 May 2017. Our reply is as follows.

Under the framework of the Public Health and Municipal Services Ordinance, the main purpose for the Food and Environmental Hygiene Department ("FEHD") to issue temporary hawkers licences ("THLs") is to regulate the sale of commodities in public places in a hygienic manner as well as to ensure that the hawking activities will not cause nuisances such as obstruction. The license conditions of THLs (Fund-raising Sale Activity) stipulate that the licence is issued to the licensee to raise funds through the on-street sale of commodities where a customer is paying the seller money in exchange for an actual commodity. We opine that such transactions should be distinguished from charitable fund-raising activities which do not involve any benefit in return. In fact, the THLs issued to charitable organisations in the past three years only accounted for about 30% to 40% of the total THLs issued by FEHD. The rest of the THLs, comprising over half of the total, were issued to non-tax-exempted non-profit-making institutions or organisations for raising funds for non-charitable purposes through the on-street sale of commodities at a specific location and time.

Nonetheless, we acknowledge the public's views for better transparency and accountability for fund-raising activities for charitable purpose, including those involving on-street sale of commodities. In this connection, we introduced new administrative measures in 2012 (see paragraph 5.5 of the Audit Report for details). Since the Law Reform Commission ("LRC") published its report in December 2013, FEHD has been participating in the inter-departmental meetings coordinated by the Home Affairs Bureau ("HAB") and working with the other departments which also issue licences/permits to charitable fund-raising activities (i.e. the Home Affairs Department and the Social Welfare Department ("SWD")) to explore the feasibility of formulating short-term administrative measures with a view to enhancing the transparency and accountability of charitable fund-raising activities. In addition, the inter-departmental meetings also study the applicability of the Reference Guide on Best Practices for Charitable Fund-raising Activities ("the Reference Guide") promulgated by SWD to different fund-raising activities. We will continue to participate in the related discussion. In light of the recommendations of LRC and those in the Audit Report, we will consider further enhancing, as far as practicable and legally viable, the transparency and accountability of issuing THLs to charitable organisations. In considering the recommendations, we will make reference to the best practices specified in the Reference Guide promulgated by SWD while having due regard to factors such as the nature, scale and duration of the fund-raising activities, proportionality of the requirements, and cost of compliance, etc. In this connection, we plan to, from December this year, impose a new licencing condition which require licensees to display notices/ banners to state the purpose of fund-raising, and to implement an administrative measure which requires the applicants concerned to provide secure and sealed boxes for collecting and safekeeping of the funds raised from the sale activity properly.

Regarding paragraphs 2.19 (a)(i), (ii) and (iv) and 2.22 of the Audit Report, on promoting the best practices for charitable fund-raising activities as well as the one-stop finder service on charitable fund-raising activities ("one-stop finder") on the government portal "GovHK", FEHD will continue to participate in the inter-departmental discussion coordinated by HAB on issues relating to on-street hawking activities, and will complement and assist with the promotion and publicity

work of the webpage. At the same time, we are considering to revise the application form and notice to applicants (including the online version) regarding THLs (Fund-raising Sale Activity) this year to make it clear to applicants that in order to organise on-street fund-raising activities through the sale of commodities, applicants should, apart from applying for a THL, make reference to the relevant guidance under the Reference Guide and ensure that the requirements imposed under the legislation administered by other government departments in relation to the activity concerned are observed.

As regards the recommendation (in paragraph 2.17 of the Audit Report) of incorporating financial information submitted by the holders or licensees of public subscription permits, lottery licences or THLs in the one-stop finder, measures to safeguard the right to know of the public are being explored at the inter-departmental meetings coordinated by HAB, with due regard to the administrative considerations including resource deployment, the coordination of relevant licensing conditions and the potential legal implications of the disclosure of further information of charitable fund-raising activities.

For the recommendation in paragraph 2.19 (a)(iii) of the Audit Report, FEHD is unable to provide guidance on other forms of fund-raising activities as we only issue THLs to fund-raising activities which involve the on-street sale of commodities.

As regards the recommendation in paragraph 3.27 of the Audit Report, we stand ready to explore with SWD and the Lands Department means to enhance communication among departments and the feasibility of sharing of enforcement information and taking concerted actions on repeated “no-show” cases.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sian LI', written over a horizontal line.

(Sian LI)

for Director of Food and Environmental Hygiene

c.c. Secretary for Home Affairs
Director of Social Welfare
Director of Home Affairs
Director of Lands
Secretary for Financial Services and the Treasury
Director of Audi

本署檔號 OUR REF. : SWD 10/5003/74 VIII
來函檔號 YOUR REF. : CB4/PAC/R68
電 話 TEL NO. : 2832 4323
圖文傳真 FAXLINE : 2151 0573

16 June 2017

Mr Anthony CHU
Clerk
Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr CHU,

Public Accounts Committee

Consideration of Chapter 2 of the Director of Audit's Report No. 68

Monitoring of charitable fund-raising activities

Thank you for your letter of 9 June 2017. Our reply with regard to the issues covered in your letter on Chapter 2 of the Director of Audit's Report No. 68 is appended below –

(a) Progress of examining the feasibility of issuing more guidelines on the scope of Public Subscription Permit (PSP)

The Social Welfare Department (SWD) may, under the authority of Section 4(17)(i) of the Summary Offences Ordinance (Cap. 228), issue PSPs for flag days and general charitable fund-raising activities conducted in public places. All along, the SWD has listed out on its website some forms of general charitable fund-raising activities covered by PSP and examples for easy



reference by the public and charitable organisations which intend to organise charitable fund-raising activities. The link to the relevant part of the SWD's website is –

(http://www.swd.gov.hk/en/index/site_pubsvc/page_controlofc/sub_generalcha/)

Generally speaking, according to Section 4(17)(i) of Cap. 228, a PSP must be sought from the SWD for any charitable fund-raising activities involving the effecting of payment on-the-spot (e.g. collection of donations in cash) or sale or exchange for donations of badges, tokens or similar articles in a public place. The SWD shares the view of the Audit Commission (Audit) to issue more guidelines on the scope of the PSP. We have been actively studying this by taking into account the past experience so as to draw up a “general guidelines on the scope” of the PSP issued under Section 4(17)(i) of Cap. 228 to facilitate reference by applicants. We expect that a preliminary draft of the general guidelines would be available by the end of 2017, whereas the finalised version would be uploaded onto the SWD's website after advice from the Department of Justice (DoJ) has been sought.

(b) Progress of considering the publication of information on non-compliance with permit conditions on submission of audited reports

The SWD agrees with the recommendation of the Audit that consideration should be given to publicising the information about cases with serious or repeated non-compliance with PSP conditions.

The SWD has been studying the “publication mechanism” as recommended by the Audit. We shall consult the Lotteries Fund Advisory Committee on how to define serious/repeated non-compliance with PSP conditions, and seek legal advice from DoJ on the proposed “publication mechanism”. We plan to implement the recommended “publication mechanism” within the fourth quarter of 2017.

(c) Examining the existing accounting requirements

A meeting between the SWD and the Hong Kong Institute of Certified Public Accountants (HKICPA) was held in early June 2017, and the HKICPA acknowledged that the adoption of “accrual basis” principle, rather than “cash basis”, would better reflect the whole picture of the income and expenditure situation of the charitable fund-raising activity in question. As a matter of fact, the prevailing Practice Note (PN) 850 issued by HKICPA has mentioned that, in general, the income and expenditure account would be prepared on an “accrual basis”.



In addition, as stipulated in the conditions of PSP, a permittee must credit the balance of the donations after deducting any expenses incurred (i.e. the net proceeds) to the relevant bank account within 90 days of the last event day approved in the PSP. The “recommended procedures” in Appendix I of the PN850 also requires that a Certified Public Accountant engaged should check whether cash receipts are deposited in the permittee's own bank accounts within a reasonable time and included in the bank statements. The SWD will continue the discussion with the HKICPA, with a view to examining and revising the PN850 or relevant accounting requirements after consultations with the stakeholders (i.e. charitable organisations, practitioners in the accounting field, etc.).

(d) Strengthening the liaison with the Food and Environmental Hygiene Department (FEHD) and the Lands Department (LandsD) to tackle repeated “no-show” cases

The SWD agrees to the recommendation of the Audit to explore, in collaboration with the FEHD and the LandsD, the feasibility of sharing enforcement information on charitable fund-raising activities held in public places and taking concerted actions on repeated “no-show” cases without valid reasons. The Home Affairs Bureau plans to convene the third inter-departmental meeting in late June 2017 with a view to coordinating the views of relevant bureaux and departments for government’s overall consideration of its responses to the Law Reform Commission’s recommendations. Representatives from the SWD, the FEHD and the LandsD will attend and further deliberate the arrangement of sharing information on charitable fund-raising activities obtained from inspections.

Should you have any enquiries, please contact the undersigned.

Yours sincerely,

(Manfred WONG)

for Director of Social Welfare



c.c. Secretary for Labour and Welfare
Secretary for Home Affairs
Secretary for Financial Services and the Treasury
Director of Home Affairs
Director of Food and Environmental Hygiene
Director of Lands
Director of Audit

民政事務總署
第四科
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修頓中心三十一樓



Home Affairs Department

Division IV
31st Floor, Southorn Centre,
130 Hennessy Road,
Wan Chai, Hong Kong.

本署檔號 Our Ref. HAD HQ CR/4-35/13(C)
來函檔號 Your Ref. CB4/PAC/R68
電話 Tel.: 2835 2223
傳真 Fax.: 2891 8288

16 June 2017

Mr Anthony CHU
Clerk, Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Mr Chu,

Public Accounts Committee
Chapter 2 of the Director of Audit's Report No. 68
Monitoring of charitable fund-raising activities

Thank you for your letter of 9 June 2017. Our response is set out below.

-
- (a) In the “Reference Guide on Organisation of Lottery Activities” (“the Guide”) issued by our Department, apart from providing application forms, it also stipulates the licence conditions and application procedures in detail. A copy of the latest version of the Guide is enclosed. The application forms for lottery licence are contained in Appendix II of the Guide.
- (b) It is a condition of lottery licence that if the net proceeds of the lottery are used for meeting the operating expenses of the organisation, the licensee shall submit to the Office of the Licensing Authority (“OLA”) under our Department an audited annual financial statement of the organisation, received by a practice unit within the meaning of the Professional Accountants Ordinance (Cap. 50), which should show the income and expenditure of the lottery, and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event (may be shown in the form of “note to account” if appropriate). A sample “Note to Account” in the annual financial statement was added at Appendix VII of the latest

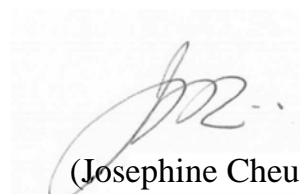
version of the Guide to provide guidance to licensees to facilitate their compliance with the condition that the use of net proceeds is accounted for in the financial statements.

- (c) In paragraph 4.11 of Chapter 2 of the Director of Audit's Report No. 68 ("the Audit Report"), it was found that in 6 cases, the submitted annual financial statements did not show separately the income and expenditure of the lottery events nor the use of net proceeds. It was mainly because some organisations grouped all the incomes received from various fund-raising events and all the event expenses into a single item, such as "donations received during the year" or "fund-raising expenses for the year", instead of showing separately the income and expenditure of the approved lottery events. Some annual financial statements did not show separately which item(s) of operating expenditure of the organisations were met by the net lottery proceeds. For these cases, we sought clarifications and explanations from the organisations and requested for supplementary information where necessary to facilitate the understanding of the income and expenditure of the lottery event and whereabouts of the net proceeds. As the organisations concerned had provided lottery accounts stating the income and expenditure of the activities in accordance with the licence condition, the information so provided helped clarify the relevant items in the annual financial statements. Based on the information provided by the organisations, we accepted that the net lottery proceeds had been used for the approved purpose(s). We had already reminded the organisations of the requirements to include the income and expenditure of the lottery event and the use of the net proceeds in annual financial statements if they were to organise lottery events again in future. Moreover, in the latest version of the Guide, a sample "Note to Account" was added at Appendix VII to provide guidance to licensees with a view to assisting them to clearly account for the income and expenditure of the lottery events and use of net proceeds in their annual financial statements.
- (d) As for paragraphs 4.14(a) to (d) of the Audit Report, some recommendations have been implemented as set out in the table below.

Audit Report	Follow-up Actions
<p>Para. 4.14(a)</p> <p>step up monitoring of licensees' compliance with the lottery licence conditions, including the timely submission of required documents upon completion of a lottery event, and consider taking suitable measures to deter</p>	<p>Implemented.</p> <p>We have already stepped up the monitoring of licensees' compliance with lottery licence conditions in submitting the required documents. We have also reviewed all cases with outstanding documents, issued reminders and taken follow-up actions. Apart from issuing warning letters for cases of repeated late submission of documents, we also discussed with the organisations to identify areas for</p>

Audit Report	Follow-up Actions
cases of repeated late submission of documents	<p>improvement. For serious cases or cases failing to make improvement, we will consider refusing application from the same organisation in future.</p> <p>In addition, Appendix II was added in the latest version of the Guide listing out the documents to be submitted upon completion of the lottery event and the corresponding due dates. Organisations applying for the first time will understand better the licence conditions. Organisations which have been granted with lottery licence before can also review and confirm to OLA whether all the required documents have already been submitted.</p>
<p>Para. 4.14(b)</p> <p>enhance the Licensing Information System to facilitate the monitoring of licensees' compliance with the lottery licence conditions</p>	<p>Follow up in progress.</p> <p>We are taking follow-up actions on the recommendation of upgrading the Licensing Information System. It is anticipated that actions can be completed within this year to enhance relevant system function for generating exception reports to facilitate the staff in OLA in following up the outstanding cases in a timely manner.</p>
<p>Para. 4.14(c)</p> <p>provide more guidance to licensees and ensure their compliance with the condition that the use of net proceeds is accounted for in the financial statements</p>	<p>Implemented.</p> <p>A sample "Note to Account" was added at Appendix VII of the latest version of the Guide to provide guidance to licensees to facilitate their compliance with the condition that the use of net proceeds is accounted for in the financial statements.</p>
<p>Para. 4.14(d)</p> <p>take measures to facilitate public access to the lottery accounts</p>	<p>Implemented.</p> <p>With effect from 7 June 2017, the statements of income and expenditure and review reports of the lottery activities submitted by licensees are posted onto OLA's homepage. The public can also request to inspect the documents at the office of the OLA and/or request for a copy at a charge.</p>

Yours sincerely,

A handwritten signature in dark ink, appearing to be 'JC', is written over a faint, light-colored rectangular stamp or watermark.

(Josephine Cheung)
for Director of Home Affairs

Encl.

c.c. Secretary for Home Affairs
Director of Social Welfare
Director of Food and Environmental Hygiene
Director of Lands
Secretary for Financial Services and Treasury
Director of Audit

Reference Guide on Organisation of Lottery Activities

All applicants for and holders of Lottery Licences are advised to read this Reference Guide which serves to assist them to get conversant with all licence conditions as required by law and the administrative requirements as stipulated by the public officer appointed by the Secretary for Home Affairs.

2. Lottery organisers should dutifully comply with all licence conditions and related administrative requirements.
3. Members of the public, who are patrons of lottery events, could then be able to identify responsible organisers.
4. Contravention of any licence conditions on the part of any organisers may not only bring disrepute, but may also lead to a Lottery Licence being revoked and legal sanction as provided for in the Gambling Ordinance (Cap. 148). Failure to observe any administrative requirements may render an application for a Lottery Licence unsuccessful.

Office of the Licensing Authority
Home Affairs Department

Revision date: June 2017

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Part 1

Introduction

A. Objective

Anyone who wishes to conduct a lottery event in Hong Kong has to apply for a licence from the public officer appointed by the Secretary for Home Affairs (“the public officer”) in accordance with the provisions of the Gambling Ordinance (Cap. 148) and Gambling Regulations (Cap. 148A). Applications for lottery licence should be submitted to the Office of the Licensing Authority (OLA) of the Home Affairs Department. Lottery licences are issued to bona fide organisations to conduct lottery ticket sales for the purpose of fund-raising, and funds so raised are to be used to meet the organisations’ operating expenses or for donations to local registered charities, or both. In considering an application for lottery licence, the public officer should be satisfied that funds collected from the lottery ticket sales will be used for charitable purposes or for purposes which would contribute directly and indirectly to the development of representative government in Hong Kong.

2. The objective of this Reference Guide (this Guide) is two-fold:
 - (a) to advise lottery organisers the requirements in the administration and management of their lottery activities; and
 - (b) to facilitate identification of responsible lottery organisers by members of the public.
3. Lottery organisers are advised to read this Guide so that they are well versed and able to fully comply with all licence conditions and the administrative requirements in the conduct of their lottery activities. This Guide should be read in conjunction with the relevant legislation and licence conditions currently in force. This Guide sets out in detail the procedures and requirements for applications for lottery licence and for permission to sell lottery tickets on public streets (please see Part 2 of this Guide) as well as compliance of the various licence conditions (please see Part 3 of this Guide).
4. Lottery organisers should keep the administrative expenses of the lottery event as low as possible, which should not be more than 20% of the total proceeds received from the sale of lottery tickets (please see Q15 of ‘Frequently Asked Questions’ at Appendix VIII). Each lottery organiser, upon completion of the event, must prepare an income and expenditure (IE) statement and obtain a written report

reviewed by a certified public accountant. If these documents are to the satisfaction of the public officer, they will be put up in the homepage of the OLA for public inspection (please see items (3)(b)(iv) and 6 in Part 3 of this Guide). The public can also complete the Request Form at Appendix IX of this Guide and inspect the documents at the office of the OLA and/or request for a copy.

5. Form 1A in the Second Schedule of the Gambling Regulations (Cap. 148A) sets out the conditions with which an applicant for and a holder of a lottery licence has to comply. The public officer may impose additional conditions as and when necessary. Non-compliance of any of these conditions may result in the licence being revoked and the prosecution for an offence. Offenders are liable to a fine of HK\$50,000 and imprisonment for two years. Moreover, such non-compliance reflects badly on the ability of these persons to fulfill licence conditions, which may be taken into due consideration by the public officer in processing their future applications for lottery licences.

6. As a matter of principle, OLA will not try to interpret or enforce the law under the purview of other enforcement agencies. When there is an alleged breach of the law in the conduct of lottery activities, OLA will normally refer the case to the Hong Kong Police Force, who is the enforcement agency for the Gambling Ordinance, for action.

7. A copy of this Guide can be obtained from OLA at 10th Floor, Cityplaza 3, 14 Taikoo Wan Road, Taikoo Shing, Hong Kong. It may also be downloaded from the Internet via www.hadla.gov.hk/el/. OLA will make suitable amendments to this Guide from time to time, having regard to changing circumstances.

B. Relevant Statutory Provisions

Gambling Ordinance (Cap. 148)

Section 22 Licences

- (1) The public officer appointed by the Secretary for Home Affairs may—
- (a) by licence authorize—
 - (i) the promotion and conduct of any lottery for the purposes of a club, association or other body of persons approved by the public officer appointed by the Secretary for Home Affairs;
- (3) Any such licence shall be subject to the prescribed conditions and to any other conditions which the public officer appointed by the Secretary for Home Affairs may impose.
- (4) The public officer appointed by the Secretary for Home Affairs may cancel any such licence at any time—
- (a) if a condition of the licence is contravened whether or not any person has been convicted of an offence under subsection (6); or
 - (b) he considers that the public interest so requires.
- (5) Notice in writing of a decision of the public officer appointed by the Secretary for Home Affairs under this section shall be given by the public officer appointed by the Secretary for Home Affairs to the person in respect of whom it is made.
- (5A) A notice under subsection (5) shall, except in the case of a decision to grant or to renew a licence or to impose other conditions, be accompanied by a statement of the reasons for the decision.
- (5B) Any person aggrieved by a decision of the public officer appointed by the Secretary for Home Affairs made in respect of him under this section may, within 28 days after receiving notice of the decision, appeal to the Administrative Appeals Board.
- (5C) A decision that is appealed against under subsection (5B) shall be suspended in its operation as from the day on which the appeal is made until such appeal is disposed of, withdrawn or abandoned unless such suspension would, in the opinion of the public officer appointed by the Secretary for Home Affairs, be contrary to the public interest and the notice of the decision contains a statement to that effect.
- (6) Where a condition of any such licence is contravened, the person to whom the licence was issued commits an offence unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.
- (7) Any person who commits an offence under subsection (6) is liable on conviction to a fine of \$50,000 and to imprisonment for 2 years.

C. Definition

8. The term “lottery” as defined in Section 2 of the Gambling Ordinance (Cap. 148), includes -

- (a) a raffle;
- (b) a sweepstake;
- (c) tse fa (字花);
- (d) hung piu (紅票);
- (e) po piu (舖票);
- (f) any competition for money or other property success in which -
 - (i) involves guessing or estimating the results of future events, or of past events the results of which are not generally known; or
 - (ii) does not depend to a substantial degree upon the exercise of skill by the competitors; and
- (g) any game, method, device or scheme for distributing or allotting prizes by lot or chance,

whether promoted, conducted or managed in or outside Hong Kong.

Part 2

Application Procedures

A. Application for Lottery Licence

Anyone who wishes to conduct a lottery event in Hong Kong must apply for a lottery licence from the public officer. You can obtain the application forms at OLA. The forms can also be downloaded from OLA's homepage (www.hadla.gov.hk/el).

2. Duly completed forms and supporting documents (please see Appendix I for details) can be submitted to OLA either by mail or in person. For application by post, please **affix sufficient stamp** to ensure delivery in order. As we require **original** application forms which bear the personal signature of the applicant, application by fax is not accepted.

3. Upon receipt of the properly completed application forms and supporting documents, OLA will start processing your application. Upon payment of the prescribed fee (please see Appendix XI), the lottery licence will be issued. This process normally takes ten working days (working days exclude Saturdays, Sundays and Public Holidays). **The time taken for you to provide additional information and/or clarifications is not counted towards these ten working days. In the circumstances, you are advised to apply for a licence at least three calendar weeks in advance. You should also allow sufficient time for printing lottery tickets.**

4. The licence condition requires that lottery ticket shall state the licence number under which it is issued. You should only start printing lottery tickets upon the receipt of a licence. Should you wish to sell tickets on public streets, please separately obtain a prior written permission from the public officer. For details, please refer to Section B below.

5. If your organisation is a local registered charity (i.e., a charitable institution or trust of a public character exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112)), you may apply in writing, stating the reasons and enclosing supporting documents at the same time when an application for a lottery licence is made, for a **waiver** of the licence fee.

6. Alternatively, you may apply for a **refund** of the licence fee upon the conclusion of the lottery event, if at least 75% of the lottery proceeds has been appropriated to other local registered charities. You have to apply in writing to the public officer stating the reasons and enclosing relevant documents, including a copy of statement of all moneys collected or received from the sale of lottery tickets and all the disbursements made from the moneys so collected or received as well as copies of

receipt of donations from the beneficiaries.

7. The fee payable for a lottery licence is listed in the Third Schedule of the Gambling Regulations (Cap. 148A). Change in licence particulars is allowed only if the event has not yet commenced, and a signature fee will be charged. You may refer to Q11 of ‘Frequently Asked Questions’ at Appendix VIII. The licence fee and signature fee may be revised from time to time.

8. If the application for lottery licence is approved, information such as licence number, name of organiser, period of lottery event, number of tickets available for sale and ticket price will be put up in OLA’s homepage and GovHK homepage (www.gov.hk/en/theme/fundraising/today) for public information.

B. Application for Sale of Lottery Tickets on Public Streets

9. It is a licence condition that the holder of lottery licence must obtain written approval from the public officer prior to selling lottery tickets on public streets (please see Condition (1)(f) in Section A of Part 3). If you plan to sell lottery tickets on public streets, you should apply in writing with the following information:

- (a) the dates, time slots and venues of the proposed sale, and maps may sometimes be required for identification of the exact locations;
(Note: Applicants are required to provide the list of locations in both Chinese and English to facilitate the public’s access to the list of approved locations for sale of lottery tickets at OLA’s homepage and GovHK homepage (www.gov.hk/en/theme/fundraising/today/).
- (b) the estimated number of workers/participants and the proposed equipment (e.g., tables, chairs, etc.) at each location which might create possible obstruction to users of public streets; and
- (c) the application number or lottery licence number concerned, as appropriate.

10. You may apply for selling lottery tickets on public streets as early as your application for lottery licence, and OLA will commence vetting the two applications in parallel. OLA will further proceed with consulting relevant government departments about the on-street selling upon the issue of lottery licence under Section A. The consultation will take at least 13 working days (Saturdays, Sundays and public holidays are not counted as working days) or about three calendar weeks; however, longer processing time will be required if more locations are

involved.

11. You are reminded that, other than public streets, permission must be obtained from the relevant authorities which are responsible for the management of public venues and/or shopping centres, for any sale activities to be held.

12. If the application is approved, the date, time and approved locations for sale of lottery tickets will be uploaded to OLA's homepage and GovHK homepage (www.gov.hk/en/theme/fundraising/today/) for public information in addition to the information stated in paragraph 8.

Part 3

Compliance of Licence Conditions

This part sets out in detail the licence conditions with which the licensee should comply. You are advised to read, understand and observe this Guide so as to ensure that all pre- and post-licensing conditions and other administrative practices are fully fulfilled.

A. Licence Conditions

2. The following lists out the licence conditions as provided for in Form 1A in the Second Schedule of the Gambling Regulations (Cap. 148A) and those imposed by the public officer. They are legal requirements, and non-compliance is an offence and may result in prosecution for an offence.

(1) Conditions to which a Lottery Licence is Subject upon Application for a Licence

- (a) No cash prize shall be offered or distributed.
- (b) No part of the proceeds of the lottery shall be appropriated for the private gain of any individual who assists in the promotion of the lottery or who is a member of the organisation on whose behalf the lottery is promoted.
- (c) Every lottery ticket shall -
 - (i) be numbered serially and no such number shall be repeated in respect of the same lottery;
 - (ii) state the licence number (i.e., Lottery Licence No. _____);
 - (iii) state the price at which it is sold;
 - (iv) state the number, nature and value of the main prizes available in the lottery;
 - (v) state the date and manner in which the numbers of the winning tickets shall be published after the draw of the lottery; and
 - (vi) state the manner in which prizes may be claimed.
- (d) No lottery ticket shall be offered for sale -
 - (i) earlier than eight weeks before the draw is to take place; or
 - (ii) by advertisement or publication in any newspaper circulating in Hong Kong.
- (e) Lottery tickets should contain a statement stating clearly the intended use of the net lottery proceeds.

- (f) Except with the prior written permission of the public officer, no lottery ticket shall be sold or offered for sale on any road, street, pavement, footbridge, path, lane, alley, square or court in the control of or which is the property of the Government, and no lottery ticket shall be sold in any other public place except with the permission of the owner or other person with lawful authority to give such permission.

(2) Conditions to be Complied with When Conducting a Lottery Event

3. Lottery organisers must ensure the proper collection and counting of all donations received, including -

- (a) **Security of Collection Bags and Boxes:**
Provide serially-numbered collection bags or boxes with security safeguards and printed with the name of the organisation for use by collectors.
- (b) **Counting of Cash Donations:**
 - (i) Appoint independent person(s) or volunteer(s) to witness the opening of collection bags or boxes and counting of cash donations (e.g., using services of a bank or a security company); and
 - (ii) Record the amount of cash counted, and require the witnessing person(s) and the counting staff/volunteer(s) to sign on the record, certifying correctness. A copy of the signed cash-counting record should be forwarded to the public officer.

Please refer to Appendix VI for a sample of cash-counting record. Any subsequent amendment to the cash-counting record should be jointly signed and dated next to the amendment by the same witnessing person(s) and counting staff/volunteer(s). You may refer to Q18 of 'Frequently Asked Questions' at Appendix VIII.

(3) Conditions to which a Lottery Licence is Subject upon Completion of the Lottery Event

4. The following lists out the conditions to which a lottery licence is subject upon completion of the lottery event:

- (a) Within ten days from the date of the draw of the lottery, details of the results shall be published in one English and one Chinese newspaper circulating in Hong Kong, and a copy of the relevant newspaper cuttings shall be forwarded to the public officer.
- (b) Within 90 days from the date of the draw of the lottery, the licensee shall -
 - (i) forward to the public officer a copy of the cash-counting record jointly signed by the counting staff/volunteers and the witnessing persons;

- (ii) prepare a statement of income and expenditure setting out all the moneys collected or received from the sale of lottery tickets and all the disbursements made from the moneys so collected or received;
- (iii) obtain a written report made by a practice unit (please see **Note** below) within the meaning of the Professional Accountants Ordinance (Cap. 50) stating that -
 - (A) in the opinion of the practice unit, the statement of income and expenditure is properly prepared from the books and records of the licensee made available to the practice unit; and
 - (B) no matter has come to the attention of the practice unit which indicates that the statement of income and expenditure does not accurately reflect all the moneys collected or received from the sale of lottery tickets and all the disbursements made from the moneys so collected or received; and
- (iv) forward to the public officer -
 - (A) a copy of the statement of income and expenditure; and
 - (B) a copy of the report,
 for the purpose of, among other things, enabling the copies to be made available for public inspection in such manner, and for such period, as the public officer thinks fit.
- (c) If the net proceeds of the lottery are used for meeting the operating expenses of the organisation, the licensee shall submit to the public officer an audited annual financial statement of the organisation, received by a practice unit within the meaning of the Professional Accountants Ordinance (Cap. 50), which should show the income and expenditure of the lottery, and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event. (may be shown in the form of “note to account” if appropriate). A sample is at Appendix VII.
- (d) If the whole or part of the net proceeds of the lottery is donated to local registered charities, the licensee shall submit to the public officer copies of receipt of donations from the beneficiaries attached to the statement of income and expenditure referred to under condition (3)(b) above.

Note :

“practice unit” - For the purpose of this particular licence condition, a “practice unit” means a certified public accountant (CPA). The Hong Kong Institute of Certified Public Accountants (HKICPA) keeps a list of all CPAs registered in Hong Kong. HKICPA can provide advice in this aspect (Address: 37/F, Wu Chung House, 213 Queen’s Road East, Wanchai, Hong Kong; Website: www.hkicpa.org.hk).

(4) Conditions to be Complied with upon Approval of the Sale of Lottery Tickets on Public Streets

5. When an application for sale of lottery tickets on public streets is approved, the following additional conditions are imposed—

- (a) All purchases of the lottery tickets are to be purely voluntary, and the activity shall not create public order problems or cause nuisance, including excessive noise or harassment to the general public, and the manner in which the activities are conducted should not be such as to be likely to produce a reaction generally against public fund-raising activities.
- (b) During the course of the lottery ticket sale activity, the name of the organiser should be prominently displayed. A copy of the licence and the letter of permission by the public officer for the sale activity should be kept by the person-in-charge at each sale location for inspection by the public.
- (c) Children under the age of 14 must not be allowed to take part in the activity. Participation by young persons between the age of 14 to 18 must be entirely voluntary, and prior written consent of parents must be obtained.

6. All other licence conditions pertaining to the issue of lottery licences apply. Please make reference to the above sections.

(5) Additional Conditions

7. The public officer may impose other additional conditions if a particular case so warrants.

(6) Public Inspection of Income and Expenditure (IE) Statements and Review Reports

8. Condition (3)(b)(iv) above provides that the IE statements and the CPAs' review reports have to be submitted for the purpose of, among other things, enabling the copies to be made available for public inspection. These documents will be posted onto OLA's homepage (www.hadla.gov.hk/el) for a period of one year. The public can also request to inspect the documents at the office of the OLA and/or request for black and white copy at \$1.2 per copy of A4 size paper and \$1.4 per copy of A3 size paper.

9. In addition to submitting the relevant documents to the public officer who will arrange for public inspection, lottery organisers are encouraged to publicize their lottery IE statements and the CPAs' reports in their own publications or on their own websites and/or make available copies of these documents at their offices for public inspection.

B. Processing Applications for Sale of Lottery Tickets on Public Streets

10. Lottery licences authorize the licence holders to conduct sale of lottery tickets within a specified period and are issued with a number of conditions. One such condition forbids the sale or offer for sale of lottery tickets on public streets unless prior written permission of the public officer has been obtained (see Condition (1)(f) in Section A above).

11. In considering an application, the public officer will normally observe the following processing guidelines —

- (a) the lottery ticket sale should not be held in a morning which is a “flag day” approved by the Director of Social Welfare;
- (b) there will be no more than one fund-raising activity in the same venue or its vicinity on the same day except where the activities are organised by the same applicant;
- (c) there will be a fair distribution of fund-raising venues, dates and frequency amongst all potential applicants; and
- (d) the lottery ticket sale will not cause public order and public safety problems, and will not cause nuisance or harassment to the general public.

Each application will be considered on its own merits.

C. Conclusion

12. Every effort has been made to describe the licence conditions in an exhaustive manner; however, having regard to changing circumstances, these conditions may be amended as and when necessary. As such, all licence holders should always update themselves with any amendments and consult their legal advisors as appropriate.

Appendix I

Documents Required When Applying for a Lottery Licence

Applicants for lottery licence should submit to Office of the Licensing Authority (OLA) the following forms and documents duly completed and prepared —

- ☐ * (1) a completed Form 1 (see sample in Appendix III)
- ☐ * (2) a completed Form 6 or 7 or 8
- ☐ * (3) a completed “List of Documents to be Submitted after the Lottery Event”
- ☐ * (4) a completed “Form for Payment Method and Collection of Licence”
- ☐ * (5) a completed “Contact Details of Applicant and Contact Person” Form
- ☐ (6) a copy of the applicant’s Hong Kong Identity Card or passport
- ☐ (7) licence fee of HK\$3,165 by cheque or cash (if applicable)
- ☐ (8) two sets of sample lottery ticket (see sample in Appendix IV)
- ☐ (9) a written application for fee waiver and the approval letter from the Inland Revenue Department if your organisation is a local registered charity exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112) and you plan to apply for a waiver of the licence fee
- ☐ (10) an acknowledgement from the school if your organisation is a Parents-Teachers Association planning to conduct a lottery to raise funds for/on behalf of the school
- ☐ (11) an acknowledgement from the local registered charity and the approval letter from the Inland Revenue Department certifying that it is a charitable institution or trust exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112) if your organisation plans to raise funds for donation to that charity
- ☐ (12) a copy of the Certificate of Incorporation if your organisation is a registered company or a copy of the Certificate of Registration of a Society if your organisation is a registered society
- ☐ (13) a copy of the Memorandum of Association (if any) and Articles of Association if your organisation is a registered company or a copy of the club rules/constitution if your organisation is a registered society

Note

- * Blank forms of (1) to (5) are provided at Appendix II, which are detachable for completion.

How to Complete the Forms

(1) Form 1 (Please also refer to the notes at the bottom of the Form)

Introductory part : As lottery licences are normally issued to organisations, this part should be completed by a representative of the organisation as the applicant. If you are to apply for a licence on behalf of your organisation, please enter here your full name after “ I ” in the first blank. The name should be identical to that as shown on your Hong Kong Identity Card.

Item 1 : State clearly the name of the beneficiary (i.e., the organisation, the charity or both that you are representing) and the purpose of the lottery (which should be identical to that as stated in the lottery tickets). These will appear on the licence which will be issued to you upon completion of our processing.

Item 2 : (a) The “amount” is the total proceeds minus the administrative outgoings incurred in the conduct of the lottery. This “amount” should not be less than 80% of the total proceeds estimated to be raised.

(b) “Expenses” refer to the basic administrative outgoings incurred in the conduct of the lottery, e.g., the purchase of prizes, costs of printing the lottery tickets, publishing the results of the draw in newspapers and audit fee, etc. **Please note that remuneration for workers/volunteers should not be included.**

Item 3 : Condition (1)(d)(i) in Section A of Part 3 states that no lottery tickets shall be offered for sale earlier than eight weeks before the draw is to take place. Also note that the end date of the proposed lottery should coincide with the date of draw.

Item 4 : The number of tickets available for sale is the number of tickets you plan to print. This is also the maximum number of tickets approved to be made available for sale. Should you desire to print more tickets than the number already approved, you must apply again in writing, stating the reason(s).

Item 5 : (a) State at least 80% of the total value of the prizes to be offered.

(b) Condition (1)(a) in Section A of Part 3 states that no cash prize shall be offered or distributed. Please confirm here that the prizes cannot be exchanged for cash.

Item 6 : Please indicate the date on which results of the draw will be published in newspapers. It should be within ten days from the date of the lottery draw.

(2) Form 6/Form 7/Form 8 (Please also refer to the notes at the bottom of the Forms)

Depending on the nature of your organisation, complete one of these three forms. Please enclose with your application a copy of the Memorandum of Association (if any) and Articles of Association (for Form 7) or the Club Rules/Constitution (for Form 8).

(3) List of Documents to be submitted after the Lottery Event

The form lists the types of documents to be submitted after completion of the lottery event with the corresponding due dates, as required by licence conditions. Please check if all documents required have been submitted for the last lottery event.

(4) Form of payment method and collection of licence

Payment of licence fee could be made by cheque or in cash in person. Please note that it is advisable for you to come in person (you may authorize another person in writing) to collect the licence. The reason is that, should you desire to have the licence sent to you by mail, we will send it out by registered mail which may take three to four days to reach you.

(5) Contact details of applicant and contact person

Please attach a copy of your Hong Kong Identity Card or passport. Please also leave the contact details of another person if you are not able to answer enquiries from OLA at all times. This will facilitate the processing of your application.

(6) Sample lottery tickets

Please provide two copies of the sample tickets. The sample should be identical to the printed ones, containing all the information and graphic design. The minimum details required to be printed are prescribed in Condition (1)(c) in Section A of Part 3. Please refer to the sample ticket in Appendix IV of this Guide. You may be required to include additional information in the lottery tickets when necessary.

Application Forms for Lottery Licence

- (1) Form 1
 - (2) Form 6
 - (3) Form 7
 - (4) Form 8
- } Please complete Form 6 or 7 or 8.
- (5) List of Documents to be Submitted after the Lottery Event
 - (6) Form for Payment Method and Collection of Licence
 - (7) “Contact Details of Applicant and Contact Person” Form

This form should be submitted to 10th Floor, Cityplaza 3, 14 Taikoo Wan Road, Taikoo Shing, Hong Kong. For application by post, please **affix sufficient stamp** to ensure delivery in order.

FORM 1

Application No.

GAMBLING REGULATIONS

To the public officer appointed by the Secretary for Home Affairs (“the public officer”)

APPLICATION FOR LOTTERY LICENCE

BEFORE completing this application READ the *Note* below.

I hereby apply for a licence to promote and conduct a lottery.

In support of my application I attach Form duly completed, together with the following particulars:
(see Note 2 below)

1. The purpose of the lottery is to raise funds for the
(name of club, society)

to be used for
(club expenses, particular project)

2. An amount of \$ is intended to be raised after deduction of all expenses.

3. The lottery will commence on and end on
(date tickets first available of sale) (date lottery drawn)

4. The number of tickets available for sale will be and the price of one ticket will be

5. The nature, value and source of the main prizes will be as follows—

Nature

Value

Source

(If purchased say “Purchased”—
if donated say “Donated by”)

.....
.....
.....

and together with other minor prizes the total value of all the prizes offered will be

6. The lottery be drawn on at
by

7. The results of the lottery will be advertised in
..... and in on
(name 1 English and 1 Chinese newspaper)

I certify that the information supplied by me in this application is to the best of my knowledge and belief, both true and correct.

Dated this day of

.....
(Signature)

Note:

1. You are advised to refer to section 22 of the Gambling Ordinance and the Gambling Regulations Cap. 148.
2. If the application is on behalf of a company, complete Form 7. If the application is on behalf of a club or society in respect of which the Societies Ordinance (Cap. 151) applies, complete Form 8. If the application is not on behalf of a company or such a society or club, complete Form 6.
3. You are warned that any material falsification or omission of information may result in the public officer's refusal to grant a licence.
4. If the public officer decides to grant a licence, a fee \$3,165 will be payable to the public officer upon such grant, unless waived or reduced.

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This form should be submitted to 10th Floor, Cityplaza 3, 14 Taikoo Wan Road, Taikoo Shing, Hong Kong. For application by post, please **affix sufficient stamp** to ensure delivery in order.

FORM 6

In support of Application No.

GAMBLING REGULATIONS

To the public officer appointed by the Secretary for Home Affairs ("the public officer")

BEFORE completing this form READ the *Note* below.

1. Name of applicant
2. Identity Card number
3. Business Registration or Commercial Code number
4. Telephone number
5. Residential Address
.....
6. Date of Birth
7. Place of Birth
8. Nationality
9. Give details of any other licences under the Gambling Ordinance for which application has previously been made
.....
10. Give details of any current licences under the Gambling Ordinance held by the applicant
.....
11. Give details of any previous experience of applicant in respect of the licence applied for
.....
12. Has the applicant ever been convicted of an offence? Yes/No
If "Yes", give details
(court where convicted, date of conviction, offence and penalty)
.....
.....

I certify that the information supplied by me in this form is to the best of my knowledge and belief, both true and correct.

Dated this day of

.....
(Signature)

-
- Note:*
1. Complete this form only if you are *not* making application on behalf of a company *or* on behalf of a club or society in respect of which the Societies Ordinance (Cap. 151) applies.
 2. You are warned that any material falsification or omission of information may result in the public officer's refusal to grant a licence.

This form should be submitted to 10th Floor, Cityplaza 3, 14 Taikoo Wan Road, Taikoo Shing, Hong Kong. For application by post, please **affix sufficient stamp** to ensure delivery in order.

FORM 7

In support of Application No.

GAMBLING REGULATIONS

To the public officer appointed by the Secretary for Home Affairs ("the public officer")

BEFORE completing this form READ the *Note* below.

1. Full name of company
2. Type of company (Public, Private, Limited by share or guarantee)
3. Is the company incorporated in Hong Kong? Yes/No
If "No", give details as to where it is incorporated.
4. Date of incorporation (attach a copy of the Memorandum of Association (if any) and Articles of Association)
5. Issued capital
6. Does the company hold an interest in any other company or undertakings? Yes/No
If "Yes", give details
7. Give the names and addresses of any lenders, mortgagees, or others providing finance, with the full term of such loans.

Name	Address	Amount	Terms	Duration

8. Has a director, the secretary or a manager of the company ever been convicted of an offence? Yes/No
If "Yes", give details (court where convicted, date of conviction, offence and penalty)
9. Has the company ever been the subject of a winding-up petition? Yes/No
If "Yes", give details
10. Give the name and address of the auditors to the company
11. Give a list of all bank accounts held by the company

FORM 7

(continue)

In support of Application No.

12. Give details of the directors, managers and the company secretary.

Name	Address	Date of Birth	Nationality

13. Is the company a wholly or partly owned subsidiary of another company? Yes/No
If "Yes", give details together with the same particulars as in questions 1 to 12 on a separate sheet in relation to the ultimate controlling company.

14. Give details of any other licences under the Gambling Ordinance for which application has previously been made

15. Give details of any current licences under the Gambling Ordinance held by the company

16. Give details of any previous experience of the company in respect of the licence applied for

I certify that the information supplied by me in this form is to the best of my knowledge and belief, both true and correct.

Dated this day of.....

.....
(Signature)

Position in Company

- Note:* 1. Complete this form only if you are making application on behalf of a company.
2. You are warned that any material falsification or omission of information may result in the public officer's refusal to grant a licence.

This form should be submitted to 10th Floor, Cityplaza 3, 14 Taikoo Wan Road, Taikoo Shing, Hong Kong. For application by post, please **affix sufficient stamp** to ensure delivery in order.

FORM 8

In support of Application No.

GAMBLING REGULATIONS

To the public officer appointed by the Secretary for Home Affairs ("the public officer")

BEFORE completing this form READ the *Note* below.

1. Name of society or club
2. Type of society or club and objects(sports, social)
3. Date society or club formed
(attach a copy of the Club Rules or Constitution)

4. Give details of the following persons involved in the administration of the society or club—

	<u>Name</u>	<u>Address</u>
President/Chairman
Secretary
Treasurer
Accountant/Auditor

5. Has an officer of or any person involved in the administration of the club or society ever been convicted of an offence? Yes/No
If "Yes", give details. (Court where convicted, date of conviction, offence and penalty)

.....

6. Give a list of the current assets under the control of the club or society and value thereof.

<u>Asset</u>	<u>Value</u>
.....
.....

7. Give details of any other licences under the Gambling Ordinance for which application has previously been made
8. Give details of any current licences under the Gambling Ordinance held by the club or society.
9. Give details of any previous experience of applicant in respect of the licence applied for

I certify that the information supplied by me in this form is to the best of my knowledge and belief, both true and correct.

Dated this day of

....

(Signature)

Position in the club or society

- Note:*
1. Complete this form only if you are making application on behalf of a club or society.
 2. You are warned that any material falsification or omission of information may result in the public officer's refusal to grant a licence.

【Please attach this form together with your licence application forms for processing.】

List of Documents to be Submitted after the Lottery Event

I acknowledge that the licence conditions require submission of the following documents after completion of a lottery event—

Required Documents	Due Date (from the date of the draw)
A copy of the relevant newspaper cuttings showing the details of the draw results of the lottery	10 days
A copy of the statement of income and expenditure of the lottery event and the report made by a CPA on the statement of income and expenditure of the lottery event	90 days
A copy of the cash-counting record jointly signed by the counting staff/volunteers and the witnessing persons	
Official receipt(s) in respect of the net proceeds of the lottery from the organization(s) receiving the donation	
If the net proceeds of the lottery are used for meeting the operating expenses of the organisation, an audited annual financial statement of the organisation, received by a CPA, which should show the income and expenditure of the lottery, and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event (may be shown in the form of “note to account” if appropriate)	1 year

I confirm that—

- ☐ This is the first time my organization has applied for a lottery licence. I have attached the Audited Annual Financial Statements for the past three years and the Annual Reports/Newsletters/track records of the organisation’s activities/charitable works for the past three years, and the budget plan of the proposed lottery event. I understand that I must comply with licence conditions and submit the documents required on or before the due date.
- ☐ My organisation has been granted a Lottery Licence before (Lottery Licence No. _____). I confirm that **all documents** required have been submitted as required by the licence conditions.

Signature of Applicant

Name of Applicant
Date:

Notes

- ☐ Please tick (✓) as appropriate.

【Please attach this form together with your licence application forms for processing.】

☞ Method of Payment and Collection of Licence ☞

Please indicate your preferences below.

Payment

- ☐ I wish to pay the Lottery Licence fee by cheque. A crossed cheque payable to **“The Government of the Hong Kong Special Administrative Region”** at the amount of HK\$3,165 is enclosed.
- ☐ I wish to pay the licence fee in cash in person at the Shroff Office.
- ☐ I represent a local registered charity. I wish to apply for a waiver of the licence fee for a Lottery Licence and attach herewith our application letter and the supporting documents.

Collection of Licence

- ☐ I wish to collect the licence in person at Office of the Licensing Authority in Cityplaza 3, Taikoo Shing.
- ☐ I wish to authorize a person to collect the licence on my behalf. (Please ask the authorized person to bring along your letter of authorization bearing the name and HKIC number of that person for authentication purpose upon collection of the licence.)
- ☐ Please send the licence to me by post** to the following address :

Name: _____
Address: _____

Signature of Applicant

Name of Applicant
Date:

Notes

- ☐ Please tick (✓) as appropriate.
- ** The licence will be sent out by registered mail (normal delivery lead time will be about three to four working days).

【Please attach this form together with your licence application forms for processing.】

Contact Details of Applicant and Contact Person

Lottery Licence Application

Please attach a copy of the applicant's HKID Card/Passport

Name of Applicant : <i>Mr./Mrs./Miss/Ms.</i> * : _____	
Name in Chinese : _____	
Office Address : _____ _____ _____	
Office Phone No. : _____	Fax No. : _____
Home Phone No. : _____	Mobile Phone No. : _____
Email Address : _____	
Website of organisation : _____	

Please provide information of a contact person (if different from the applicant)

Name of Contact Person : <i>Mr./Mrs./Miss/Ms.</i> * : _____	
Name in Chinese : _____	Office Phone No. : _____
Mobile Phone No. : _____	Fax No. : _____
Email Address : _____	

Notes

1. The personal data provided above will be used to facilitate communication between the Government and the applicant on the above application and other relevant licensing matters. Please complete the form in full.
2. The personal data provided may be transferred to other Government departments for the purposes mentioned above.
3. For correction of or access to personal data given in this form, please contact Licensing Officer (Miscellaneous)3 of the Office of the Licensing Authority, Home Affairs Department at 2117 3694.

*** Please delete whichever is inapplicable.**

This form should be submitted to 10th Floor, Cityplaza 3, 14 Taikoo Wan Road, Taikoo Shing, Hong Kong. For application by post, please **affix sufficient stamp** to ensure delivery in order.

SAMPLE

Form 1

Appendix III

Application No.

GAMBLING REGULATIONS

To the public officer appointed by the Secretary for Home Affairs ("the public officer")

APPLICATION FOR LOTTERY LICENCE

BEFORE completing this application READ the *Notes* below.

A representative of an organisation has to apply for a licence on behalf of the organisation. If you are the applicant, enter here your full name which should be identical to that as on your HKID card.

The purpose entered here should be identical to that as stated in the lottery tickets.

The amount is the estimated total proceeds minus any anticipated administrative expenses which should not be more than 20% of the total proceeds, e.g., total proceeds \$10@ x 10,000 tickets = \$100,000; after deducting administrative expenses of \$20,000, the amount intended to be raised is \$80,000.

The date of draw should normally be the same as the end date of the whole lottery event, c.f. Item 3 above.

You are advised to submit an application three weeks in advance. You should also allow sufficient time for printing tickets. If you plan to sell tickets on public streets, a separate application has to be submitted after a Lottery Licence has been issued to you and your application should reach OLA at least three weeks before the street sales commence.

I Lot Raisefund hereby apply for a licence to promote and conduct a lottery.

In support of my application I attach Form 8 or 7 or 6 (see Note 2 below)

duly completed, together with the following particulars:

1. The purpose of the lottery is to raise funds for the Concern for

the Elderly Centre

(name of club, society)

to be used for supporting the health care services to

the elderly who live alone

(club expenses, particular project)

2. An amount of \$ 80,000.00 is intended to be raised after deduction of all expenses.

3. The lottery will commence on 3.5.201X (date tickets first available of sale)

and end on 27.6.201X (date lottery drawn)

4. The number of tickets available for sale will be 10,000 and the price of one ticket will be \$10.00

5. The nature, value and source of the main prizes will be as follows:

Nature

Value

Source

(If purchased say 'Purchased' / if donated say 'Donated by _____')

First Prize: TV set

\$5,000.00

Donated by

Mrs Charity

Second Prize: Hi-fi system

\$2,000.00

Purchased

Third Prize: Blue-ray system

\$1,000.00

Purchased

Consolation prizes (stationery

\$1,000.00

Donated by Goodwill

gift packs)

(\$50@ x 20)

Bookstore Co.


and together with other minor prizes the total value of all the prizes offered will be \$9,000.00

6. The lottery be drawn on 27.6.201X (7 p.m.) at the Centre Headquarters by Centre Chairman

7. The results of the lottery will be advertised in (name of one English newspaper) and in (name of one Chinese newspaper) on 3.7.201X (name 1 English and 1 Chinese newspaper)

I certify that the information supplied by me in this application is to the best of my knowledge and belief, both true and correct.

Dated this 2nd day of April 201X.


(Signature)

8 – if your organisation is a registered club / society;
7 – if your organisation is a registered company;
6 – neither of the above.

The maximum duration of a lottery is eight weeks.

Please state the number of tickets to be printed for sale. This is also the number of tickets approved.

Please submit a full prize list in separate sheet if the space provided is not sufficient.

Please enter the date on which the lottery results will be published in the two newspapers. This date should be within ten days from the date of draw.

SAMPLE

LOTTERY TICKET (English Version)

(Note: Price of tickets)

HK\$10 **No. 00001**

TICKET STUB

CONCERN FOR THE ELDERLY CENTRE

LOTTERY TICKET 201X
(Website: **www.△△△.org.hk**)

Purpose: Supporting the health care services to the elderly who live alone

Draw Date : 27 June 201X
Draw Time: 7 p.m.
Venue : Our Centre HQs

(Note: Lottery Licence No.)

Lottery Licence No. : XXXX

HK\$10

(Note: Serial number of tickets, starting from one) → **No. 00001**

(Note: The full name of organisation) → **CONCERN FOR THE ELDERLY CENTRE**
LOTTERY TICKET 201X
(Website : **www.△△△.org.hk**)

(Note: The purpose should be identical to that as stated in Form 1)

Purpose : Supporting the health care services to the elderly who live alone

Period of lottery sale : 3 May 201X to 27 June 201X (3 p.m.)

Draw Date : 27 June 201X (Time: 7 p.m.)

Venue : Our Centre Headquarters

Prizes :

1 st	TV set	\$5000
2 nd	Hi-fi	\$2000
3 rd	Blue-ray system	\$1000

Plus many other prizes

Draw results will be publicized on (date) in (name of one English newspaper) and (name of one Chinese newspaper). Winners should first call (tel. no.) and then collect prizes at our centre office at (address) on or before (date).

(Note: Within 10 days from the date of draw)

(Note: Within at least a month from the date of announcement of results in newspapers)

Number of tickets available for sale: 10,000

If the draw will be held right after the end of lottery sale on the same day, please reserve sufficient time for gathering ticket stubs from different locations and state the times.

All prizes are not redeemable for cash

*** Lottery tickets could be in English/Chinese/bilingual.**

Sample Income and Expenditure Statement of Lottery Event

(Please refer to Q15 of 'Frequently Asked Questions' at Appendix VIII)

**Concern for the Elderly Centre
Income and Expenditure Statement of Lottery Event held between
3 May 201X and 27 June 201X
Lottery Licence No. XXXX**

	<u>HK\$</u>
Income	
Sale of raffle tickets @ HK\$10	72,070.00
→ Cash donations	42,300.80
	<hr/> 114,370.80
Expenditure	
Announcement of draw results in newspapers	4,750.00
Prize awards	2,530.00
Transportation	420.00
	<hr/> 7,700.00
Net Surplus	<u><u>106,670.80</u></u>

Please refer to
Q10 of
'Frequently
Asked
Questions' at
Appendix VIII

Approved by the Chairman on 22 July 201X



Mr Lot Raisefund
Chairman
Concern for the Elderly Centre

The total administrative expense (\$7,700) is about 11% of the total proceeds received from the lottery sale (\$72,070), thus meeting the requirement of keeping administrative expenses not more than 20% of the total proceeds.

Sample Cash-counting Record

**Concern for the Elderly Centre
Cash-counting Record of Lottery Event
held between 3 May 201X and 27 June 201X
Lottery Licence No. XXXX**

Approved number of tickets to be sold : 10000

Approved lottery ticket price : HK\$ 10 each

Please refer to
Q10 of
'Frequently
Asked
Questions' at
Appendix VIII.

Collection bag number	Lottery tickets number	Number of tickets sold	Money collected from lottery tickets	Cash donations
1	00001 - 02000	2000	\$ 20000	\$ 10403.50
2	02001 - 04000	1807	\$ 18070	\$ 14710
3	04001 – 06000	1641	\$ 16410	\$ 9960.30
4	06001 - 08000	1759	\$ 17590	\$ 7227
5	08001 - 10000	0	\$ 0	\$ 0
	Total	7207	\$ 72070	\$ 42300.80

Total amount of cash collected in the lottery event : **\$ 114370.80**

Counted by

Witnessed by

(Signed)

(Name & Post)

(Signed)

(Name & Post)

Date

Date

These must be the same date as the
counting and witnessing must be done
by two persons at the same time.

Sample “Note to Account” in Annual Financial Statement

(for showing the income and expenditure of the lottery, and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event)

Concern for the Elderly Centre Audited Annual Financial Statement for the year ended 31 December 201X		
<u>Comprehensive Statement of Income and Expenditure</u>		
	<u>Note</u>	<u>HK\$</u>
Revenue		
XXXXXXXXXXXXX	14	303,300.00
Income from fund-raising activities	15	114,370.80
XXXXXXXXXXXXX	16	12,379.20
⋮	⋮	⋮
Expenditure		
XXXXXXXXXXXXX	17	67,000.00
Expenditure for fund-raising activities	15	7,700.00
XXXXXXXXXXXXX	18	45,240.00
Health care services to the elderly who live alone	15	300,000.00
⋮	⋮	⋮

Note 15

Lottery Event held between 3 May 201X and 27 June 201X

	<u>HK\$</u>
Income	
Lottery proceeds	72,070.00
Other donations	42,300.80
	114,370.80
Expenditure	7,700.00
Net Proceeds	106,670.80

The net proceeds from the lottery event under Lottery Licence No. XXXX held between 3 May 201X and 27 June 201X have been fully used on the expenditure for “supporting the health care services to the elderly who live alone”.

The purpose should be the same as the approved purpose as stated in the approved lottery ticket sample (see Appendix IV).

The amounts should be the same as that shown on the income and expenditure statement of lottery event (see Appendix V).

Frequently Asked Questions

Q1: Which types of organisations can apply for a Lottery Licence?

A1: The applicant organisation must be a bona fide non-profit-making organisation registered in Hong Kong. Even if your organisation is not a charitable institution or trust of a public character that is exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112), you may still organise lottery events for the benefit of such charitable organisations, as long as you provide their acknowledgement/consent letter and an approval letter certifying tax exemption under Section 88 of the Inland Revenue Ordinance.

Q2: Can a Parents-Teachers Association (PTA) apply for a Lottery Licence to raise funds for teaching equipment or the financing of a school project?

A2: Yes. The PTA should obtain an acknowledgement letter from the school stating that the school is aware of the proposed lottery event and will accept the amount raised for the stated purpose and submit it to Office of the Licensing Authority (OLA) together with the relevant application forms. After completion of the event, the PTA is required to submit to the public officer an official receipt from the school for the amount received, an Income and Expenditure Statement of the event and an Audited Annual Financial Statement indicating the flow of money to the school for the intended purpose.

Q3: What detail should I include in the “Purpose of the lottery activity”?

A3: Please specify in the “Purpose of the lottery activity” the service aspect and target beneficiary of the funds raised. Applicant is also required to provide supporting documents indicating the proposed use of the lottery donations, such as a list of services or projects intended to be implemented.

Q4: This is the first time my organisation has applied for a Lottery Licence, what documents do I need to produce in addition to the application forms?

A4: If this is the first time your organisation has applied for a Lottery Licence, you are required to submit Audited Annual Financial Statements for the past three years and the Annual Reports/Newsletters/track records of the organisation’s activities/charitable works for the past three years, and the budget plan of the proposed lottery event.

Q5: Is it possible for my organisation to carry out lottery activities more than once a year?

A5 : Organisations are permitted to apply for only one Lottery Licence every 12 months. Exceptions will be made at the public officer’s discretion only in the event of unpredictable and ad hoc circumstances, such as a lottery held to raise funds for victims of a natural disaster.

Q6: What should I do if the prize list could not be finalized at the time when I submit the application?

A6: You are required to provide the details (including prize items, values and sources) of at least 80% of the total value of the prizes when you submit the application. A finalized and full prize list should be submitted to OLA for approval at least 1 week before the start date of lottery ticket sale. Besides, no prize offered shall be a money prize.

Q7: If my organisation proposes to draw out 100 prizes in our lottery event, is it necessary for me to put the details of all these 100 prizes on the tickets?

A7: No. You are only required to state on the tickets the number, nature and value of the main prizes available in the lottery. It is up to you to decide how many prizes you would like to show on the tickets. However, it is always advisable to list out as many prizes as possible to avoid confusion and possible disputes.

Q8: Do I need to submit the application in person? Can I courier the application or fax it to OLA?

A8: You need not submit the application in person. You can courier your application to us or send it by mail which may take one to two days to reach us. Please **affix sufficient stamp** to ensure delivery in order. If you wish to pay the licence fee in cash, please bring along the completed application forms and the required amount of fee to OLA at 10th Floor, Cityplaza 3, 14 Taikoo Wan Road, Taikoo Shing, Hong Kong. **Do not send cash by mail. No changes will be given.** We require original copy of the application forms which bear the signature of the applicant, and application by fax is therefore not accepted.

Q9: What should I do if I plan to sell lottery tickets on public streets?

A9: You must first apply for a Lottery Licence authorising you to organise a lottery event. If you plan to sell lottery tickets on public streets, you should apply to OLA in writing and provide details of the proposed sale dates, duration, exact locations, number of workers/participants and equipment. You may submit the information as early as your application for lottery licence, and OLA will commence internal vetting in parallel. OLA will further proceed with consulting relevant departments upon the issue of lottery licence. The consultation will take about three calendar weeks; however, longer processing time will be required if more locations are involved. To enable OLA to devise a fair distribution of fund-raising venues, dates and frequency amongst all potential applicants, you are advised to apply at the earliest opportunity. Please note that the public officer only approves the sale of lottery tickets on public streets. To sell them in such public places as shopping malls, railway concourses, housing estates, etc., the applicant must separately seek the approval/consent of the relevant authorities/management. Please refer to Section B of Part 2 on “Application Procedures” and Sections A(4) and B of Part 3 on “Compliance of Licence Conditions”.

Q10: What should I do if I want to sell lottery tickets, collect money with donation boxes and conduct charitable sale at the same event?

A10: A Lottery Licence applies only to the sale of lottery tickets at a fixed price. If you intend to carry out any fund-raising activity other than selling lottery tickets at a particular event, you should obtain approval from the relevant authorities, such as Social Welfare Department, Food and Environmental Hygiene Department and Division III of Home Affairs Department, etc.

Q11: Is it possible for me to make some changes to the proposed event after I have got the licence?

A11: If the event has already commenced, no change can be made (including cancellation of the lottery event). For minor changes before commencement of the event, you should apply in writing. You may be required to return the licence to OLA for amendments. Any amendment to the Lottery Licence can only be made once, and a fee of HK\$155 will be charged.

Q12: Must lottery tickets be serially numbered?

A12: It is a licence condition that every lottery ticket shall be numbered serially and no such number shall be repeated in respect of the same lottery. Lottery tickets must be serially numbered, starting from one.

Q13: What should I do if I want to print more tickets for sale after the Lottery Licence has been issued?

A13: Please note that all requests for amendment to the details of the Lottery Licence will not be entertained after the commencement of the event. Before the commencement of the event, if you want to print more tickets than that stated in your application, you have to make your request to OLA in writing. Since the total number of tickets to be sold has increased, the net amount of proceeds to be raised from the lottery will also be increased. You should therefore revise this amount accordingly in your letter to OLA. The amendment to the Lottery Licence can only be made once, and a fee of HK\$155 will be charged.

Q14: What details should I include in the announcement of lottery results in the newspapers?

A14: You should include the full name of the organisation granted with the Lottery Licence, the Lottery Licence Number, a complete winner list for all the prizes, prize collection method and contact details of the organisation.

Q15: Is there a standard format regarding the IE statement of the lottery? What information should be provided in the statement? What items can/cannot be included as an administrative expense?

A15: It should contain a review report and an IE statement endorsed by a certified public accountant. Specifically, you should provide information on the income, such as the number of raffle tickets sold and the total proceeds thus generated [apart from the raffle proceeds, you should also list out cash donations (including other fund-raising activities in the same event as in **Q10** above) which may be broken down into different items]; and all items of administrative expenses incurred in the conduct of the lottery, e.g., the cost of printing the lottery tickets, publishing the results of the draw in the newspapers, transportation, stationery, prizes and audit fee, etc. Please note that remuneration for the workers and volunteers should not be regarded as an administrative expense item and should not be included. Please also note that you should keep the administrative expenses as low as possible, which should not be more than 20% of the total proceeds received from the sale of lottery tickets. A sample IE statement is at Appendix V.

Q16: What information should be provided in the Audited Annual Financial Statement?

A16: An Annual Financial Statement audited by a practice unit should show the income and expenditure of the lottery activity, and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event. The information may be shown in the form of “note to account” if appropriate. Besides, you should submit Annual Report / Newsletter / track record of organisation’s activities/charitable works of the relevant year if required.

Q17: A licence condition provides that in preparing an IE statement regarding the lottery event, we have to “obtain a written report made by a practice unit within the meaning of the Professional Accountants Ordinance...”. What is the meaning of a “practice unit”? What should the written report contain?

A17: A “practice unit” refers to a certified public accountant (CPA). You may approach the Hong Kong Institute of Certified Public Accountants (HKICPA) which keeps a list of CPAs registered in Hong Kong. Their address is 37/F, Wu Chung House, 213 Queen’s Road East, Wanchai, Hong Kong.

As regards the “written report”, all CPAs, as members of the HKICPA, may make reference to “Practice Note 852 Review of Lottery Accounts” in the preparation of the written reports. If in doubt, please approach HKICPA for advice.

Q18: What should I do if I want to make an amendment to the cash-counting record?

A18: Any amendment to the cash-counting record should be jointly signed and dated next to the amendment by the same witnessing person(s) and counting staff/volunteer(s) who have previously signed on the same cash-counting record. You should notify OLA in writing of such amendment after submission, with a revised and signed copy of the cash-counting record to OLA as soon as possible.

Q19: How can we enhance our governance and internal control when organizing lottery activities?

A19: The Corruption Prevention Department of the Independent Commission Against Corruption (ICAC) has published the “Best Practice Checklist - Management of Charities and Fund-Raising Activities” to provide a practical guide on good governance and internal control for use by charitable organisations when organizing fund-raising activities. Lottery organisers are therefore advised to read the booklet which can be downloaded from ICAC’s homepage at www.icac.org.hk/filemanager/en/Content_1031/fund_raising.pdf. For further information, please contact the ICAC Advisory Services Group of the Corruption Prevention Department (Telephone no.: 2526 6363, Fax no.: 2522 0505 and e-mail address: asg@cpd.icac.org.hk).

Q20: What should we do in case of loss of money collection bags/boxes, lottery tickets or associated materials, or any suspected fraudulent acts?

A20: In case of loss of money collection bags/boxes, lottery tickets or associated materials, or any suspected fraudulent acts, you must immediately contact the Police and report the incident to the OLA.

**Request Form for Inspection and Copy of
Income and Expenditure Statement and Review Report of Lottery Event**

To: Office of the Licensing Authority, Home Affairs Department (OLA)
(Please send the completed form to 10th Floor, Cityplaza 3, 14 Taikoo Wan Road, Taikoo Shing, Hong Kong or by fax to 2511 3860.)

1. I _____, hereby request to come to the OLA as follows:
(name on HKID Card)

① _____ a.m./p.m. on	} (please prioritize your choices of date)
② _____ a.m./p.m. on	
③ _____ a.m./p.m. on	

to inspect the Income and Expenditure (IE) Statement and the accompanying Review Report of the lottery event (Licence no. _____) organised by

(full name of organisation)

Please call me at _____ (telephone no. at which you can be reached during office hours) to confirm the booking.

2. I understand that I am required to show my HKID card to staff of OLA upon calling at the counter for identification purpose.
3. I understand that I am required to sign a Record Book to the effect that I have inspected the above-mentioned IE Statement and Review Report.
4. I understand that the above-mentioned IE Statement and Review Report are available on OLA's homepage (www.hadla.gov.hk/el).

☐ I request for one set of black and white copy and I understand that a fee will be charged at \$1.2 per copy of A4 size paper and \$1.4 per copy of A3 size paper.

(Signature)

(Date)

Notes

1. The personal data provided in this form will be used for processing the above request.
2. For correction of or access to personal data given in this form, please contact Licensing Officer (Miscellaneous)3 of the OLA at 2117 3694.

☐ Please tick (✓) as appropriate.

**Provision of Personal Data
in Connection with Application for Lottery Licence
under the Gambling Ordinance (Chapter 148)**

Purposes of Collection of Personal Data

The personal data provided by you or the solicitor/agency on your behalf to the Office of the Licensing Authority of Home Affairs Department (OLA) in connection with your application for lottery licence under Gambling Ordinance (Cap. 148) will be used for the following purposes—

- (a) to facilitate assessment of your application for the grant of the licence;
- (b) to facilitate enforcement of the laws, regulations or conditions in respect of the licence; and
- (c) to facilitate communication between the Government and yourself on your application and other relevant licensing matters.

The forms must be completed in full. If you do not provide sufficient information, OLA may not be able to process your application.

Transfer of Personal Data

2. The personal data you provide may be transferred to other Government departments for the purposes mentioned in paragraph 1 above.

Correction of and Access to Personal Data

3. For correction of or access to personal data given by you in the application, please contact Licensing Officer (Miscellaneous)³ of the OLA at 2117 3694.

Payment of Licence Fee

The licence fee is as follows—

<u>Licence</u>	<u>Amount of Fee</u>
Lottery	HK\$ 3,165

The licence fee may be paid by crossed cheque or in cash. It is preferable to pay the fee by cheque. Please indicate your preferred method of payment and collection of licence in the form of “Methods of Payment and Collection of Licence” at Appendix II.

Payment by Crossed Cheque

The cheque should be crossed and made payable to “The Government of the Hong Kong Special Administrative Region” and submitted together with the completed application form to the Office of the Licensing Authority of the Home Affairs Department, in person or by mail. The cheque should not be made payable to any individual officer. Please write your name on the back of the cheque. Post-dated cheque will not be accepted.

Payment in Cash

If you wish to pay the fee in cash, please bring along the completed application forms and the required amount of fee to the Office of the Licensing Authority in person. **Do not send cash by mail. No changes will be given.**

Refund

Please keep the original official receipt. In case the application is refused or withdrawn by you before the issue of licence, payment will be refunded only upon surrender of the original official receipt.

The address of the Office of the Licensing Authority and the Shroff Office service hours are listed as below—

Address : 10th Floor, Cityplaza 3, 14 Taikoo Wan Road,
Taikoo Shing, Hong Kong

Shroff Office service hours : 9:00 a.m. - 12:30 p.m. and 2:00 p.m. - 5:00 p.m.
(except Saturdays, Sundays and public holidays)

Your Ref. : CB4/PAC/R68

Our Ref. : FEHD H&M-H 33-70/5/3C

16 June 2017

Mr Anthony CHU
Clerk to the Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong

Dear Mr CHU,

**Public Accounts Committee
Consideration of Chapter 2 of the
Director of Audit's Report No.68
Monitoring of Charitable Fund-raising Activities**

Thank you for your letter dated 9 June 2017 requesting supplementary information on the subject matter. Our reply is as follows.

(a) Provide a copy of application form for a temporary hawker licence and guidelines for the applicants.

Please refer to the Annex for the application form and notice to applicants regarding the temporary hawker licence ("THL").

(b)&(c) Referring to the case mentioned in Note 33 (paragraph 5.5) of the Audit Report, details of follow-up actions taken in particular against the reported suspicious activities of the charity concerned i.e. monies received were not put into any donation boxes and the rationale behind the requirement on submission of audited accounts for the 13th licence onwards instead of for all licences issued to such organizations within the 12 months as mentioned on paragraph 5.5(c) of the Audit Report.

Hawker Regulation (Cap. 132AI) stipulates that the licence period of a THL should not exceed one month. Apart from this, there is no stated limit on the number of THLs granted to an applicant in one year. In February 2012, a media report revealed that a tax-exempt charitable organisation had been issued with more than 120 THLs in a year by Food and Environmental Hygiene Department ("FEHD") for the organisation to raise fund through on-street sale of commodities, which had in turn aroused public concern on the possible abuse of THLs. Apart from notifying the Social Welfare Department ("SWD") and the Police Force of the incident for their

follow-up actions, FEHD also immediately conducted a review of the mechanism for issuing THLs and introduced the new administrative measures in July the same year in order to prevent the abuse of THLs and for fair distribution of public resource among fund-raising organisations. The relevant measures include:

- (1) Under normal circumstances, the total number of THLs granted to each fund-raising organisation in 12 months shall not exceed 20. Among them, no more than two licences shall be granted for selling goods in the same district and no more than four licences shall be granted for selling goods at hawker black spots;
- (2) The maximum licence period is five days in any two consecutive weeks; and
- (3) Organisations issued with more than 12 licences within 12 months shall prepare an auditor's report for each and every of the licences subsequently issued.

The implementation of the above administrative measures had effectively prevented the abuse of THLs. On the other hand, no further application of THL was made by the organisation reported by the media.

An organisation granted with the THL will raise funds through the on-street sale of commodities where a customer will pay the organisation money in exchange for an actual commodity. The licence has specified the time and designated one location for sale of commodities with maximum licence period of the THL concerned is five days in any two consecutive weeks. In our opinion, such fund-raising activity is comparatively small in scale. Besides, actual commodities transactions are involved in this kind of activity for which donors are not eligible for tax deduction. For these reasons, such transactions should be distinguished from charitable fund-raising activities which do not involve any benefit in return. It is necessary that the need to facilitate on-street fund-raising activities through the sale of commodities by tax-exempted charitable and non-profit-making organisations and the need to address public concern about such activities be considered at the same time. The existing requirement that organisations issued with more than 12 licences within 12 months shall prepare an auditor's report for each and every of the licences subsequently issued is deemed as an appropriate way to keep a balance of the needs relating to the above two aspects.

- (d) **How many audited accounts have been submitted for the 13th licence onwards as mentioned in item c above and what is the average amount of income and expenditure for an event under temporary hawker licences?**

For FEHD, since the introduction of the new administrative measures in July

2012, only one organisation had been issued with more than 12 THLs within 12 months in 2013 (see paragraph 5.8(a) of the Audit Report for details). According to the relevant requirement, the organisation concerned should have submitted within 90 days after the completion of the fund-raising activities of its 13th THL, the auditor's report to FEHD. However, due to the concerned organisation had submitted further applications for THL before the deadline and because of the faulty design of the computer system in early stage of implementation of the new measures for processing THL applications, the concerned organisation was issued with more than 12 THLs under the situation of no submission of the auditor's reports. FEHD is now working on the mechanism for processing licence applications and improving the licence processing system to ensure timely follow-up actions and to prevent recurrence of similar incident effectively.

The concerned organisation has not applied for any THL from FEHD since January 2014 and neither it had submitted the audited report. FEHD is therefore unable to provide the amount of income and expenditure involved in the fund-raising activities under the licence concerned.

(e) Measures taken/ to be taken in improving administrative measures for monitoring on-street selling activities for charitable fund-raising purposes covered by temporary hawker licences with reference to paragraphs 5.7, 5.14(a) and 5.15(c) of the Audit Report.

Regarding the recommendations in paragraphs 5.7, 5.14(a) and 5.15(c) of the Audit Report, FEHD is considering, as far as practicable and legally viable, introducing new licensing condition and administrative measure for issuing THLs to tax-exempted charitable organisations and non-profit making organisations. In considering the recommendations, we will make reference to the best practices specified in the Reference Guide promulgated by SWD while having due regard to factors such as the nature, scale and duration of the fund-raising activities, proportionality of the requirements, and cost of compliance, etc. As regards the safekeeping of the funds raised from fund-raising activities, financial accountability and transparency of the purpose of fund-raising, we plan to, from December this year, impose new licensing conditions which require licensees to display notices/ banners to state the purpose of fund-raising, and through the implementation of administrative measure to remind the applicants concerned to provide secure and sealed boxes for collecting and safekeeping of the funds raised from the sale activity properly.

(f) With reference to paragraphs 5.14(b) and 5.15(d) of the Audit Report, the progress of introducing a new administrative measure, i.e. not processing any subsequent application from any organization until the audited accounts for the previous fund-raising activities are submitted as required.

As regards the recommendations in paragraphs 5.14(b) and 5.15(d) of the Audit Report, FEHD plans to introduce an administrative measure in December 2017

for tax-exempted charitable organisations and non-profit making organisations that have been granted with 12 licences within 12 months. If they wish to continue to submit application to FEHD for the 13th THL, they should submit the application forms together with the financial reports audited by a certified public accountant registered with the Hong Kong Institute of Certified Public Accountants. The reports should disclose to FEHD the amount of funds raised through the 12 previous licences, every expense related to the fund-raising activities as well as the statements which set out the income and expenditure account. If the tax-exempted charitable organisation and non-profit making organisations concerned fails to do so, its new application will not be considered until the auditor's report has been submitted as required. The measure of submitting auditor's report is applicable to all subsequent applications within the relevant period but the total number of THLs granted should not exceed 20.

(g)&(h) With reference to paragraphs 5.15(g) and 5.15(h) of the Audit Report, the progress of exploring with the Social Welfare Department the feasibility of imposing sanction to forestall frivolous applications for the Public Subscription Permit; and the progress of exploring with the Social Welfare Department and the Lands Department means to enhance communication among the departments to streamline application processing, referrals and approvals.

The Home Affairs Bureau will coordinate another inter-departmental meeting in late June to discuss matters including the study on possible alignment of requirements of different types of charitable fund-raising licences and permits, as well as how to interface with relevant departments on the use of Government land by licensee or permittee for fund-raising activities. FEHD will continue to participate in the discussion on issues relating to on-street hawking activities. Moreover, we stand ready to study with SWD and the Lands Department means to enhance communication among departments and the feasibility of sharing of enforcement information and taking concerted actions on repeated "no-show" cases.

Yours sincerely,



(CHENG Ka-yu)

for Director of Food and Environmental Hygiene

c.c. Secretary for Home Affairs
Director of Social Welfare
Director of Home Affairs
Director of Lands
Secretary for Financial Services and the Treasury
Director of Audit



臨時小販牌照申請書 Application for Temporary Hawker Licence

本表格內你所需填報的資料，乃依照《小販規例》(第 132 章，附屬法例) 第 7 條之規定而申報。至於你在本表格內所提供之資料，日後如有任何變更，則須於變更後七天內通知食物環境衛生署署長，否則根據《小販規例》(第 132 章，附屬法例) 第 24 及 56(2) 條之規定乃屬違法。又根據《小販規例》(第 132 章，附屬法例) 第 56(7) 條之規定，凡故意填報任何明知虛假的資料，即屬違法。任何人士如違反上述規例，一經定罪，食物環境衛生署署長有權將其獲發給之牌照予以取消，或將其獲得編配之攤位予以收回。請注意，根據《小販規例》(第 132 章，附屬法例) 第 6 條，牌照不得發給已持有有效牌照的人。

The information, which you supply in this application form, is required in accordance with Section 7 of the Hawker Regulation (Cap. 132, sub. leg.). Any subsequent change in particulars supplied by you in this form should be notified to the Director of Food and Environmental Hygiene within 7 days of any such change, failing which is an offence under Sections 24 and 56(2) of the Hawker Regulation (Cap. 132, sub. leg.). It is also an offence under Section 56(7) of the Hawker Regulation (Cap. 132, sub. leg.) to knowingly give information which you know to be false in relation to any of the particulars supplied by you in this form. Any licence granted or site allocated to any person who is guilty of an offence under the said Regulation shall be cancelled or withdrawn by the Director of Food and Environmental Hygiene. Please note that, in accordance with Section 6 of the Hawker Regulation (Cap. 132, sub. leg.), a licence will not be issued to any person who is the bearer of a valid licence.

第一部份 (申請人資料)

Part I (Personal particulars of applicant)

- (1) 申請人姓名：.....
Name of Applicant (中文 Chinese) (英文 English)
- (2) 別名：.....
Alias
- (3) 出生日期：.....
Date of birth
- (4) 性別：.....
Sex
- (5) 香港身分證號碼：.....
HKID Card No.
- (6) 地址：.....
Address
- (7) 電話號碼：..... (8) 電郵地址：.....
Tel. No. Email Address
- (9) 傳真號碼：.....
Fax No.
- (10) 通訊地址(如與上述地址不同)：.....
Correspondence Address (if different from the above-mentioned address)

第二部份 (與籌款活動有關，請填寫這部份)

Part II (In connection with fund-raising activities, please complete this part)

- (11) 團體名稱：.....
Name of Organisation
- (12) 團體地址：.....
Address of Organisation
- (13) 申請人在團體的職位：.....
Position of Applicant in Organisation
- (14) 擬販賣地點 (請夾附草圖以展示有關地點)：.....
Proposed Hawking Location (please enclose a sketch showing the relevant location)
-
- (15) 擬行使臨時小販牌照時期：由 From.....至 To.....
Proposed Period of the Temporary Hawker Licence
- (16) 擬販賣之貨品：.....
Proposed Commodities for Sale
- (17) 籌得款項擬作用途：.....
Intended Use of Fund Raised
- (18) 補充說明(如需要)：.....
Explanatory Remarks (if any)
-

第三部份 (與持牌小販固定攤位有關，請填寫這部份)

Part III (In connection with licensed fixed-pitch hawker stall, please complete this part)

- (19) 攤位地點：.....
Pitch Location
- (20) 攤位面積：.....×.....平方米(m²)
Pitch Size
- (21) 現時販賣之貨品／經營之行業*：.....
Existing Commodity/Trade*
- (22) 補充說明(如需要)：.....
Explanatory Remarks (if any)
-

聲明 DECLARATION

致： 食物環境衛生署署長
To Director of Food and Environmental Hygiene
本人現謹聲明：

I hereby declare that

- (1) 就本人所知所信，本表格內所填報各項資料，均屬正確無訛，而本人亦無隱瞞任何需要提供之資料；
to the best of my knowledge and belief, the information given in this application form is true and correct, and I have not withheld any information required to be provided herein;
- (2) 本人並不是任何有效小販牌照持有人；及
I am not a holder of any valid hawker licence; and
- (3) 本人明白，本表格第二部份內所填報各項資料，會在簽發臨時小販牌照後上載到食環署、香港政府一站通及資料一線通網頁讓公眾人士參考。

I understand that the information given in Part II of this application form will be uploaded to FEHD, GovHK and Data.One websites for public reference after the issue of Temporary Hawker Licence.

日期：.....
Date

申請人簽署：.....
Signature of Applicant

* 請刪去不適用者。

Please delete where appropriate.

申請人須知 NOTICE TO APPLICANT

- (1) 申請人須附上 2 張半身正面照片（約 39 毫米 x 25 毫米），以辦理簽發臨時小販牌照。
Applicant shall provide 2 full-face photographs (approximate 39 mm x 25 mm) for processing the issuance of the temporary hawker licence.
- (2) 食物環境衛生署(食環署)在有需要時，會要求申請人提交其家庭成員的資料及／或其他與本申請有關的資料。
Applicant may be required to furnish the Food and Environmental Hygiene Department (FEHD) with particulars of his/her family members and/or other information in relation to this application.
- (3) 臨時小販牌照申請書，須在籌款活動舉辦前至少 12 個工作天（工作天並不包括星期六、星期日及公眾假期），遞交食環署。
Temporary hawker licence application should be made to the FEHD at least 12 working days (working days exclude Saturdays, Sundays and public holidays) before the start of the fund-raising activities.
- (4) 主辦團體應向其他政府部門，包括社會福利署署長（電話：2832 4311）或民政事務局局長（電話：2835 1492），查詢上述籌款活動是否需按《簡易程序治罪條例》（第 228 章）第 4(17)條的規定申領許可證。
Organiser should seek advice from other Government departments including the Director of Social Welfare (Tel : 2832 4311)/ the Secretary for Home Affairs (Tel : 2835 1492), as to whether a permit in accordance with Section 4(17) of the Summary Offences Ordinance (Cap. 228) is required for the above-mentioned fund-raising activities.
- (5) 為提升籌款活動的透明度及問責性、確保市民捐款獲得適當保障和運用、防止臨時小販牌照被濫用及公平分配公共資源予籌款團體，食環署對 2012 年 7 月 31 日或以後遞交與籌款活動有關的臨時小販牌照申請施行新措施，詳情見夾附的「臨時小販牌照申請須知」及「牌照條件」。
With aims to enhance transparency and accountability of fund-raising activities, to safeguard and ensure the proper use of donations, to prevent abuse of temporary hawker licences, and to achieve a fair distribution of public resources among the fund-raising organizations, the FEHD has imposed new measures for applications for temporary hawker licences in connection with fund-raising activities received on or after 31st July 2012. For details, please refer to the attached "Points to Note for Application for Temporary Hawker Licence" and "Licence Conditions".
- (6) 在獲簽發臨時小販牌照後，持牌人仍須確保有關活動符合其他政府部門按其執行的法例所訂立的規定。
The grant of a temporary hawker licence does not exempt the licensee from meeting any requirements and conditions imposed under the legislation administered by other Government departments in relation to the activity concerned.

關於申請臨時小販牌照所填報的個人資料
Collection of Personal Data in Connection with
Application for Temporary Hawker Licence
(根據《個人資料(私隱)條例》的規定處理)
(In accordance with the Personal Data (Privacy) Ordinance)

目的說明
Statement of Purpose

1. 收集資料的目的

Purposes of Collection

食物環境衛生署(食環署)會利用經這份申請表填報的資料作以下用途：

The personal data provided by means of this form will be used by the Food and Environmental Hygiene Department (FEHD) for :

- (a) 處理申請臨時小販牌照：
carrying out activities relating to the application for temporary hawker licence;
- (b) 方便食環署職員及其他政府部門的職員與你互相聯絡；及
facilitating communication among staff of the FEHD, other Government departments and yourself.
- (c) 按照食物安全條例的規定披露給食環署轄下的食物安全中心*。
disclosing to the Centre for Food Safety of the FEHD in accordance with the provisions of the Food Safety Ordinance*.

你透過本申請表提供個人資料，純屬自願。不過，如你不提供充分的資料，則食環署恐怕不能處理你的牌照申請。
The provision of personal data by means of this form is voluntary. However, if you do not provide sufficient information, the FEHD may not be able to process your application for licence.

2. 獲轉授資料的機構的類別

Class of Transferees

在本申請表填報的資料可能會交給其他政府部門包括香港警務處、地政總署、民政事務總署或社會福利署，以達致上文第1段所載的目的。

The personal data which you have provided by means of this form may be disclosed to other Government departments including the Hong Kong Police Force, the Lands Department, the Home Affairs Department or the Social Welfare Department in pursuance of the purposes mentioned in paragraph 1 above.

3. 查閱個人資料

Access to Personal Data

根據《個人資料(私隱)條例》第18條、第22條及附表1內第6原則的規定，你有權查閱及更改你的個人資料。查閱的權利包括有權索取此申請表內所提供的個人資料副本一份。應查閱要求而提供資料時，可能要徵收費用。

You have a right of access and correction with respect to personal data as provided for in accordance with Sections 18 and 22 and Principle 6 to Schedule 1 of the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of your personal data which you have provided by means of this form. A fee may be imposed for complying with data access request.

* 適用於售賣食物類貨品的小販牌照。

Applicable to hawker licence for the sale of food-related commodities.

4. 查詢

Enquiries

如對本申請表格收集的個人資料有任何查詢，包括查閱及更改資料等，可向下列各有關分區環境衛生辦事處提出：

Enquiries concerning the personal data collected by means of this form, including the making of access and corrections, should be addressed to the following respective District Environmental Hygiene Office :

<p>港島及離島區</p> <p><u>中西區環境衛生辦事處</u> 香港皇后大道中 345 號上環市政大廈 10 樓 電話號碼：2543 4238/ 2545 0506 傳真號碼：2851 7653/ 2854 2755</p> <p><u>東區環境衛生辦事處</u> 香港鰂魚涌街 38 號鰂魚涌市政大廈 3 樓 電話號碼：2563 4340 傳真號碼：2565 8203/ 2562 5836</p> <p><u>南區環境衛生辦事處</u> 香港香港仔大道 203 號香港仔市政大廈 4 樓 電話號碼：2552 8406 傳真號碼：2873 1608/ 2552 9071</p> <p><u>灣仔區環境衛生辦事處</u> 香港灣仔軒尼詩道 225 號駱克道市政大廈 7 樓 電話號碼：2507 3364 傳真號碼：2519 6884</p> <p><u>離島區環境衛生辦事處</u> 香港中環統一碼頭道 38 號海港政府大樓 6 樓 電話號碼：2852 3215 傳真號碼：2545 2964</p>	<p>Hong Kong & Islands</p> <p><u>Central/Western District Environmental Hygiene Office</u> 10/F., Sheung Wan Municipal Services Building, 345 Queen's Road Central, Hong Kong Tel. No.: 2543 4238/ 2545 0506 Fax. No.: 2851 7653/ 2854 2755</p> <p><u>Eastern District Environmental Hygiene Office</u> 3/F., Quarry Bay Municipal Services Building, 38 Quarry Bay Street, Hong Kong Tel. No.: 2563 4340 Fax. No.: 2565 8203/ 2562 5836</p> <p><u>Southern District Environmental Hygiene Office</u> 4/F., Aberdeen Municipal Services Building, 203 Aberdeen Main Road, Hong Kong Tel. No.: 2552 8406 Fax. No.: 2873 1608/ 2552 9071</p> <p><u>Wanchai District Environmental Hygiene Office</u> 7/F., Lockhart Road Municipal Services Building, 225 Hennessy Road, Wanchai, Hong Kong Tel. No.: 2507 3364 Fax. No.: 2519 6884</p> <p><u>Islands District Environmental Hygiene Office</u> 6/F., Harbour Building, 38 Pier Road, Central, Hong Kong Tel. No.: 2852 3215 Fax. No.: 2545 2964</p>
<p>九龍</p> <p><u>九龍城區環境衛生辦事處</u> 九龍馬頭圍道 165 號土瓜灣政府合署 3 樓及 4 樓 電話號碼：2711 2493 傳真號碼：2761 0718</p> <p><u>觀塘區環境衛生辦事處</u> 九龍觀塘瑞和街 9 號瑞和街市政大廈 7 樓 電話號碼：3102 7388 傳真號碼：2343 6734</p> <p><u>旺角區環境衛生辦事處</u> 九龍旺角花園街 123 號A花園街市政大廈 6 樓及 7 樓 電話號碼：2395 2727 傳真號碼：2391 5572</p> <p><u>深水埗區環境衛生辦事處</u> 九龍深水埗元州街 59 - 63 號元州街市政大廈 8 樓 - 10 樓 電話號碼：2748 6959 傳真號碼：2748 6937</p> <p><u>黃大仙區環境衛生辦事處</u> 九龍彩虹道 121 號大成街街市大廈 3 樓 電話號碼：2328 6531 傳真號碼：2351 5710</p> <p><u>油尖區環境衛生辦事處</u> 九龍油麻地寶靈街 17 號官涌市政大廈 3 樓及 4 樓 電話號碼：2302 1299 傳真號碼：2735 5955</p>	<p>Kowloon</p> <p><u>Kowloon City District Environmental Hygiene Office</u> 3/F. & 4/F., To Kwa Wan Market and Government Offices, 165 Ma Tau Wai Road, Kowloon Tel. No.: 2711 2493 Fax. No.: 2761 0718</p> <p><u>Kwun Tong District Environmental Hygiene Office</u> Level 7, Shui Wo Street Municipal Services Building, 9 Shui Wo Street, Kwun Tong, Kowloon Tel. No.: 3102 7388 Fax. No.: 2343 6734</p> <p><u>Mong Kok District Environmental Hygiene Office</u> 6/F. & 7/F., Fa Yuen Street Municipal Services Building, 123A Fa Yuen Street, Mong Kok, Kowloon Tel. No.: 2395 2727 Fax. No.: 2391 5572</p> <p><u>Sham Shui Po District Environmental Hygiene Office</u> 8/F. - 10/F., Un Chau Street Municipal Services Building, 59 - 63 Un Chau Street, Sham Shui Po, Kowloon Tel. No.: 2748 6959 Fax.No.: 2748 6937</p> <p><u>Wong Tai Sin District Environmental Hygiene Office</u> 3/F., Tai Shing Street Market Building, 121 Choi Hung Road, Wong Tai Sin, Kowloon Tel. No.: 2328 6531 Fax. No.: 2351 5710</p> <p><u>Yau Tsim District Environmental Hygiene Office</u> 3/F. & 4/F., Kwun Chung Municipal Services Building, 17 Bowring Street, Yau Ma Tei, Kowloon Tel. No.: 2302 1299 Fax. No.: 2735 5955</p>

新界

葵青區環境衛生辦事處

新界葵涌興芳路 166 - 174 號葵興政府合署 9 樓
電話號碼：2420 9204 傳真號碼：2480 4023

北區環境衛生辦事處

新界上水智昌路 13 號石湖墟市政大廈 4 樓
電話號碼：2679 2812 傳真號碼：2679 5695

西貢區環境衛生辦事處

新界將軍澳培成路 38 號西貢將軍澳政府綜合大樓 8 樓
電話號碼：3740 5100 傳真號碼：2792 9937

沙田區環境衛生辦事處

新界沙田鄉事會路 138 號
新城市中央廣場第 1 座 12 樓
電話號碼：2634 0136 傳真號碼：2634 0442

大埔區環境衛生辦事處

新界大埔鄉事會街 8 號大埔綜合大樓 3 樓
電話號碼：3183 9109 傳真號碼：2650 1171

荃灣區環境衛生辦事處

新界荃灣楊屋道 45 號楊屋道市政大廈 3 樓
電話號碼：2212 9701 傳真號碼：2414 8809

屯門區環境衛生辦事處

新界屯門屯喜路 1 號屯門政府合署 1 樓及 3 樓
電話號碼：2146 8642 傳真號碼：2452 6559

元朗區環境衛生辦事處

新界元朗橋樂坊 2 號元朗政府合署 2 樓 - 5 樓
電話號碼：2475 3433 傳真號碼：2477 5099

New Territories

Kwai Tsing District Environmental Hygiene Office

9/F., Kwai Hing Government Offices Building,
166 - 174 Hing Fong Road, Kwai Chung, N. T.
Tel. No.: 2420 9204 Fax. No.: 2480 4023

North District Environmental Hygiene Office

4/F., Shek Wu Hui Municipal Services Building,
13 Chi Cheong Road, Sheung Shui, N. T.
Tel. No.: 2679 2812 Fax. No.: 2679 5695

Sai Kung District Environmental Hygiene Office

8/F., Sai Kung Tseung Kwan O Government Complex,
38 Pui Shing Road, Tseung Kwan O, N. T.
Tel. No.: 3740 5100 Fax. No.: 2792 9937

Sha Tin District Environmental Hygiene Office

Level 12, Tower 1, Grand Central Plaza,
138 Rural Committee Road, Sha Tin, N. T.
Tel. No.: 2634 0136 Fax. No.: 2634 0442

Tai Po District Environmental Hygiene Office

3/F., Tai Po Complex,
8 Heung Sze Wui Street, Tai Po, N. T.
Tel. No.: 3183 9109 Fax. No.: 2650 1171

Tsuen Wan District Environmental Hygiene Office

3/F., Yeung Uk Road Municipal Services Building,
45 Yeung Uk Road, Tsuen Wan, N. T.
Tel. No.: 2212 9701 Fax. No.: 2414 8809

Tuen Mun District Environmental Hygiene Office

1/F. & 3/F., Tuen Mun Government Offices Building,
1 Tuen Hi Road, Tuen Mun, N. T.
Tel. No.: 2146 8642 Fax. No.: 2452 6559

Yuen Long District Environmental Hygiene Office

2/F. - 5/F., Yuen Long Government Offices,
2 Kiu Lok Square, Yuen Long, N. T.
Tel. No.: 2475 3433 Fax. No.: 2477 5099

臨時小販牌照申請須知 (以賣物形式進行籌款活動的發牌安排)

香港是一個守望相助，熱心公益的社會。政府當局一直致力提供一個友善環境，盡量精簡行政程序，方便團體動員社區資源進行籌款活動。為方便團體透過以販賣物品形式進行籌款活動，本署會就有關販賣活動簽發臨時小販牌照。然而，籌款活動涉及公眾利益，社會人士亦關注籌款活動的安排是否恰當、所得捐款是否用得其所，並期望當局能對籌款活動進行適度監管，而傳媒亦不時報導一些可疑的街頭籌款活動個案。

為提升籌款活動的透明度及問責性、確保市民捐款獲得適當保障和運用、防止臨時小販牌照被濫用及公平分配公共資源予籌款團體，本署最近完成檢討簽發臨時小販牌照在公眾地方販賣物品以進行籌款活動的安排，並會施行一些新措施，防止濫用此發牌機制：

- (一) 除非獲得食物環境衛生署署長的特別批准，否則每個籌款團體在十二個月內可獲簽發的臨時小販牌照總數不得多於二十個，當中獲准在同一分區內擺賣的牌照總數不得多於兩個，而獲准在小販黑點範圍內擺賣的牌照亦不得多於四個（有關小販黑點詳情請參閱本署網頁<http://www.fehd.gov.hk>）；
- (二) 牌照的最長有效期為任何兩個連續星期內不多於五天；以及
- (三) 任何團體如在十二個月內獲簽發牌照數目多於十二個，須就其後的每個牌照遵辦以下的附加條件：
 - (i) 就該牌照所批准的賣物籌款活動編製一份收支結算表，包括所有公開籌款的收入及每項與籌款活動有關的支出細項（例如審計、運輸、印刷及文具費用等），並交由會計師或會計師事務所或執業法團審計。有關的會計師或會計師事務所或執業法團，須屬香港會計師公會註冊主任按《專業會計師條例》（第50章）第32（1）條的規定，在香港特別行政區政府的憲報公布的持有執業證書的會計師或根據《專業會計師條例》註冊的事務所或執業法團；及
 - (ii) 把上述審計報告的正本，在該牌照有效期的最後一日起計九十日內，遞交食物環境衛生署署長，而署長可以以任何方式或安排將審計報告的內容公開給市民查閱。

請注意：上述的新措施適用於二零一二年七月三十一日及其後的申請。此外，在有需要的情況下，本署可就個別牌照申請增訂其他附加條件。如持牌人或其所屬機構未能遵辦相關條件，本署可根據《公眾衛生及市政條例》（第132章）的規定，取消有關的臨時小販牌照，以及拒絕處理有關團體在往後遞交的臨時小販牌照申請。

食物環境衛生署署長

二零一二年七月

**Points to Note for Application for Temporary Hawker Licence
(licensing arrangements for sale of goods for fund-raising purpose)**

Hong Kong is a caring society and the community is supportive of charitable causes. The Administration strives to provide a friendly environment with administrative procedures kept to a minimum to facilitate charitable organisations to mobilise community resources for their fund-raising activities. To facilitate fund-raising in form of sale of goods, the Food and Environmental Hygiene Department (the Department) issues temporary hawker licences to organisations for conducting the selling activities. Nevertheless, fund-raising activities do, after all, involve public interest. The community is concerned if these activities are properly arranged and if the donations are properly used. The Administration is expected to exercise adequate control over the fund-raising activities. Meanwhile, there has been media coverage on suspicious on-street fund-raising activities.

With aims to enhance transparency and accountability of fund-raising activities, to safeguard and ensure the proper use of donations, to prevent abuse of temporary hawker licences, and to achieve a fair distribution of public resources among the fund-raising organisations, the Department recently reviewed the arrangements for issuing temporary hawker licences regarding the sale of goods in public places for fund-raising purpose. The following new measures will be introduced to prevent abuse of the licensing mechanism:

- (1) Except with the approval of the Director of Food and Environmental Hygiene, the total number of temporary hawker licences granted to each fund-raising organisation in 12 months shall not exceed 20. Among them, no more than two licences shall be granted for selling goods in the same district and no more than four licences shall be granted for selling goods at hawker black spots (for details of hawker black spots, please refer to our website <http://www.fehd.gov.hk>);
- (2) The maximum licence period is five days in any two consecutive weeks; and
- (3) 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:
 - (i) 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
 - (ii) 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.

Note: The above new measures are applicable to all applications made on or after 31 July 2012. Other additional licensing conditions may be imposed where necessary. If the licensee or the organisation concerned fails to comply with the conditions, the Department may cancel the temporary hawker licence and refuse the subsequent applications for a temporary hawker licence from the organisation under the Public Health and Municipal Services Ordinance (Cap. 132).

Director of Food and Environmental Hygiene

July 2012

臨時小販牌照(賣物籌款活動)
Temporary Hawker Licence (Fund-raising Sale Activity)

牌照條件

- 一、持牌人必須遵守《小販規例》(第 132 章，附屬法例)之規定。
- 二、本牌照是簽發予持牌人以賣物方式進行籌款活動。
- 三、未經食物環境衛生署署長(署長)書面批准，持牌人不得轉讓或轉售其牌照，亦不得轉租或放棄管有其攤檔。
- 四、持牌人須設置足夠的垃圾桶或盛器，盛載因經營小販業務而引致的所有垃圾及其他廢物，以等待清理。該等垃圾桶或盛器須以不透水物料製造，構造良好，容量須為 30 升至 100 升之間，並配有緊貼蓋子或其他配件，以防塵埃和臭味溢出。
- 五、相關的賣物籌款活動不得妨礙任何道路工程或其他公用設施的維修工程。
- 六、在任何賣物籌款活動進行期間，必須在牌照核准的地點設置一個不超出核准面積的攤檔展示和擺賣牌照核准的有關物品。所有賣物籌款活動須在該攤檔進行。
- 七、攤檔只可用作售賣在相關牌照上規定的貨品。
- 八、在任何賣物籌款活動進行期間，持牌人須親自在攤檔主理或監督有關活動，如無充分理由，不得離去。
- 九、在賣物籌款活動進行期間，必須於攤檔顯眼處展示本牌照。
- 十、在賣物籌款活動進行期間，必須於攤檔顯眼處展示一個長度不小於 50 厘米和闊度不小於 40 厘米的告示或條幅，顯示獲發本牌照的機構的名稱及食物環境衛生署指定的查詢／投訴電話號碼。告示牌上的字體須在兩米範圍內清晰可見。
- 十一、違反上述任何規定，署長可取消本牌照。

LICENCE CONDITIONS

1. The licensee shall comply with the provisions of the Hawker Regulation (Cap. 132, sub. leg.).
2. This licence is issued to the licensee to raise funds through the sale of commodities.
3. The licensee shall not transfer or assign his licence to any person, or sub-let or part with possession of the stall without the prior approval in writing from the Director of Food and Environmental Hygiene (Director).
4. Sufficient refuse bins or receptacles, made of sound construction and impervious materials, with a capacity not exceeding 100L and not less than 30L and close-fitting lids or other means to prevent the emission of dust and stench therefrom, shall be provided for the storage of all refuse and other waste matter generated from the hawking business whilst awaiting disposal.
5. Related fund-raising activities should not cause obstruction to any road works and maintenance operations of other utility services.
6. At all time when any fund raising sale activity is carried on, a stall of the size not exceeding the approved area shall be set up at the approved location for display and sale of the approved commodities as specified in this licence. All fund-raising sale activities shall be conducted at the stall.
7. The stall shall only be used for selling commodities specified on the relevant licence.
8. Unless absent for reasonable causes, the licensee shall be personally present at the stall and conduct or supervise activities there at all times when any fund raising sale activity is carried on.
9. This licence shall be displayed conspicuously at the stall at all times when any fund raising sale activity is carried on.
10. At all time when any fund raising sale activity is carried on, a notice/banner of not less than 50 cm in length and 40 cm in width showing the name of the organization to which this licence has been issued and the enquiry/complaint hotline specified by the Food and Environmental Hygiene Department shall be displayed conspicuously at the stall. The characters on the notice/banner shall be legible at a distance of 2 metres.
11. The Director may cancel the relevant licence if there is a breach of any of the above conditions.

政府總部
民政事務局

香港添馬添美道二號
政府總部西翼十二樓



APPENDIX 14

**GOVERNMENT SECRETARIAT
HOME AFFAIRS BUREAU**

12TH FLOOR, WEST WING,
CENTRAL GOVERNMENT OFFICES,
2 TIM MEI AVENUE,
TAMAR,
HONG KONG.

本局檔號 OUR REF. : HAB/CR 1/19/120
來函檔號 YOUR REF. : CB4/PAC/R68
電 話 TEL NO. : 3509 8048
圖文傳真 FAXLINE : 2591 6002

16 June 2017

Mr Anthony CHU
Clerk, Public Accounts Committee
Legislative Council
Legislative Council Complex,
1 Legislative Council Road,
Central,
Hong Kong

Dear Mr Chu,

Public Accounts Committee

**Consideration of Chapter 2 of the Director of Audit's Report No. 68
(the Audit Report)**

Monitoring of charitable fund-raising activities

In response to your letter dated 9 June 2017, I would like to provide the requested information below:

- (c) The recommendations made by the Law Reform Commission (LRC) in its Report on Charities involve the duties of a number of Government bureaux and departments (B/Ds). The Home Affairs Bureau (HAB) has been assigned to co-ordinate inputs from relevant B/Ds to produce a response to LRC's recommendations for the Government's overall consideration. A chronology of the work done is at the **Annex**.

(d, e(iii))

Paragraph 6.2 in Chapter 2 of the Audit Report summarises four major deficiencies as regards the existing regulatory framework of

charities mentioned by the LRC, namely the out-dated definition of a charity; lack of a coherent system for the registration of charities; inconsistent standards or requirements on governance, accounting and reporting by charities; and limited control of charitable fund-raising activities.

To address these deficiencies, the LRC has made a number of recommendations which mainly include providing a statutory definition of “charitable organisations”; establishing and maintaining a register of charitable organisations by a single bureau or department; delegating the same bureau or department to be responsible for co-ordinating the work of regulating charitable organisations and charitable fund-raising activities which are now under the purview of different B/Ds; and enhancing some administrative measures on regulating and monitoring charitable fund-raising activities.

According to LRC’s original proposal, a single authority (for example, an independent charity commission) should be established to co-ordinate the regulation of charitable organisations, develop a registration system and implement the above measures. However, as pointed out by the LRC in its Report, the findings of the public consultation revealed that no consensus in the community had been reached on the establishment of a single authority. Many charitable organisations even objected to the proposal. In this regard, the LRC suggested that an independent charity commission should not be set up at this stage, and instead a register of charitable organisations be established and maintained by a single government department.

As mentioned in the Paper (R68/2/GEN9) submitted earlier on by the HAB, it would be a highly complicated issue for the existing government B/Ds to implement the measure of requiring charitable organisations to register in the absence of a new independent regulatory authority. Views and feedback of the public and various stakeholders should be taken into account. The measure also involves a considerable amount of integration work on, among others, policy co-ordination, resources allocation and even structural re-organisation.

Following the release of the LRC Report in December 2013, the HAB wrote to the relevant B/Ds on 20 January 2014, asking them

***Note by Clerk, PAC:** *Please see Appendix 15 of this Report for R68/2/GEN9.*

to consider the LRC's proposals. Later on 11 August 2015, a co-ordination meeting was convened to discuss with relevant B/Ds the approach to and the framework for regulation as proposed in the LRC Report. The HAB is now consolidating the views (including those further comments received after the co-ordination meeting) from relevant B/Ds for submission to the Government for overall consideration.

(a, b, e(i), e(ii), f, h)

Regarding the various administrative measures proposed by the LRC to enhance the regulation and monitoring of charitable fund-raising activities, the HAB will convene another meeting at the end of June and co-ordinate the departments concerned to further explore the feasibility of the measures. Those departments include the Efficiency Unit, the Food and Environmental Hygiene Department, the Home Affairs Department, the Lands Department, the Office of the Government Chief Information Officer and the Social Welfare Department (SWD). We shall examine how the regulation of fund-raising activities for charitable causes can be strengthened and the transparency of public fund-raising activities be enhanced under the existing mechanism. Apart from taking into account the recommendations from the LRC, we will make reference to the suggestions in the Audit Report for monitoring charitable fund-raising activities and the views of the Public Accounts Committee (PAC), which include:

Licence or Permit Application

- (1) to co-ordinate relevant B/Ds and examine the common requirements of the licences and permits, and explore the possibility of providing a one-stop service to facilitate licence applications for on-street fund-raising activities (i.e. Recommendation 9 in the LRC Report and paragraph 5.14(e) in Chapter 2 of the Audit Report);

Monitoring the approved charitable fund-raising activities held in public area

- (2) to study the feasibility of issuing the same badge to approved charitable fund-raising activities held in public area, so as to help the public identify whether the activities

have been issued with relevant permits or licences (recommendation of a PAC member);

- (3) to co-ordinate enforcement efforts on charitable fund-raising activities held in public places (i.e. the recommendation in paragraph 3.25(c) of Chapter 2 of the Audit Report);

Enhancing the transparency of charitable fund-raising activities

- (4) to explore the possibility of uploading financial reports or income and expenditure accounts relating to the approved charitable fund-raising activities onto “GovHK” upon completion of those activities or providing relevant hyperlinks on department websites for public scrutiny (i.e. recommendations in paragraphs 3.25(h) and 4.14(d) of Chapter 2 of the Audit Report);
- (5) to explore the possibility of upgrading the functions of the one-stop finder for charitable fund-raising activities currently performed on “GovHK” and enhancing the services of the existing 1823 Hotline to facilitate the search by the public for information on approved charitable fund-raising activities, as well as to respond to any public enquiries and complaints relating charitable fund-raising activities (i.e. Recommendation 10 in the LRC Report and the recommendation in paragraph 2.19(a)(iv) of Chapter 2 of the Audit Report);

Promoting the code of good practice

- (6) to conduct a review on the existing Reference Guide on Best Practices for Charitable Fund-raising Activities (the Guide) issued by the SWD to see if the Guide can be made applicable to more types of different charitable fund-raising activities, including the three types of activities that require a permit or a licence, as well as other new modes of fund-raising (i.e. Recommendation 12 in the LRC Report and the recommendation in paragraph 2.19(a)(iii) of Chapter 2 of the Audit Report); and
- (7) if it is shown in the findings that the Guide is applicable to

or can be amended to apply to more types of different charitable fund-raising activities, we will consider launching relevant promotional programmes to encourage charitable organisations to organise activities with reference to the best practices for charitable fund-raising activities. We will also step up promotion efforts in the community so that the public may refer to the Guide on these best practices to make easy assessment of the performance of charitable organisations in those activities and to have a better understanding of the rights and interests of donors (i.e. Recommendation 13 in the LRC Report and the recommendations in paragraphs 2.19(a)(i) and (ii) of Chapter 2 of the Audit Report).

After the meeting, the HAB will report to the PAC the outcome of the discussion and the relevant follow-up arrangements.

- (g) Regarding the legal advice of the Department of Justice on the “cy-près doctrine”, the HAB will give a reply separately.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Grace LI', written in a cursive style.

(Grace LI)
for Secretary for Home Affairs

c.c.:

Director of Social Welfare

Director of Home Affairs

Director of Food and Environmental Hygiene

Director of Lands

Secretary for Financial Services and the Treasury

Director of Audit

Annex

Chronology of the co-ordination work of the Home Affairs Bureau on the views from relevant bureaux and departments in response to recommendations made by the Law Reform Commission (LRC)

Date	Main task	Related document(s)
9.2007	The LRC commenced a study on the issue of charities	
17.5.2012	The then Chief Secretary for Administration designated the Home Affairs Bureau (HAB) as the responsible bureau for co-ordinating inputs from relevant bureaux/departments (B/Ds) to produce a response to LRC's recommendations for the Government's overall consideration	Paragraph 6.5 in Chapter 2 of the Audit Report
12.2013	Publication of the LRC Report on Charities	R68/2/INFO6
20.1.2014	The HAB wrote to eight relevant bureaux and the Efficiency Unit (EU), asking them to consider the recommendations made by the LRC	Paragraph 6.8(a) in Chapter 2 of the Audit Report
mid-2014	Written comments from nine bureaux (Constitutional and Mainland Affairs Bureau, Education Bureau, Environment Bureau, Financial Services and the Treasury Bureau (FSTB), Food and Health Bureau, HAB, Labour and Welfare Bureau (LWB), Development Bureau and Security Bureau) and eight departments (Agriculture, Fisheries and Conservation Department, Companies Registry, Efficiency Unit, Food and Environmental Hygiene Department (FEHD), Home Affairs Department (HAD), Hong Kong Police Force (HKPF), Inland Revenue Department and Social Welfare Department (SWD)) were received. Interviews with individual B/Ds were arranged for further understanding	Views of various B/Ds are concluded on pages 25 to 43 of R68/2/GEN1
26.6.2015	B/Ds were invited to attend an inter-departmental meeting and comment on a discussion note prepared by the HAB	Appendix A

Date	Main task	Related document(s)
20.7.2015	The date and time of the first cross-departmental meeting were confirmed	Appendix B
11.8.2015	The first inter-departmental meeting was held	For the attendance list, please see page 7 of R68/2/GEN1 For the discussion note, please see pages 9 to 43 of R68/2/GEN1
24.8.2015	An email was sent to the B/Ds present at the meeting, inviting submission of supplementary information and further comments on the issues discussed at the first inter-departmental meeting	Pages 45 to 55 of R68/2/GEN1
2.10.2015	The LWB submitted further comments on the issues discussed at the first inter-departmental meeting	Pages 57 to 68 of R68/2/GEN1
19.9.2016	Relevant departments (FEHD, HAD and SWD) were invited to attend a meeting to discuss the formulation of measures to enhance the transparency of charitable fund-raising activities	Pages 104 to 106 of R68/2/GEN1
21.9.2016	The date and time of the second inter-departmental meeting were confirmed	Pages 103 to 104 of R68/2/GEN1
22.9.2016	An email was sent to the Department of Justice (DoJ) for advice on matters ranging from the feasibility of LRC's recommendation on introducing legislation similar to the English statutory model of the "cy-près doctrine" to the relationship between the doctrine and DoJ's role as the protector of charities	Appendix C
29.9.2016	The Audit Commission wrote to brief the HAB on the scope of value for money audits (yet no specific items provided) and to seek the co-operation of the Bureau	Appendix D

Date	Main task	Related document(s)
30.9.2016	An email reminder was sent to B/Ds, asking them to submit further comments on the issues discussed at the first inter-departmental meeting	Pages 69 to 70 of R68/2/GEN1
4.10.2016	The second inter-departmental meeting was held	For the attendance list, please see page 99 of R68/2/GEN1
5.10.2016	An email was sent to the FEHD, the HAD and the SWD setting out the gist of discussion at the second inter-departmental meeting and the follow-up actions agreed	Pages 101 to 103 of R68/2/GEN1
5.10.2016	An email was sent to the EU to explore the feasibility of strengthening the 1823 services	Pages 107 to 108 of R68/2/GEN1
11.10.2016	The EU confirmed that it had no further comments on the issues discussed at the first inter-departmental meeting	Pages 69 to 70 of R68/2/GEN1
11.10.2016	The EU gave a reply on the feasibility of strengthening the 1823 services	Page 107 of R68/2/GEN1
18.10.2016	The HKPF confirmed that it had no further comments on the issues discussed at the first inter-departmental meeting	Page 71 of R68/2/GEN1
10.2016	A preliminary discussion with the Office of the Government Chief Information Officer on the feasibility of strengthening the operation of the GovHK platform	No official written records but mentioned on page 119 of R68/2/GEN1
31.10.2016	HAD provided views on measures to enhance the transparency of charitable fund-raising activities	Pages 112 to 113 of R68/2/GEN1P
31.10.2016	HAD confirmed that it had no further comments on the issues discussed at the first inter-departmental meeting for the time being	Page 72 of R68/2/GEN1
1.11.2016	The HAB met with the Audit Commission to discuss the specific scope of the value for money audit and the provision of written records necessary for auditing	No official written records

Date	Main task	Related document(s)
2.11.2016	The SWD made comments on measures to enhance the transparency of charitable fund-raising activities	Pages 114 to 116 of R68/2/GEN1
16.11.2016	The FEHD made comments on measures to enhance the transparency of charitable fund-raising activities	Pages 109 to 111 of R68/2/GEN1
22.12.2016	The FSTB submitted further comments on issues discussed at the first inter-departmental meeting	Pages 73 to 87 of R68/2/GEN1
5.1.2017	The DoJ made a reply about the LRC's recommendation on the "cy-près doctrine"	
14.2.2017	An email summarising comments on measures to enhance the transparency of charitable fund-raising activities and recommending follow-up actions was sent to the FEHD, the HAD and the SWD	Pages 117 to 121 of R68/2/GEN1
3.3.2017	The SWD made further comments on measures to enhance the transparency of charitable fund-raising activities	Pages 117 to 121 of R68/2/GEN1
9.3.2017	An email was sent to the SWD to clarify the points made by the SWD and to invite the FEHD and the HAD to make further comments	Pages 122 to 123 of R68/2/GEN1
15.3.2017	The HAD made further comments on measures to enhance the transparency of charitable fund-raising activities	Pages 122 to 128 of R68/2/GEN1
9.5.2017	The FEHD made further comments on measures to enhance the transparency of charitable fund-raising activities	Pages 129 to 135 of R68/2/GEN1
9.5.2017	The FEHD submitted further comments, in response to the recent legal advice they have sought, on issues discussed at the first inter-departmental meeting	Pages 88 to 98 of R68/2/GEN1

***Note by Clerk, PAC:** *All related documents not attached.*

政府總部
民政事務局

香港添馬添美道二號
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GOVERNMENT SECRETARIAT
HOME AFFAIRS BUREAU

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CENTRAL GOVERNMENT OFFICES,
2 TIM MEI AVENUE,
TAMAR,
HONG KONG.

本局檔號 OUR REF. : HAB/CR 1/19/120
來函檔號 YOUR REF. : CB4/PAC/R68
電 話 TEL NO. : 3509 8048
圖文傳真 FAXLINE : 2591 6002

26 May 2017

Mr Anthony CHU
Clerk, Public Accounts Committee
Legislative Council
Legislative Council Complex,
1 Legislative Council Road,
Central,
Hong Kong

Dear Mr Chu,

Public Accounts Committee

**Consideration of Chapter 2 of the Director of Audit's Report No.68
(the Audit Report)**

Monitoring of charitable fund-raising activities

As requested in your letters dated 17 May 2017, I append the requested information below.

The recommendations by the Law Reform Commission (LRC) in its Report on Charities involve the duties of a number of Government bureaux and departments. Since many recommendations in the LRC Report carry significant implications on charities in Hong Kong in terms of their definition and operation, the Government needs to consider the recommendations thoroughly and carefully. Home Affairs Bureau (HAB) has been assigned to co-ordinate inputs from the relevant bureaux and departments in formulating responses to LRC's recommendations for the Government's overall consideration. Such co-ordination efforts have not been confined to collecting views of relevant bureaux and departments at meetings. HAB has also, through various communication channels, co-ordinated bureaux and departments to study the recommendations and explore possible way forward.

Upon release of the LRC Report in December 2013, HAB wrote to relevant bureaux and departments on 20 January 2014 inviting their

consideration of LRC's recommendations. The recommendations of LRC involve the duties of at least 9 bureaux and 9 executive departments. These bureaux and departments, apart from HAB, include -

- (1) 8 bureaux (i.e. Constitutional and Mainland Affairs Bureau, Education Bureau, Environment Bureau, Financial Services and the Treasury Bureau (FSTB), Food and Health Bureau, Labour and Welfare Bureau (LWB), Development Bureau and Security Bureau) and one department (i.e. Efficiency Unit) which HAB consulted in writing in January 2014 (i.e. the 9 bureaux/departments mentioned in para. 6.8(a) of Chapter 2 in the Audit Report);
- (2) another 7 executive departments (i.e. Agriculture, Fisheries and Conservation Department; Companies Registry; Food and Environmental Hygiene Department (FEHD); Home Affairs Department (HAD); Hong Kong Police Force (HKPF); Inland Revenue Department (IRD) and Social Welfare Department (SWD)) which also provided comments to HAB; and
- (3) Office of the Government Chief Information Officer (OGCIO) which is responsible for the operation of the "GovHK" website.

Upon receiving comments from the relevant bureaux and departments, HAB sought clarification on the replies from some of the bureaux and departments. On the basis of the responses from the relevant bureaux and departments, HAB made an initial assessment and considered that the challenges in implementing LRC's recommendations would come mainly from the LRC's three major recommendations, namely providing a statutory definition of "charitable organisations"; establishing and maintaining a register of charitable organisations by a single Government bureau or department; and delegating the same bureau or department to be responsible for co-ordinating the work of regulating charitable organisations and charitable fund-raising activities which are currently under the purview of different bureaux and departments. The major challenges are summarised below:

- (1) Challenges in providing a statutory definition of "charitable organisations" or "charitable purposes"

One of the major recommendations of LRC is that a statutory definition should be provided for "charitable organisations" or "charitable purposes" and such a definition should be extended to cover 14 heads. The Government should also establish a registration system for charitable organisations according to the definition proposed by the LRC.

However, clear objectives and purposes (such as for assessing whether an organisation has met the requirements for tax exemption and for regulating charitable fund-raising activities) are required for providing a statutory definition of “charitable organisations” or “charitable purposes” and for establishing a registration system. In general, it is difficult for the Government to introduce a new piece of legislation to provide merely a definition of “charitable purposes” or require charitable organisation to register, without formulating a clear regulatory framework or enforcement arrangements. Owing to the diversity of these regulatory purposes, it is not easy to provide a definition of “charitable organisations” or “charitable purposes” which is applicable to various regulatory purposes and frameworks. As a matter of fact, it was also found by LRC during its public consultation exercise that no consensus in the community had been reached on whether some of the purposes (e.g. promoting human rights, resolving conflicts or settling disputes) should be considered as charitable purposes. Therefore, the Government has to make a comprehensive assessment on different views expressed in the community when considering a statutory definition for charitable organisations.

- (2) No consensus in the community on establishing and maintaining a register of charitable organisations by a single regulatory authority

Furthermore, as pointed out by LRC in its Report, the findings of the public consultation revealed that no consensus in the community has been reached on the establishment of a single authority (for example, to set up an independent charity commission) and the proposal of making an authority responsible for establishing a registration system, as well as co-ordinating the regulation of charitable organisations. Many charitable organisations even objected the proposal as they worried that the charity commission would be given too much power without proper check-and-balance. They also considered that the administration cost of the commission might be shifted to charitable organisations, thus increasing their financial burden. For the religious sector, they even worried that the registration system would involve scrutiny of religious organisations’ charitable work, which might lead to interference with religious doctrines and activities and undermine the freedom of religion as enshrined in the Basic Law.

In view of the public views, LRC suggested that an independent charity commission should not be set up at this stage, while a register of charitable organisations be established and maintained by a single government department. However, the implementation of the registration system of charitable organisations without setting up

a new independent regulatory authority is a highly complicated issue. We need to consider further whether the worries of charitable organisations over financial burden and religious autonomy can be removed if the registration and regulation matters are handled by a government department or an organisation instead of an independent charity commission. The Government needs to take into consideration the views and feedback of the public and various stakeholders, including various types of charitable organisations.

- (3) A single bureau or department to co-ordinate the current work of bureaux and departments on the regulation of charitable organisations and charitable fund-raising activities

Under the existing Inland Revenue Ordinance (Cap. 112), there have been provisions providing tax exemption for charitable organisations. Moreover, various types of fund-raising activities organised in public places are regulated through a number of permits or licensing systems. LRC recommended that the current work of different bureaux and departments involving the regulation of charitable organisations and charitable fund-raising activities should be delegated to one bureau or department. As a matter of fact, the current legislation, licensing and land allocation work relating to charitable organisations and fund-raising activities, as well as coverage of charitable purposes recommended by the LRC, involve the duties of at least 9 Government bureaux and 9 executive departments¹. Substantial integration work on, among other things, policy co-ordination, resources allocation and even re-organisation will be required for the bureaux and departments to consolidate all the relevant legislation and powers before a single policy bureau or department could be designated to administer and carry out the work.

On 11 August 2015, the HAB convened an inter-departmental meeting with eight other bureaux and departments (including FSTB, LWB, EU, FEHD, HAD, HKPF, IRD and SWD), whose scopes of work under the current legislation and statute involve the monitoring of charitable organisations or charitable fund-raising activities, to discuss the approach to and the framework for regulation as proposed in the LRC Report. Given the complexity of the issue, the bureaux and departments concerned agreed that the Government should consider carefully the feasibility and implications of those recommendations from policy and practical implementation

¹ Relevant bureaux and executive departments include Constitutional and Mainland Affairs Bureau; Education Bureau; Environment Bureau; FSTB; Food and Health Bureau; HAB; LWB; Development Bureau; Security Bureau; Agriculture, Fisheries and Conservation Department; Companies Registry; EU; FEHD; IRD; HAD; HKPF; OGCIO and SWD.

perspectives, as well as responses from relevant stakeholders.

Apart from the above, the relevant bureaux and departments noted that one of the key rationales behind the recommendations made by the LRC was to enhance the transparency of charitable organisations, especially those raising funds from the public, so as to protect the interests of donors. At present, the Government's regulation on some charitable fund-raising activities is incidental to the legislation that controls nuisances committed in public places, gambling and hawking. Therefore, the relevant bureaux and departments agreed that departments currently responsible for issuance of permits or licenses relating to charitable fund-raising activities, i.e. FEHD, HAD and SWD, could consider how to enhance the regulation of charitable fund-raising activities under the existing regime.

After conducting further data collection and research on, among others, the background leading to the introduction of the legislation relating to issuance of permits or licences of charitable fund-raising activities and the present regulatory arrangements for the licensing system, HAB convened another cross-departmental meeting on 4 October 2016 to study with FEHD, HAD and SWD the formulation of short-term viable administrative measures, with a view to enhancing the transparency of charitable fund-raising activities. Our consideration mainly follows the three broad directions below:

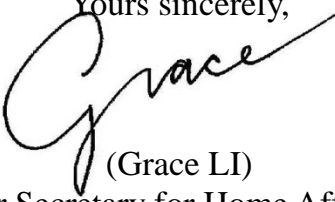
- (1) The basic direction for implementing these measures is to enhance the transparency of charitable organisations and charitable fund-raising activities. For example, we are exploring the feasibility of upgrading the functions of the one-stop finder for charitable fund-raising activities currently set up in "GovHK" and enhancing the service of the existing 1823 Government Hotline to facilitate the search by the public for information on approved charitable fund-raising activities.
- (2) To enhance the accountability of charitable fund-raising activities, we will consider measures on safeguarding the right to know of the public, such as to explore the feasibility of uploading financial reports or income statement relating to approved fund-raising activities, or providing relevant hyperlink, upon completion of those activities onto "GovHK" or departmental website for public scrutiny.
- (3) The existing legislation related to charitable fund-raising activities mainly regulates the collection of donation or fund-raising activities involving on-street selling in public places, and fundraising activities through conduction of lottery. Though there is no legislation regulating other form of fund-raising activities, the Reference Guide on Best Practices for Charitable Fund-raising

Activities (the Reference Guide) issued by the SWD provides guidance in respect of donors' right, best practices of fund-raising activities and financial accountability of charitable organisations. This general guidance is applicable to various types of fund-raising activities. We are reviewing the Reference Guide and assess if the Guide can be made applicable to more different types of fund-raising activities, including the three types of activities that licences and permits are required, as well as other new modes of fund-raising, such as face-to-face solicitation of regular donations. If the assessment shows that the set of guidance can be applicable, or revised so as to be applicable, to more different types of fund-raising activities, we will encourage charitable organisations to organise activities with reference to the guide while the public may refer to the best practices for fund-raising activities as specified in the guide to assess more easily the performance of charitable organisations in those activities and to have a better understanding of the rights and interests of donors.

The relevant bureaux and departments are exploring along the above three broad directions, including the relevant administrative considerations such as allocation of resources, co-ordination of licensing requirements and legal considerations relating to the disclosure of more information on fund-raising activities. As for enhancing the one-stop finder and the 1823 Government Hotline, EU and OGCIO initially consider that the proposals should be technically feasible. We will convene another co-ordination meeting in June/July to finalise the feasibility of the above measures and the scope of information to be disclosed as well as to further study the technical considerations involved and the detailed operational arrangements.

Moreover, LRC recommended the introduction in Hong Kong legislation along the lines of the English statutory model of the "cy-près doctrine", so as to address the various problems arising from the failure to fulfil, in whole or in part, the original purposes of charitable gifts. This recommendation involves the operational arrangements of charitable organisations under the regulatory framework as proposed by LRC. Therefore, HAB, upon consolidating initial inputs from relevant bureaux and departments about the LRC's proposed regulatory framework, consulted with the Department of Justice (DoJ) the feasibility of this recommendation and its relation with the Secretary for Justice as the protector of charities.

As the legal advice provided by DoJ to other Government bureaux and departments is protected by legal professional privilege, the Government considers that it is inappropriate to disclose the legal advice of DoJ. That said, having discussed with DoJ, we summarise some salient points of the legal advice (see **Annex**) for information of the Public Accounts Committee.

Yours sincerely,

(Grace LI)
for Secretary for Home Affairs

c.c. Director of Social Welfare
Director of Home Affairs
Director of Food and Environmental Hygiene
Director of Lands
Secretary for Financial Services and the Treasury
Director of Audit

**The Law Reform Commission's Proposal for Introduction of
Legislation on "Cy-près Doctrine"**

Legal Advice provided by the Department of Justice

Summary of Salient Points

The existing "cy-près doctrine" applicable to Hong Kong is based on the common law. When a charitable trust can no longer carry out the purposes for which it was first created, subject to certain conditions, the court may apply the "cy-près doctrine" and order that the property of the charity should be applied for a purpose which is as near as possible to the expressed or original intention of the donor, and the gift will not fail.

2. The Law Reform Commission (LRC) recommended the codification of the application of "cy-près doctrine" and broadening the scope of application of the "cy-près doctrine" in Hong Kong by making reference to the practice in England and Wales so that it could apply in the following three situations even where it was not impossible or impractical to carry out the charitable purpose of the charitable trust:

- (1) where property given for a specific charitable purpose has failed, and the donors are either unknown or have disclaimed their rights to have the property returned;
- (2) where property is given for a specific charitable purpose in response to a solicitation;
- (3) where a charitable body has dissolved.

3. LRC's recommendation mainly involves the introduction in Hong Kong of legislations along the lines of sections 62 to 66 (in relation to the broadening of the scope of application of the "cy-près doctrine") and section 263 (in relation to dissolution of charitable organisations) of the English Charities Act 2011. The provisions concerned are at the **Appendix** (in English only).

4. Regarding the broadening of the scope of application of the "cy-près doctrine", the DoJ considered that it should be legally feasible to introduce the legislation along the lines of section 62 to 66 of the English Charities Act 2011 .

5. Regarding the dissolution of charities, section 263 of the English Charities Act 2011 empowers the Charity Commission in England and Wales to dissolve a charitable body under certain circumstances (e.g. when the purposes of a charitable body are in practice incapable of being achieved). However, as it is not recommended by the LRC to establish a “Charity Commission” in Hong Kong, the Government shall consider which is the executing department or organisation when considering whether or not to introduce the provision.

Charities Act 2011- Sections 62 to 66

62 Occasions for applying property cy-près

(1) Subject to subsection (3), the circumstances in which the original purposes of a charitable gift can be altered to allow the property given or part of it to be applied cy-près are--

- (a) where the original purposes, in whole or in part--
 - (i) have been as far as may be fulfilled, or
 - (ii) cannot be carried out, or not according to the directions given and to the spirit of the gift,

(b) where the original purposes provide a use for part only of the property available by virtue of the gift,

(c) where--

- (i) the property available by virtue of the gift, and
- (ii) other property applicable for similar purposes,

can be more effectively used in conjunction, and to that end can suitably, regard being had to the appropriate considerations, be made applicable to common purposes,

(d) where the original purposes were laid down by reference to--

- (i) an area which then was but has since ceased to be a unit for some other purpose, or
- (ii) a class of persons or an area which has for any reason since ceased to be suitable, regard being had to the appropriate considerations, or to be practical in administering the gift, or

(e) where the original purposes, in whole or in part, have, since they were laid down--

- (i) been adequately provided for by other means,
- (ii) ceased, as being useless or harmful to the community or for other reasons, to be in law charitable, or
- (iii) ceased in any other way to provide a suitable and effective method of using the property available by virtue of the gift, regard being had to the appropriate considerations.

(2) In subsection (1) "the appropriate considerations" means--

- (a) (on the one hand) the spirit of the gift concerned, and
- (b) (on the other) the social and economic circumstances prevailing at the time of the proposed alteration of the original purposes.

(3) Subsection (1) does not affect the conditions which must be satisfied in order that property given for charitable purposes may be applied cy-près except in so far as those conditions require a failure of the original purposes.

(4) References in subsections (1) to (3) to the original purposes of a gift are to be read, where the application of the property given has been altered or regulated by a scheme or otherwise, as referring to the purposes for which the property is for the time being applicable.

(5) The court may by scheme made under the court's jurisdiction with respect to charities, in any case where the purposes for which the property is held are laid down by reference to any such area as is mentioned in column 1 in Schedule 4, provide for enlarging the area to any such area as is mentioned in column 2 in the same entry in that Schedule.

(6) Subsection (5) does not affect the power to make schemes in circumstances falling within subsection (1).

63 Application cy-près: donor unknown or disclaiming

(1) Property given for specific charitable purposes which fail is applicable cy-près as if given for charitable purposes generally, if it belongs--

(a) to a donor who after--

- (i) the prescribed advertisements and inquiries have been published and made, and
- (ii) the prescribed period beginning with the publication of those advertisements has ended,

cannot be identified or cannot be found, or

(b) to a donor who has executed a disclaimer in the prescribed form of the right to have the property returned.

(2) Where the prescribed advertisements and inquiries have been published and made by or on behalf of trustees with respect to any such property, the trustees are not liable to any person in respect of the property if no claim by that person to be interested in it is received by them before the end of the period mentioned in subsection (1)(a)(ii).

(3) Where property is applied cy-près by virtue of this section, all the donor's interest in it is treated as having been relinquished when the gift was made.

(4) But where property is so applied as belonging to donors who cannot be identified or cannot be found, and is not so applied by virtue of section 64 (donors treated as unidentifiable)--

(a) the scheme must specify the total amount of that property,

(b) the donor of any part of that amount is entitled, on making a claim within the time limit, to recover from the charity for which the property is applied a sum equal to that part, less any expenses properly incurred by the charity trustees after the scheme's date in connection with claims relating to the donor's gift, and

(c) the scheme may include directions as to the provision to be made for meeting any claims made in accordance with paragraph (b).

- (5) For the purposes of subsection (4)(b)--
- (a) a claim is made within the time limit only if it is made no later than 6 months after the date on which the scheme is made, and
 - (b) "the scheme's date" means the date on which the scheme is made.
- (6) Subsection (7) applies if--
- (a) any sum is, in accordance with any directions included in the scheme under subsection (4)(c), set aside for meeting claims made in accordance with subsection (4)(b), but
 - (b) the aggregate amount of any such claims actually made exceeds the relevant amount;
- and for this purpose "the relevant amount" means the amount of the sum so set aside after deduction of any expenses properly incurred by the charity trustees in connection with claims relating to the donors' gifts.
- (7) If the Commission so directs, each of the donors in question is entitled only to such proportion of the relevant amount as the amount of the donor's claim bears to the aggregate amount referred to in subsection (6)(b).

64 Donors treated as unidentifiable

- (1) For the purposes of section 63 property is conclusively presumed (without any advertisement or inquiry) to belong to donors who cannot be identified, in so far as it consists of--
- (a) the proceeds of cash collections made--
 - (i) by means of collecting boxes, or
 - (ii) by other means not adapted for distinguishing one gift from another, or
 - (b) the proceeds of any lottery, competition, entertainment, sale or similar money-raising activity, after allowing for property given to provide prizes or articles for sale or otherwise to enable the activity to be undertaken.
- (2) The court or the Commission may by order direct that property not falling within subsection (1) is for the purposes of section 63 to be treated (without any advertisement or inquiry) as belonging to donors who cannot be identified if it appears to the court or the Commission--
- (a) that it would be unreasonable, having regard to the amounts likely to be returned to the donors, to incur expense with a view to returning the property, or
 - (b) that it would be unreasonable, having regard to the nature, circumstances and amounts of the gifts, and to the lapse of time since the gifts were made, for the donors to expect the property to be returned.

65 Donors treated as disclaiming

- (1) This section applies to property given--
- (a) for specific charitable purposes, and
 - (b) in response to a solicitation within subsection (2).
- (2) A solicitation is within this subsection if--
- (a) it is made for specific charitable purposes, and
 - (b) it is accompanied by a statement to the effect that property given in response to it will, in the event of those purposes failing, be applicable cy-près as if given for charitable purposes generally, unless the donor makes a relevant declaration at the time of making the gift.
- (3) A relevant declaration is a declaration in writing by the donor to the effect that, in the event of the specific charitable purposes failing, the donor wishes to be given the opportunity by the trustees holding the property to request the return of the property in question (or a sum equal to its value at the time of the making of the gift).
- (4) Subsections (5) and (6) apply if--
- (a) a person has given property as mentioned in subsection (1),
 - (b) the specific charitable purposes fail, and
 - (c) the donor has made a relevant declaration.
- (5) The trustees holding the property must take the prescribed steps for the purpose of--
- (a) informing the donor of the failure of the purposes,
 - (b) enquiring whether the donor wishes to request the return of the property (or a sum equal to its value), and
 - (c) if within the prescribed period the donor makes such a request, returning the property (or such a sum) to the donor.
- (6) If those trustees have taken all appropriate prescribed steps but--
- (a) they have failed to find the donor, or
 - (b) the donor does not within the prescribed period request the return of the property (or a sum equal to its value),
- section 63(1) applies to the property as if it belonged to a donor within section 63(1)(b) (application of property where donor has disclaimed right to return of property).
- (7) If--
- (a) a person has given property as mentioned in subsection (1),
 - (b) the specific charitable purposes fail, and
 - (c) the donor has not made a relevant declaration,
- section 63(1) similarly applies to the property as if it belonged to a donor within section 63(1)(b).

- (8) For the purposes of this section--
- (a) "solicitation" means a solicitation made in any manner and however communicated to the persons to whom it is addressed,
 - (b) it is irrelevant whether any consideration is or is to be given in return for the property in question, and
 - (c) where any appeal consists of--
 - (i) solicitations that are accompanied by statements within subsection (2)(b), and
 - (ii) solicitations that are not so accompanied,
- a person giving property as a result of the appeal is to be presumed, unless the contrary is proved, to have responded to the former solicitations and not the latter.

66 Unknown and disclaiming donors: supplementary

- (1) For the purposes of sections 63 and 65, charitable purposes are to be treated as failing if any difficulty in applying property to those purposes makes that property or the part not applicable cy-près available to be returned to the donors.
- (2) In sections 63 to 65 and this section--
- (a) references to a donor include persons claiming through or under the original donor, and
 - (b) references to property given include the property for the time being representing the property originally given or property derived from it.
- (3) Subsection (2) applies except in so far as the context otherwise requires.
- (4) In sections 63 and 65 "prescribed" means prescribed by regulations made by the Commission.
- (5) Any such regulations are to be published by the Commission in such manner as it thinks fit.
- (6) Any such regulations may, as respects the advertisements which are to be published for the purposes of section 63(1)(a), make provision as to the form and content of such advertisements as well as the manner in which they are to be published.

69 Commission's concurrent jurisdiction with High Court for certain purposes

- (1) The Commission may by order exercise the same jurisdiction and powers as are exercisable by the High Court in charity proceedings for the following purposes--
- (a) establishing a scheme for the administration of a charity;

- (b) appointing, discharging or removing a charity trustee or trustee for a charity, or removing an officer or employee;
 - (c) vesting or transferring property, or requiring or entitling any person to call for or make any transfer of property or any payment.
- (2) Subsection (1) is subject to the provisions of this Act.
- (3) If the court directs a scheme for the administration of a charity to be established--
- (a) the court may by order refer the matter to the Commission for it to prepare or settle a scheme in accordance with such directions (if any) as the court sees fit to give, and
 - (b) any such order may provide for the scheme to be put into effect by order of the Commission as if prepared under subsection (1) and without any further order of the court.

263 Dissolution of incorporated body

- (1) The Commission may of its own motion make an order dissolving an incorporated body from such date as is specified in the order, if the Commission is satisfied--
- (a) that the body has no assets or does not operate,
 - (b) that the relevant charity has ceased to exist,
 - (c) that the institution previously constituting, or treated by the Commission as constituting, the relevant charity has ceased to be, or (as the case may be) was not at the time of the body's incorporation, a charity, or
 - (d) that the purposes of the relevant charity--
 - (i) have been achieved so far as is possible, or
 - (ii) are in practice incapable of being achieved.
- (2) The Commission may make an order dissolving an incorporated body from such date as is specified in the order, if the Commission is satisfied, on the application of the charity trustees of the relevant charity, that it would be in the interests of the charity for the body to be dissolved.
- (3) Subject to subsection (4), an order made under this section with respect to an incorporated body has the effect of vesting in the charity trustees of the relevant charity, in trust for that charity, all property for the time being vested--
- (a) in the body, or
 - (b) in any other person (apart from the official custodian),
- in trust for that charity.
- (4) If the Commission so directs in the order--
- (a) all or any specified part of that property, instead of vesting in the charity trustees of the relevant charity, vests in--
 - (i) a specified person as trustee for, or nominee of, that charity, or

- (ii) such persons (other than the charity trustees of the relevant charity) as may be specified;
- (b) any specified investments, or any specified class or description of investments, held by any person in trust for the relevant charity are to be transferred to--
 - (i) the charity trustees of that charity, or
 - (ii) any such person or persons as is or are mentioned in paragraph (a)(i) or (ii).

For this purpose "specified" means specified by the Commission in the order.

- (5) Where an order to which this subsection applies is made with respect to an incorporated body--
 - (a) any rights or liabilities of the body become rights or liabilities of the charity trustees of the relevant charity, and
 - (b) any legal proceedings that might have been continued or commenced by or against the body may be continued or commenced by or against those trustees.
- (6) Subsection (5) applies to any order under this section by virtue of which--
 - (a) any property vested as mentioned in subsection (3) is vested--
 - (i) in the charity trustees of the relevant charity, or
 - (ii) in any person as trustee for, or nominee of, that charity, or
 - (b) any investments held by any person in trust for the relevant charity are required to be transferred--
 - (i) to the charity trustees of that charity, or
 - (ii) to any person as trustee for, or nominee of, that charity.

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地政總署
LANDS DEPARTMENT

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Please quote our reference in response to this letter.

26 May 2017

By Fax: 2543 9197

Public Accounts Committee
Legislative Council
Legislative Council Complex,
1, Legislative Council Road,
Central,
Hong Kong

Attn: Mr Anthony CHU

Dear Mr CHU,

Public Accounts Committee
Consideration of Chapter 2 of the Director of Audit's Report No. 68
Monitoring of Charitable Fund-Raising Activities

I refer to your letter dated 17 May 2017 and would like to provide the required information as follows:-

Lands Department (LandsD) has noted paragraph 1.9 and Appendix I of the Audit Report which mention the Law Reform Commission (LRC) Report's recommendation for the Government to "set up a platform of coordination in dealing with applications for charitable fund-raising licences among the different departments". The Director of Audit has also specifically recommended the streamlining of the processing and approvals of fund raising activities.

While LandsD has not been involved in the monitoring of fund-raising activities authorised by the respective licensing authorities for public subscription permits, lottery licences and temporary hawker licences, we have been providing input on land status to the licensing authorities when required. For fund-raising activities involving the setting up of booths or counters on government land, we have also been

processing and approving, where possible, applications for temporary use of government land when such applications are received. Hitherto we have not promulgated clear guidelines as to whether such separate approvals by LandsD are really necessary when the temporary occupation by booths/counters forms part of fund-raising activities approved/to be approved by the various licensing authorities, and the practice varies across districts.

In an attempt to streamline the administrative processes for approving fund-raising activities, LandsD will promulgate guidelines to confirm that no separate approval for temporary occupation of government land is required from LandsD in respect of fund-raising activities approved by the relevant licencing authorities. We will nonetheless continue to provide comments to the licensing authorities and potential licensees when approached, by checking the land status of the concerned locations and, where the locations involve unleased and unallocated land, advising whether any potential and approved occupations by booths or counters, which may or may not be related to fund-raising activities, are known to LandsD.

We will draw up guidelines implementing the above arrangement in consultation with FEHD, SWD and HAD before launching the revised arrangement. We trust the streamlined arrangement would help reduce the workload of the applicant, while facilitating internal cross-checking to avoid the scenario of multiple parties setting up booths or counters in the same areas of unleased and unallocated government land at the same time.

Yours faithfully,



(LEUNG Yun-hing)
for Director of Lands

c.c. Secretary for Home Affairs (Fax no. 2591 5536)
Director of Social Welfare (Fax no. 2891 7219)
Director of Home Affairs (Fax no. 2574 8638)
Director of Food and Environmental Hygiene (Fax no. 2524 1977)
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Please quote our reference in response to this letter.



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2 June 2017

By Fax and By Despatch
(Fax: 2543 9197)

Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong
(Attn: Mr. Anthony CHU)

Dear Mr. CHU,

Public Accounts Committee
Consideration of Chapter 3 of the Director of Audit's Report No. 68
Management of Squatter and Licensed Structures

I refer to your letter dated 17.5.2017.

Please find attached our responses (both Chinese & English versions) to the issues mentioned in your letter.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Doris Chow'.

(Ms. Doris CHOW)
for Director of Lands

Encl.

c.c.

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Director of Civil Engineering and Development	(Fax No. : 2246 8708)
Director of Buildings	(Fax No. : 2868 3248)
Secretary of Development	(Fax No. : 2147 3691)
Secretary of Financial Services and the Treasury	(Fax No. : 2147 5239)
Director of Audit	(Fax No. : 2583 9063)

Public Accounts Committee
Consideration of Chapter 3 of the Director of Audit's Report No. 68
Management of squatter and licensed structures

For the Lands Department

Part 2: Monitoring of squatter and licensed structures

1. According to paragraph 2.11 of the Audit Report (all paragraph number hereinafter refers to that of the Audit Report), the Audit Commission ("Audit")'s site visit in December 2016 found that 50 structures located at a red patrol area on Hong Kong Island might not have complied with the squatter control ("SC") policy, the Lands Department ("LandsD") subsequently revealed that the surveyed squatter ("SS") structures of 19 cases were confirmed to be not complying with the SC Policy including seven new non-compliant cases. Meanwhile, according to paragraphs 2.11(d) and 2.14(c), LandsD was still investigating 44 cases in total as to whether or not these cases complied with the SC Policy. In these connections, will LandsD inform this Committee the followings:
 - a) the general practice and procedures of LandsD to ensure SS structures are in compliance with its SC policy under the tri-colour system (red, yellow and green areas), such as the resources deployed for ensuring compliance and the frequency of inspections on SS structures for each category under the tri-colour system;

Reply:

Following the substantial downsizing of squatter control staff strength by Housing Department ("HD") before its transfer of squatter control functions to LandsD by phases in 2002 and 2006, the tri-colour system used to be adopted by HD could no longer be adopted.

Instead, LandsD has over the years adopted a different approach under which the routine patrols focus on the functions of deterring and detecting new illegal structures as well as the erection of new unauthorized extensions to SS structures. Given this focus, the routine patrols have, until recently, focused largely on works-in-

progress (WIP), rather than monitoring changes to the materials, dimensions or uses of individual SS structures.

On the other hand, proactive detailed inspections of an individual SS structure for changes to materials, dimensions and/or uses are conducted mainly upon receipt of a report/complaint/referral from other government departments. Further, LandsD is adopting a risk-based approach on the patrol strategy to combat breaches of the Squatter Control Policy. Individual squatter areas vulnerable to illegal squatting will be selected as black spots for intensive checking. On Hong Kong Island, intensive checking is being conducted in the Shek O district.

At present, there are 9 patrol teams and 11 patrol areas in SC(HK&LYM) Office covering all areas on Hong Kong Island. The patrol routes are designed by the individual Squatter Control Office (SCO) according to number of structures, case priority, distance from office, topography, volume of work, etc. Electronic Team Patrol Monitoring System (ETPMS) has been adopted to collect patrol data and assist supervisors in monitoring site attendance of the patrol team. Any suspected irregularities found during patrol are subject to office verification against survey records, plans and other related documents. If irregularity is confirmed, case file will be opened for detailed investigation and follow-up action.

Since LandsD's announcement of various strengthened measures on 22 June 2016, SCOs are required to hold bi-monthly Case Monitoring Meetings to come up with a way forward for each individual case and details are recorded into the Case Monitoring Report (CMR) for follow-up. The CMR is also required to be submitted to Squatter Control (Headquarters) for monitoring. The said monitoring system makes sure that all patrol teams report and follow up on breaches promptly.

- b) reasons for LandsD failing to detect the seven new non-compliant cases in paragraph 2.11(a) bearing in mind that red areas are deemed the most vulnerable to non-compliance;

Reply:

LandsD admits that there are deficiencies in the existing patrol system and that the monitoring of routine patrols should also be strengthened to enhance their effectiveness. On this, LandsD has recently appointed a directorate officer dedicated to reviewing the existing patrol system of all district SCOs and putting forward improvement recommendations to strengthen the effectiveness of monitoring and enforcement actions.

- c) whether LandsD has detailed records about its inspections on the SS structures in the red patrol area mentioned in paragraph 2.11; if so, the details (time, dates, area/structure inspected, methods and procedures of the inspection, remarks given/problems identified); if not the reasons; and

Reply:

The patrol team is required to complete a patrol report after each patrol. Given the focus of the routine patrols as explained in (a) above, the standard patrol report contains information including patrol date, patrol time, location, check-points visited and name of patrol team members but does not contain information on SS structures inspected. If WIP is detected during the patrol, a case file will be opened to follow up with necessary enforcement action. As part of the review on the existing patrol system mentioned in our reply to Q1b above, the form of patrol report will also be reviewed.

- d) the timetable, progress, results and follow-up actions for LandsD's investigations on the 44 cases stated in paragraphs 2.11(d) and 2.14(c), and how many additional cases are confirmed to be associated with non-compliant SS structures?

Reply:

Among the 44 cases stated in paragraphs 2.11(d) and 2.14(c), as at 19 May 2017, 7 cases were found without irregularities. 27 cases were confirmed not complying with the SC policy. 10 cases are under

investigation.

Among the 27 non-compliant cases, warning letters were issued to occupiers for rectification in 8 cases, while the SC numbers of 4 cases have been deleted and SCO is taking enforcement action according to s(6)1 of Land (Miscellaneous Provisions) Ordinance (Cap. 28) or have referred the cases to District Lands Offices (DLOs) for lease enforcement action. As to the remaining 15 non-compliant cases, enforcement action including deletion of SC numbers has been temporarily suspended due to appeal against SC enforcement actions through the Shek O Residents' Association and concerned Legislative Council (LegCo) Members.

Generally speaking, strong resistance from squatter occupants has been encountered recently against LandsD's stepped up enforcement action at the squatter areas in Shek O district (including Shek O, Big Wave Bay, Hok Tsui and Ngan Hang Villages), with many claiming that the enforcement would lead to displacement of households. LandsD is also facing difficulties in conducting the inspections/investigations as a result of intensified resistance by the occupants. Despite the issuance of Sent-for Letters, the concerned occupants did not cooperate and refused to allow entry by SC staff for site inspection. They demanded that any action (including investigation) should be suspended before a response on their appeal was received. LandsD is looking into the situation, particularly the extent to which households would be displaced if the department proceeds with enforcement by cancelling the squatter numbers of structures found to be rebuilt and asking for demolition of unauthorized extensions.

2. According to paragraph 2.12, concerning the three cases selected and reviewed by Audit, Audit found that LandsD had failed to detect the significant irregularities of the SS structures despite the Squatter Control Offices ("SCO")'s routine patrols. According to paragraph 2.14(a), LandsD was also not aware of nine new non-compliant cases before Audit's site visit. In this connection, will LandsD inform this Committee the reasons for failing to detect the irregularities during SCO's routine patrols and whether it has detailed records about the SCO's routine patrols relating to the three cases (time, dates, area/structure inspected, methods and

procedures of the inspection, remarks given/problems identified)? How did LandsD undertake its investigations on the cases for which significant irregularities of the SS structures had been identified? Are there any differences in forms of methods and procedures adopted in the investigations compared with those by SCO for its routine inspections?

Reply:

For routine patrols, SCO patrols squatter areas regularly by visual inspection with emphasis on WIP cases, and takes immediate control and enforcement actions in case of irregularity/works-in-progress is detected. On the other hand, when a report/complaint/referral from other government departments is received, SCO will carry out in-depth investigation with internal inspection and on-site measurement of the structure under complaint. Since the announcement of strengthened SC measures on 22 June 2016, SC numbers will be deleted for extensions completed after 22 June 2016 and no rectification will be allowed. Unmanned aerial systems and aerial photogrammetry technology are deployed to identify breaches committed after 22 June 2016. For other cases, i.e. extension before 22 June 2016, warning letter will be issued to occupier/landowner for rectification if a beach is confirmed. If the occupier/landowner fails to complete the rectification works before the specified deadline, SCO will cancel the relevant SC records and carry out enforcement action.

As mentioned in our reply to Q1b above, LandsD considers that the existing patrol mechanism needs to be improved to enhance its effectiveness. On this, LandsD has already appointed a directorate officer dedicated to reviewing the existing patrol systems of all district SCOs and putting forward improvement recommendations on the matter to strengthen the effectiveness of monitoring and enforcement actions.

3. According to paragraph 2.16, for SCO/New Territories East (1), of the 206 cases associated with non-compliant SS structures from January 2015 to September 2016, 181 cases (88%) were originated from public complaints or referrals from other government bureaux or departments ("B/Ds"), and only 25 cases (12%) were detected during SC patrols. Moreover, according to paragraph 2.26, from January 2015 to September 2016, the two patrol teams selected for review by Audit had conducted patrols in the two patrol

areas on 257 and 208 working days respectively. However, only 2 of the 465 (257 + 208) daily patrol reports recorded irregularities found during the patrols. Given the high percentage of non-compliant cases involving irregularities being detected through public complaints or B/D referrals, has LandsD investigated why the responsible patrol team was unable to detect these non-compliant cases during its routine patrols? If yes, what are the investigation results; If not, why not? Does LandsD consider SCO's omission out of negligence which is condonable or dereliction of SCO's duties?

Reply:

As explained in our reply to Q1 above, the routine patrols conducted by the SCO in squatter areas focus on the functions of deterring and detecting new illegal structures as well as the erection of new unauthorized extensions to SS structures. Given this focus, the routine patrols have, until recently, focused largely on WIP by detecting through visual inspection, rather than monitoring changes to the materials, dimensions or uses of individual SS structures with the assistance of physical measurement. As a result of the approach adopted, physical measurement of individual structure has not been conducted during routine patrol (and has been done primarily upon receipt of complaint or referral), as a result of which the number of structures with irregularity recorded in daily patrol reports has been small.

As mentioned in our reply to Q1b above, LandsD considers that the existing routine patrol system needs to be strengthened to enhance its effectiveness. LandsD has already appointed a directorate officer dedicated to reviewing the existing patrol systems of all district SCOs and putting forward improvement recommendations to strengthen the effectiveness of monitoring and enforcement actions.

Meanwhile, as mentioned in our reply to Q1 above, LandsD is adopting a risk-based approach in patrol strategy to combat breaches of the squatter control policy. Individual squatter areas vulnerable to illegal squatting are selected as black spots for intensive checking. With the number of complaints and referral cases increasing over the years, much effort has been put in to establish whether a squatter structure under a complaint is in

breach of SC Policy and in-depth investigation has to be conducted including internal inspection and on-site measurements. To enhance the effectiveness of ground patrol in squatter areas, LandsD has, since the announcement of strengthened squatter control measures in June 2016, stepped up investigation and information gathering efforts through using unmanned aerial systems and aerial photographs to actively identify suspected illegal extension/re-building cases.

4. According to paragraphs 2.15, 2.16 and 2.18, of the seven SCOs, only one (namely SCO/New Territories East (1)) maintained information on the source of identifying non-compliant SS structures. Is maintaining information on the source of identifying non-compliant SS structures a voluntary practice at the discretion of individual SCOs? In an absence of such information for the other six SCOs, has LandsD's work of regulating non-compliant SS structures been hindered? Will LandsD make it mandatory for all SCOs to maintain information on the source of identifying non-compliant SS structures? Given that most (88%) of the non-compliant SS structures were not detected during SC patrols by SCO/New Territories East (1), does it suggest that the work of SC patrols had been ineffective in the area?

Reply:

Since the introduction of strengthened SC measures on 22 June 2016, all SCOs are required to maintain complaint registers containing information on the source of identifying non-compliant SS structures. LandsD admits that its routine patrols which have been focusing more on WIP is more effective in deterring new illegal squatting rather than irregularities with existing SS structures. To strengthen the effectiveness of monitoring and enforcement actions, LandsD has appointed a directorate officer dedicated to reviewing the existing patrol systems of all district SCOs and putting forward recommendations for improvement.

5. According to paragraph 2.19, some of the SS structure occupants had claimed hardship in rectifying the non-compliances with the SC Policy, what was the hardship concerned with? What assistance had been given by LandsD to the SS structure occupants to deal with their hardship?

Reply:

Generally speaking, it is not uncommon for SS structure occupants to claim hardship on the following grounds: enforcement by LandsD resulting in deletion of SS number or demolition of an unauthorized extension would lead to displacement of the household; the grace period allowed for rectification/vacating the structure is too short; lack of financial means to carry out rectification works, etc. For instance, for Case 5 cited in the Audit Report, a warning letter was served on the concerned occupant requiring rectification by a specified date. However, the occupant requested for suspension of SC enforcement action on grounds of financial hardship (lack of money for rectification works) and the difficulty in taking care of a 93-year-old occupant. The occupant had been advised to give SCO a written consent so that we could refer the case to the Social Welfare Department for possible assistance.

6. According to case 4 in paragraph 2.19, a de-registered SS structure was being re-occupied but, mainly due to unclear responsibilities among different LandsD units, enforcement actions had not been taken on the structure since SCO/Hong Kong & Lei Yue Mun received a complaint on illegal re-occupation in July 2015. Will LandsD inform this Committee of the LandsD units involved and their respective responsibilities? What unresolved issues/difficulties had deterred LandsD from taking enforcement actions since July 2015? What efforts had been taken by LandsD to tackle and overcome these issues and difficulties, in particular on enhancing the collaboration and cooperation of different LandsD units?

Reply:

The concerned sections are Squatter Control Unit (SCU) and Clearance Unit (CU). There has been grey area of which Unit should take the lead in evicting occupiers who occupy a structure which has once been vacated and boarded up in Non-Development Clearance (NDC) projects

LandsD has reviewed the duties and responsibilities of the two units and has decided as follows:

- SCU is responsible for the patrol of squatter areas, NDC areas and

development clearance (DC) areas; and to take enforcement action for unauthorized structures in these areas. In the patrol of squatter areas, SCU will also check if the vacant structures boarded up by them have been re-occupied and will take the lead to evict the occupiers and seek assistance from CU if required. In the patrol of NDC areas and DC areas, SCU will check if the vacant structures boarded up by them at the request of CU have been re-occupied and will inform CU of any re-occupations. CU will take the lead to evict the occupiers in NDC/DC areas and seek assistance from SCU if required.

- CU's function in a DC and NDC exercise is to process the rehousing and EGA application and eviction of the occupiers of the structures within the clearance limits. CU will deliver on site annually before rainy season letters to Cat. II NDC occupiers to encourage them to accept re-housing. CU will also take this opportunity to check if the boarded up structures have been re-occupied and take the lead to evict the occupiers, with the assistance from SCU if required.
 - Vacated structures should be demolished as soon as possible and if the demolition is not feasible, SCU shall carry out permanent sealing up work as soon as practicable, by either brick/concrete work or metal sheet welding, where appropriate to seal up all doors and windows of the vacated structures.
7. According to paragraph 2.19, the Audit found that despite repeated control actions taken on a non-compliant SS structure in 2013 and 2014 (case 5), repeated actions taken from November 2015 to October 2016 on two non-compliant SS structures for substantial height increase (case 6), and the cancellation of squatter survey numbers and issuance of demolition notices in August/September 2016 on three SS structures due to their non-compliance with the SC Policy (case 7), LandsD had failed to rectify each of the situations. What were the reasons for the ineffective enforcement actions concerning these cases (e.g. high cost to be incurred, insufficient manpower, technical problems, etc.)? Are LandsD's existing enforcement actions toothless? What is the latest position of each of these cases?

Reply:

Case 5

- The irregularities had once been rectified upon enforcement actions taken in 2013 and 2014 respectively. The irregularities were discovered again during a routine patrol in July 2016.
- The occupant was interviewed in December 2016. In January 2017, the occupant requested for suspension of enforcement action on grounds of financial hardship, and that she had difficulty in taking care of her 93-year-old father (one of the occupants). The request was turned down in February 2017 and the occupant raised another request for extension of time until August 2017 owing to financial hardship. That request was rejected again in mid-February 2017.
- Despite that the occupant's requests have been rejected, enforcement action is put on hold temporarily pending the outcome of LandsD's deliberation on the appeal raised by the Shek O Residents' Association and concerned LegCo Member(s) mentioned in our reply to Q1d above.

Case 6

- A complaint against unauthorized extension at the concerned surveyed structure was received in October 2015. Upon being asked for rectification, the occupant complained about the nearby structures which, as he alleged, had similar irregularities.
- After interviews and discussions, the occupant showed his willingness to rectify. Owing to the complexity of demolition concerning structurally-linked parts of the structure and high demolition cost, the elderly couple needed longer time to get the necessary works done.
- Suspected irregularities at the nearby structures are being investigated and will be followed up if violation of SC Policy is established.

Case 7

- Strict enforcement in the area is likely to adversely affect the business operations in the area, with knock-on impact on tourism, local development, and people's livelihood.
- The stakeholders have called upon the Government as a whole to formulate appropriate policies to allow the continued operation of the existing shops and restaurants in Lei Yue Mun. LandsD is deliberating the request.

8. According to Case 7 in paragraph 2.19, in addition to SS Structures G, H and I, there were 48 SS structures not complying with the SC Policy. What enforcement actions have been taken on these SS structures? Moreover, there were 77 SS structures (located along the seafront at which SS Structures G, H and I situated) pending inspections by LandsD. What is the progress?

Reply:

As mentioned in our reply to Q7 above, the stakeholders have called upon LandsD to withhold enforcement action against those SS structures and have urged Government as a whole to formulate appropriate policies to allow the continued operation of the existing shops and restaurants in Lei Yue Mun. LandsD is deliberating the request.

There are about 136 SS structures currently occupied for commercial purposes along the seafront at Lei Yue Mun. SC(HK & LYM) of LandsD has, since August 2016, commenced detailed checking of the said 136 structures against the Squatter Control Record. Inspection has not been completed yet due to strong resistance encountered from occupants and local community. After lengthy lobbying, some occupants have softened their confrontational attitude. The progress of the checking as at 30.4.2017 is as follows:

Inspection results		No. of Structures	
Confirmed having irregularities	Rebuilt	36	59
	Change of Dimensions	12	
	Change of use	11	
Confirmed having no irregularities		9	
Inspection not yet completed		68	
Total		136	

9. According to paragraphs 2.26 to 2.28, in their daily patrols of Patrol Areas A and B, Teams A and B often spent one to two minutes between visiting two check-points. Can LandsD explain why? Given the short time spent between visiting two check-points, how could the patrol teams inspect 18 SS structures covered under one check-point on average? What measures

will LandsD take to enhance the effectiveness of routine patrols of SCOs?

Reply:

At present, SCO conducts routine patrol in squatter areas by visual inspection and mainly focuses on WIP. There has not been measurement of individual structures and checking against the survey record. As the focus is on detecting WIP, the patrol teams spend short time between visiting two check-points.

As pointed out in earlier parts, LandsD has recently assigned a directorate officer dedicated to reviewing the existing patrol systems of all district SCOs and putting forward improvement recommendations to strengthen the effectiveness of monitoring and enforcement actions.

10. According to paragraph 2.47, despite that a warning letter had been issued in February 2005 to a licensee requiring him to demolish an unauthorized rooftop structure constructed on a licensed structure (case 8), the unauthorized structure had not been demolished in January 2017. In case 9, up to January 2017, despite that the death of the licensee of a licensed structure was made known to District Lands Office ("DLO")/Islands in November 2011, and in the absence of an application and approval of a transfer of the Government Land License ("GLL") concerned, LandsD had not taken the necessary licence enforcement actions. What were the reasons for the inaction of LandsD concerning the two cases when LandsD had been aware of the irregularities for 12 years and around 6 years respectively? What are the latest positions of the two cases and actions taken/to be taken by LandsD?

Reply:

Case 8 was handled by two different officers in 2005 and 2009 and the case was not brought up for follow-up action after the issuance of the warning letters. Moreover, no handover list of outstanding cases had been provided to their successors when both of them were posted out of DLO/Islands. On resuming enforcement action by DLO/Islands, the licensee removed the rooftop structure and reinstated the same to the permitted dimension in April 2017.

In order to improve the situation, an instruction has been issued such that case officers are required to prepare a handover list of outstanding cases to their successors upon their posting/transfer out of district.

The reason for inaction in Case 9 is similar to that of case 8. The licence concerned was cancelled on 17 March 2017 with effective date on 17 July 2017 and Squatter Control Unit has been asked to resume squatter control action on the subject structure which is a tolerated squatter control surveyed structure. SCO will investigate if the structure still complies with the relevant SC records. If it is found not complying with the SC records, appropriate enforcement action will be taken.

Internal instruction has also been given to all case officers that when the death of licensee is made known to DLO/Islands, actions should be taken to terminate the GLLs as soon as possible.

11. According to paragraphs 2.38, 2.47 and 2.48, SCOs and 12 DLOs kept the time of inspecting each SS structure, the irregularities observed and the follow-up actions taken in individual case files, and there was no centralized database to record such information. In this light, how does LandsD follow up on the status of SS structures for assuring their compliance with the SC policy? Is there any procedure for SCOs and DLOs to follow to maintain the integrity of individual case files? Does LandsD have any plans to maintain a centralized database to record relevant information to facilitate the implementation of the SC policy and its compliance?

Reply:

Since June 2016, Bi-monthly Case Monitoring Meeting (CMM) and Bi-monthly Case Monitoring Report (CMR) have been implemented to enhance the effectiveness of monitoring SC cases. Each individual case with source of case, action taken and follow-up action would be recorded.

Furthermore, the Squatter Control Action Work Flowchart was devised in September 2016 as part of the squatter control instructions to set out clearly the actions required and timeline.

LandsD has planned to bid new resources to set up and maintain the Squatter Control Record geospatial database which is to digitize the paper-based geographical and textual squatter control records.

12. According to paragraph 2.53(b), LandsD would consider to give serious thoughts to setting up a Central Action Team. What is the progress?

Reply:

The idea of a Central Action Team as proposed years ago is just a concept under which any proposed changes in establishment and redeployment are subject to staff consultation.

As it is always easier and more practicable to start small, a pilot scheme to cover selected district(s) to test out the effectiveness of assigning LandsD staff to perform squatter control duties has been proposed and the various staff unions are being consulted on this pilot proposal. Experience gained in the pilot scheme will provide useful feedback on how it should be effected in other districts.

Part 3: Rates, government rent and licence fees on squatter and licensed structures

13. According to paragraphs 1.6, 1.14, 3.2 to 3.4 and 3.7, concerning omissions in charging rates and government rent on squatter and licensed structures ("S&L structures"), why had LandsD failed to provide the Rating and Valuation Department ("RVD") with information on all the 262 128 SS structures erected on private agricultural land and all the licensed structures covered under 15 214 GLLs as of March 2016 for the latter to assess and charge rates and government rent as appropriate? What were the estimated rates, government rent and licence fees foregone as a result of the LandsD's omissions as of now? Has LandsD taken any steps to provide RVD with the information so that the latter will be able to assess and charge rates and government rent as appropriate? Please provide details.

Reply:

RVD requested LandsD to provide all information for STTs for assessing and charging rates in 1998. Upon reviewing the subject matter, LandsD in 2000 amended the internal instruction such that RVD is to be informed should there be any changes in occupation areas, rentals and terms etc. upon renewal, termination or transfer of existing tenancies and licences etc. As a result, RVD now has information of about 6 000 GLLs.

Whilst licence fees are collected by LandsD annually, rates and government rents are assessed and collected by RVD. In this connection, LandsD has no information on the estimated revenue foregone,

A meeting was convened between RVD and LandsD on 16 May 2017 to examine how the information on GLLs and SC records may be provided to RVD for assessing and charging rates. Out of the existing 15 200 GLLs, RVD has already had the information of some 6 000 GLLs. It has been agreed that RVD will provide to LandsD the list of the 6 000 GLLs and LandsD will provide information of the rest of GLLs to RVD. Regarding the SS structures, it has been agreed that LandsD will by phases provide all SC records to RVD for their follow up action.

14. According to paragraphs 3.6, 3.8 and 3.10, regarding the SS structures erected on private agricultural land and premises located in remote areas, whether LandsD considered these areas secondary and these premises relatively low rateable values and thus held an indifferent attitude in collecting and maintaining relevant information for RVD to assess and charge rates and government rent and took no proactive actions to improve the situations identified by Audit?

Reply:

LandsD is responsible for the control of SS structures while assessment of rateable value falls outside the function of LandsD. LandsD has not been approached by RVD before to provide information of SS structures. As informed in the response to Q13 above, LandsD will by phases provide all SC records to RVD for their follow up action.

15. According to paragraph 3.19, licence fees for occupying government land for erecting licensed structures had not been revised since enactment of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) in 1972. According to paragraphs 3.25(a) and 3.26, LandsD agreed to expedite actions on conducting a review of GLL fee levels. What is the timeframe for completing the review? Furthermore, according to paragraph 3.23, while the Government has adopted a policy to convert non-domestic GLLs into short-term tenancies ("STTs") since mid-1970s, as of March 2016, 4 733 non-domestic GLLs had not been converted into STTs. According to paragraphs 3.25(b) and 3.26, LandsD agreed to ascertain non-domestic GLLs suitable for conversion into STTs, and take conversion actions in a timely manner. What is the progress?

Reply:

LandsD has commenced comprehensive review of the licence fees prescribed in the Land (Miscellaneous Provisions) Ordinance (Cap. 28), including identification of those fee items warranting review and those which are no longer applicable. We aim to complete our review from the department's perspectives and put forward initial recommendations to the Development Bureau for consideration by the first quarter of 2018.

To start with, LandsD will look into the nature of the 15 214 GLLs to ascertain if any of them should be converted to STTs. To this end, LandsD is preparing a new instruction for districts to set up District Review Boards to conduct a review to ascertain the number of non-domestic GLLs suitable for conversion into STTs and to take conversion actions accordingly. In respect of the rest which has to be remained as GLLs, LandsD will examine if the rates can be revised having regard to the nature of use. For certain uses, e.g. domestic, it is likely to be difficult to introduce substantial increase in fees. Subject to further deliberation, such increases may also not be warranted for those GLLs to be phased out in the short to medium term as a result of development clearances in the pipeline.

Part 4: Clearance of squatter and licensed structures

16. According to paragraph 4.10, concerning a household not meeting Public

Rental Housing ("PRH") re-housing criteria but had nonetheless been referred to the Housing Department for allocation of PRH flat, what were the justifications for LandsD's referral decision? Has LandsD conducted a review to ascertain whether there are similar cases in other clearance operations? What measures will be taken to prevent recurrence of the problem?

Reply:

The head of the household concerned had lived in the structure in question since 1978. In 1997, a part of the structure was damaged by a land slip. The structure was subsequently required to be cleared for the implementation of a public works project. The said household head then advised that he had approached the relevant office and was advised not to rebuild since the structure had been included in the clearance limit. The then Assistant Manager (now retired) considered that the applicant had never abandoned the structure, but was unable to reoccupy the structure as the structure was partially damaged and could not be rebuilt. The then Assistant Manager concluded that the household had fulfilled the residence requirement.

We have reviewed the cases referred to HD for processing of rehousing application for the past two years and cannot find any other similar case. We have reviewed the procedures and have decided that written approval from Manager/Clearance should be obtained prior to referral of cases to HD for processing of rehousing application in order to ensure that only eligible cases are referred to HD. For doubtful cases, they will be submitted to the Senior Manager/Clearance for consideration. The instruction will be disseminated to all staff in the upcoming staff meeting.

Audit recommendations

17. What are the Government's executive plans and timetables to adopt Audit's recommendations in respect of monitoring of S&L structures, rates, government rent and licence fees on S&L structures, and clearance of S&L structures?

Reply:

As mentioned in preceding paragraphs, LandsD has already appointed a directorate officer dedicated to reviewing the existing patrol systems of all district SCOs and putting forward improvement recommendations to strengthen the effectiveness of monitoring and enforcement actions. LandsD aims to complete the review and put in place revised patrol arrangements within the third quarter of 2017. In parallel, deliberation is being made on further refinements to the strengthened and improved SC measures implemented in June 2016.

As to the review of GLL fee levels and timely conversion of non-domestic GLLs suitable for conversion into STTs, LandsD has already commenced work to identifying those GLL fees that warrant review and those that are no longer applicable. As the said fee review will involve legislative amendments, LandsD is not able to provide an estimate on the time required but will make its best endeavor to complete its part of the review by the first quarter of 2018. Parallel action will be taken to require DLOs to identify those non-domestic GLLs suitable for conversion.

LandsD will bid resources this year to set up and maintain the Squatter Control Record geospatial database to facilitate the implementation of the SC Policy and its compliance.



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Rating and Valuation Department
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致：┌

To: Mr Anthony CHU
Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

(BY FAX : 2543 9197)

26 May 2017

Dear Mr CHU,

**Public Accounts Committee
Chapter 3 of the Director of Audit's Report No. 68
Management of squatter and licensed structures**

As requested in your letter of 17 May 2017, I provide the information below relating to the work of the Rating and Valuation Department (RVD) –

Charging of rates and government rent for squatter structures (SS)

As pointed out in paragraph 3.2 of the Audit's report, under the Rating Ordinance and the Rent Ordinance, a tenement refers to any land or any building or structure (including SS) or a part of a building or structure, which is held or occupied as a distinct or separate tenancy or holding or under any licence. All tenements, except those which are entitled to exemption under the said Ordinances, are liable for assessment to rates and/or government rent. As it has been part of RVD's routine duties to assess structures standing on private land, we trust that most, if not all, SS on private agricultural land should have been assessed to rates and/or government rent, although the Lands Department (LandsD) has not provided us with the information of the 262,128 SS. As stated in paragraph 3.5 of the Audit's report, a sample check on 30 SS on private land revealed that all of them had been properly handled (either assessed to rates and government rent or exempted from assessment under the relevant ordinances). In the circumstances, we do not foresee a direct link between the collection of rates and government rent and the provision of SS records by LandsD.

As mentioned in paragraph 3.9 (d) of the Audit's report, RVD needs to seriously evaluate the cost-effectiveness of matching all the 260,000 SS records to be provided by LandsD. Since the addresses are incomplete for SS records maintained by LandsD, RVD will have to ascertain the exact location of these structures before matching them with our rating records. The additional workload arising from this tedious manual matching exercise should not be under-estimated given the huge volume of records involved. We estimate that over 300 man-years of staff resources, amounting to some \$170 million, would

****Note by Clerk, PAC: Please refer to Annex for the questions.***

results of the sample check as stated in paragraph 3.5 of the Audit's report and mentioned in the second paragraph above, it is unclear whether such injection of resources would produce a considerable sum of revenue to the Government, given the number of omitted SS not being assessed would likely be insignificant. The value for money aspect of the proposed matching task will need to be considered carefully.

Having said that, as an effort to obtain a clearer picture of the situation, we plan to conduct a broader sample check on the assessment status of SS, in addition to the check already done and mentioned in paragraph 3.5 of the Audit's report, upon receipt of the 260,000 SS records from LandsD. Having regard to the resource availability and work priority, we will check about 500 SS records within a six-month period. An appropriate follow up plan will be formulated after this broader sample check is completed.

Charging of rates for tenements held under Government Land Licenses (GLLs)

According to paragraph 3.10 of the Audit's report, LandsD managed 15,214 GLLs and RVD's computer system maintained distinct rates assessment records of 6,659 GLLs. Based on these figures, the median rates of assessed cases (see Table 7 and paragraph 3.9(a) of the Audit's report) and with appropriate adjustment for exempted cases (e.g. tenements for agricultural use, or of rateable value not exceeding a prescribed amount), we have a broad-brush estimate that about \$2.4 million of rates revenue in 2017/18 would have been generated from the omitted GLLs, before allowing for rates concession applicable in the year. After allowing for rates concession (i.e. at a ceiling of \$1,000 per tenement per quarter in 2017/18), the possible rates receivable therefrom is **nominal** because of the relatively low rateable values of the GLLs involved.

As stated in paragraph 3.14(a) of the Audit's report, since the set-up of the computer system in 2003 to monitor the assessment of the GLLs located in the New Territories, RVD has received 2,650 GLL notifications from LandsD. Up to May 2017, action has been taken on 2,407 (91%) of them. As regards the 18 cases mentioned in paragraph 3.8(c) and Table 7 of the Audit's report, the assessment of one case has been completed, and its low rateable value (i.e. \$3,840) does not produce any rates revenue in 2017-18 after allowing for rates concession in the year. The assessment for the remaining 17 cases is under way and will be completed in three months' time. We will continue to tackle about 230 outstanding cases by phases.

As mentioned in paragraph 3.14(a) of the Audit's report, we will follow up on obtaining the full GLL records from LandsD. We are compiling a comprehensive list of GLL records already received, and will furnish the list to LandsD next month. LandsD will then provide us with records of the rest of the GLLs under its management for our assessment of outstanding licensed structures by phases, with priority given to high value cases.

Please be assured that RVD will continue to conduct the rating exercise having regard to the legal requirements, the priority of the department and the cost and benefits of the work involved.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a smaller 'K' and an 'IP'.

(P.K. IP)

for Commissioner of Rating and Valuation

- c.c. Secretary for Financial Services and the Treasury (fax no. 2147 5239)
Secretary for Development (fax no. 2147 3691)
Director of Lands (fax no. 2525 4960)
Director of Buildings (fax no. 2868 3248)
Director of Civil Engineering and Development (fax no. 2246 8708)
Director of Audit (fax no. 2583 9063)

Public Accounts Committee
Consideration of Chapter 3 of the Director of Audit's Report
Management of squatter and licensed structures

For the Rating and Valuation Department

Part 3: Rates, government rent and licence fees on squatter and licensed structures

1. According to paragraphs 1.6, 1.14, 3.2 to 3.4 and 3.7, concerning omissions in charging rates and government rent on squatter and licensed structures ("S&L structures"), why had LandsD failed to provide the Rating and Valuation Department ("RVD") with information on all the 262 128 SS structures erected on private agricultural land and all the licensed structures covered under 15 214 GLLs as of March 2016 for the latter to assess and charge rates and government rent as appropriate? What were the estimated rates, government rent and licence fees foregone as a result of the LandsD's omissions as of now? Has LandsD taken any steps to provide RVD with the information so that the latter will be able to assess and charge rates and government rent as appropriate? Please provide details.
2. According to paragraph 3.14(a), up to March 2017, RVD had received information on 2 650 GLLs relating to structures located in the New Territories from LandsD and had taken follow up action on these GLLs. Having regard to resource availability and work priority, RVD will assess the outstanding licensed structures by phases based on LandsD's information, including the 18 cases identified by Audit. What is the progress? In addition, according to paragraph 3.14(b), upon receipt of the addresses, locations and boundaries of the 262 128 SS structures erected on private agricultural land from Lands D, RVD will be able to conduct data matching and check whether the pertinent SS structures have been assessed or exempted from assessment to rates and/or government rent. What is the progress?

Audit recommendations

3. What are the Government's executive plans and timetables to adopt Audit's recommendations in respect of monitoring of S&L structures, rates, government rent and licence fees on S&L structures, and clearance of S&L structures?



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Kowloon, Hong Kong

29 May 2017

Legislative Council,
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
Public Accounts Committee
(Attention: Mr Anthony Chu)

Dear Mr. Chu

Public Accounts Committee
Consideration of Chapter 3 of the Director of Audit's Report No. 68
Management of squatter and licensed structures

I refer to your above referenced letter dated 17 May 2017.

Please find attached our responses to the issues under our purview. If the Committee has any further questions on our responses, please contact Mr. Choi Kwong Yin, Deputy Head of Geotechnical Engineering Office (Mainland) at telephone no. 2762 5014.

Yours sincerely

A handwritten signature in blue ink, appearing to be "W K Pun".

(W K Pun)

for Director of Civil Engineering and Development

Encl.

- c.c. Director of Lands (fax no. 2525 4960)
- Commissioner of Rating and Valuation (fax no. 2152 0188)
- Director of Buildings (fax no. 2868 3248)
- Secretary for Development (fax no. 2147 3691)
- Secretary for Financial Services and the Treasury (fax no. 2147 5239)
- Director of Audit (fax no. 2583 9063)

Public Accounts Committee
Questions and Request for Information in respect of
Chapter 3 of Director of Audit's Report No. 68
Management of Squatter and Licensed Structures

Responses from the Civil Engineering and Development Department

Part 4: Clearance of Squatter and Licensed Structures

1. According to paragraphs 4.25 and 4.27, Audit found that as of February 2017, the Civil Engineering and Development Department ("CEDD") had not commenced upgrading works for 940 (59%) government man-made slopes posing landslide risks to S&L structures, and studies for 106 (7% of 1 582) government man-made slopes were still in progress. Moreover, as of January 2016, CEDD had not conducted related natural terrain hazard studies to identify required mitigation measures to 199 squatter structures which were prone to landslide risks posed by natural terrains. What were the reasons for CEDD's failure to take prompt remedial actions in both issues (e.g. technical problems, insufficient manpower, cost problems, etc)? What are the timeframe and latest progress of the situations and CEDD's plan to complete the outstanding upgrading works, natural terrain hazard studies and mitigation measures?

Reply :

The Landslip Prevention and Mitigation Programme (LPMit Programme) was launched by CEDD in 2010 to deal with the landslide risks associated with man-made slopes and vulnerable natural hillside catchments. The pledged annual output of the LPMit Programme is to upgrade 150 government man-made slopes, conduct safety-screening studies for 100 private man-made slopes and implement risk mitigation works for 30 vulnerable natural hillside catchments. In order to ensure that the most deserving man-made slopes and natural hillside catchments are selected for priority action under the LPMit Programme, risk-based priority ranking systems have been adopted. Apart from man-made slopes and natural hillside catchments affecting squatter structures, those affecting other facilities such as housing estates, hospitals, schools, main roads, etc. are also included in the priority ranking systems. CEDD has conducted a review of the LPMitP in 2015 and found that the current pledged annual delivery targets of the LPMitP are appropriate in balancing the need to contain landslide risk against public disturbance, and having regard to the capacity of the geotechnical engineering profession and workforce (LegCo Paper No. CB(1)105/15-16(04)).

The progress of implementing the upgrading works for the 1,582 government squatter slopes would therefore depend on their relative ranking, not only among themselves, but also among other man-made slopes in the priority ranking list. Based on this approach, which will enable the maximum reduction in landslide risk within the shortest possible time, upgrading works have been carried out or planned to be carried out for those squatter slopes with higher priority. The studies and upgrading works for the remaining squatter slopes would be carried out

progressively in accordance with their priority ranking in terms of landslide risk.

As regards the natural terrain affecting the 199 squatter structures, the potential landslide risk was identified in 2015 and 2016 based on preliminary assessments. It was necessary to carry out a review in order to determine whether the natural hillsides meet the “react-to-known-hazard” principle before the hillsides can be ranked for action under the LPMit Programme. The review was subsequently completed and it was found that only 26 of these squatter structures are affected by 21 vulnerable natural hillside catchments that meet the “react-to-known-hazard” principle. The remaining 173 squatter structures are not affected by natural hillsides where significant hazards are evident and therefore no study and mitigation works would be required under the LPMit Programme.

Of these 21 vulnerable hillside catchments affecting squatter structures, the mitigation works for one hillside catchment are in progress. Studies are being carried out for another 6 catchments. It is anticipated that the necessary mitigation works for these 6 catchments would be completed within the next five years. The remaining 14 catchments will be progressively selected for study and implementation of the necessary mitigation works under the LPMit Programme in accordance with the corresponding risk-based priority ranking system.

It is relevant to note that man-made slopes affecting squatters and deserving priority action under the LPMit Programme usually involve steeply sloping ground located in close proximity to the squatter structures, which pose significant constraints in terms access difficulties and limited working space during construction. In some cases, this may call for protracted attention to resolve objections or concerns from the squatters or other nearby residents. This process would take some time to complete and this may affect the programme of the upgrading works.

2. What are the Government’s executive plans and timetable to adopt Audit’s recommendations in paragraph 4.33?

Reply:

As reported in paragraph 4.35, CEDD has planned to report the progress of related upgrading works for slopes and natural terrains in the Controlling Officer’s Report of CEDD, which forms part of the annual Estimates submitted to LegCo. The reporting in the Controlling Officer’s Report will commence from the financial year of 2018 - 2019.

-end-

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1 June 2017

Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central Hong Kong
(Attn: Mr Anthony Chu)

Dear Mr Chu,

**Public Accounts Committee
Consideration of Chapter 3 of the Director of Audit's Report No. 68
Management of squatter and licensed structures**

I refer to your letter dated 17 May 2017.

Please find attached our responses to the issues mentioned in your letter.

Yours sincerely,



(C H Ho)

for Director of Buildings

Encl.

Public Accounts Committee
Consideration of Chapter 3 of the Director of Audit's Report No. 68
Management of squatter and licensed structures

For the Buildings Department

Part 4: Clearance of squatter and licensed structures

1. According to paragraph 4.28, as of January 2017, 165 private slopes posing landslide risks to squatter and licensed structures had been issued with 210 Dangerous Hillside Orders ("DHOs") under the Buildings Ordinance (Cap. 123) which had not been satisfactorily complied with. According to paragraph 4.29, the Buildings Department ("BD") may carry out default works and prosecution actions against the pertinent private-slope owners. What actions will BD take against these 210 DHOs to ensure that DHOs are satisfactorily complied with in a timely manner? As for the 34 DHOs on private slopes posing landslide risks to S&L structures which had been long overdue from 10 to 21 years but had not been complied with as stated in paragraph 4.30, what are the reasons for the long time taken by the pertinent private-slope owners to comply with DHOs? What efforts have been/will be taken by the Administration to facilitate compliance of the private-slope owners? What are the latest progress of the situations and the Administration's plans to improve compliance of the private-slope owners?

Audit recommendations

2. What are the Government's executive plans and timetables to adopt Audit's recommendations in paragraph 4.34?

Replies to Questions 1 & 2:

Follow-ups on Dangerous Hillside Orders

- i) The 210 Dangerous Hillside Orders (DHOs) mentioned in paragraph 4.28 of the Audit Report are in different stages of formulation of the

slope upgrading works proposals or execution of the slope upgrading works. For cases with remedial works being undertaken by the owners, the Buildings Department (BD) will continue to closely monitor their progress. If the owners delay commencement of the required upgrading works without reasonable excuse, the BD will instigate prosecution against them in accordance with the Buildings Ordinance and if necessary, consider carrying out the works in their default and recover the cost plus supervision charge and a surcharge not more than 20% from the owners. For DHOs under default action, the BD will continue to closely monitor the progress of slope upgrading works.

Long outstanding DHOs

- ii) As regards the latest status of the 34 DHOs (outstanding for more than 10 years) mentioned in paragraph 4.30 of the Audit Report, two DHOs have the slope upgrading works near practical completion; eight DHOs have the slope upgrading works in progress; 10 DHOs are in the formulation of slope upgrading works proposal stage; and one DHO is under an appeal which is pending decision from the Appeal Tribunal. For the remaining 13 DHOs, they were previously undertaken by the owners, but in view of the owners' unreasonable delay, the BD is in the course of procuring default works consultants (DWCs) to execute the required slope upgrading works.
- iii) As some of these 34 DHOs involved slopes located in common areas under multiple-ownership, the co-owners have to agree on issues, including the budget and apportionment of costs among them, appointment of registered building professionals and registered contractors, slope investigation and upgrading works proposals, etc. For cases where the proposed slope upgrading works involve adjoining Government land, liaison with the Lands Department for permission to enter and execute works in Government land is also required. Therefore, it is inevitable for these cases to take more time for coordination and preparatory work before carrying out the slope investigation and upgrading works. In some cases, despite the owners' initial efforts in coordinating and arranging the slope upgrading works, some owners stalled or delayed the works in the

midst of the preparation process because of different reasons. Change of ownership, legal disputes against ownership and maintenance responsibilities, lack of cooperation from owners/occupiers, denial of access, etc. have also hindered timely implementation of slope upgrading works.

Facilitating compliance of DHOs

- iv) Whilst the primary responsibility for the upkeep of the safety of private slopes rests with the owners concerned, some owners may lack the financial means or knowledge to effectively arrange the slope upgrading works. In collaboration with partnering organisations and relevant department, there are facilitation measures in place to provide assistance to the owners in need.
- v) Owners of eligible buildings may apply for financial assistance in the form of grants and/or loans under the Integrated Building Maintenance Assistance Scheme administered by the Urban Renewal Authority, as well as the Building Safety Loan Scheme managed by the BD. Taking into account the cost of slope upgrading works, the maximum total amount of financial assistance available to a single applicant, in the form of grants and loans, may exceed \$1 million.
- vi) The BD in collaboration with the Geotechnical Engineering Office of the Civil Engineering and Development Department will enhance technical assistance to the owners to facilitate their compliance with the orders. The BD's in-house Social Service Team will be deployed to assist the owners in compliance with the DHOs according to the needs of the owners. Assistance from the Home Affairs Department will be sought if necessary.
- vii) To further enhance the effectiveness of enforcement actions against DHOs in particular for those slope upgrading works that have not been satisfactorily carried out by the owners over long period of time, facilitation measures have been implemented as mentioned in paragraphs v) and vi) above. In addition, the BD has since 2016 stepped up the default action against these DHOs with DWCs procurement procedures streamlined. The BD will also continue to

closely monitor the compliance status of the DHOs and the progress of the slope upgrading works undertaken by the owners. In parallel, the BD will step up prosecution action against non-complaint owners as necessary. As the response and cooperation of the owners are critical for the smooth implementation of slope upgrading works, we are unable to draw up a definitive timetable for clearance of the DHOs.

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商務及經濟發展局 旅遊事務署



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Mr. Anthony CHU
Clerk to Public Accounts Committee
Legislative Council
Legislative Council Complex,
1 Legislative Council Road,
Central, Hong Kong
(Fax: 2543 9197)

1 June 2017

Dear Mr Chu,

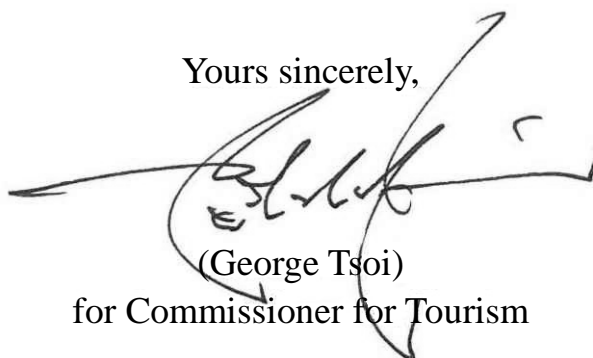
**Public Accounts Committee
Consideration of Chapter 5 of the Director of Audit's Report No. 68**

Kai Tak Cruise Terminal

I refer to your letters of 18 May 2017 to the Secretary for Commerce and Economic Development and the Commissioner for Tourism on the above. I am authorised to reply on their behalf.

Please find attached our written response for the Public Accounts Committee's reference and information.

Yours sincerely,



(George Tsoi)
for Commissioner for Tourism

Encl.

c.c. Secretary for Financial Services and the Treasury (Fax No. 2147 5239)
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Public Accounts Committee
Consideration of Chapter 5 of the Director of Audit's Report No. 68

Kai Tak Cruise Terminal

Response of Tourism Commission

1. According to paragraph 2.12, the average per-passenger spending of cruise passengers visiting Hong Kong was short of the spending assumed in the economic model used by the Government in making the estimates of expected economic benefits brought by the cruise industry. What are the reasons for the shortfall in the average per-passenger spending? Has the Administration ascertained how the shortfall will affect the achievement of the expected economic benefits?

In seeking funding approval from the Legislative Council (LegCo) in 2009 and 2010, the Government submitted that the economic benefits to be brought about by the whole cruise industry in Hong Kong following the construction of the Kai Tak Cruise Terminal (KTCT) would range from \$1.5 billion to \$2.6 billion per annum by 2023. The estimate was based on an economic model developed by the consultant engaged by the Government and updated in 2008 which took into account, among others, the number of ship calls, cruise passenger throughput and average cruise passenger spending. The key parameters of the economic model are presented in paragraph 2.8 of the Audit Report.

According to the statistics of Hong Kong Tourism Board, the average spending of turnaround cruise passengers (around 253,000 in 2015, excluding local citizens) showed a declining trend between 2014 and 2015, while that of transit cruise passengers (around 74,000 in 2015) increased by 22% during the same period. The spending of both turnaround and transit passengers in 2015 was lower than the level assumed in the economic model updated in 2008. We have discussed this phenomenon with the trade. The considered view was that it was partly due to the overall decreasing trend of the spending of cruise passengers in the international markets, and partly due to the falling hotel room rates in Hong Kong and the strong Hong Kong dollar which deterred cruise passengers from spending more on shopping in Hong Kong. Furthermore, the trade advised that some cruise lines now included shore excursions as part of their cruise packages purchased by passengers and such expenditure would not be captured in the existing figures on cruise passenger spending.

It should be noted that average cruise passenger spending is one of the parameters in the economic model for assessing the economic benefits that the cruise industry will bring to Hong Kong. Other key parameters include the number of ship calls and cruise passenger throughout.

While the average spending of turnaround cruise passengers decreased in 2014 to 2015 by 15% (from \$3,480 to \$2,950), the average spending of transit cruise passengers increased by 22% (from \$1,312 to \$1,597) and the total number of cruise visitors also increased by 15% (from 285,382 to 327,106). As a result, the total spending of cruise passengers in Hong Kong recorded a 2% increase during the same period, with corresponding increase in the economic benefits brought about by the cruise industry.

Indeed, the number of ship calls in Hong Kong (i.e. 191) in 2016 already reached the projected range of number of ship calls for 2023 (i.e. 181 to 258) in the economic model mentioned above. As regards cruise passenger throughput, the figure in 2016 (677,031) was also within the projected range for 2023 (i.e. 564,102 to 1,041,031). We are therefore on the right track in achieving the economic benefits projected for 2023.

2. According to paragraph 2.13(a), the Tourism Commission ("TC") monitored the progress made in achieving the projected economic benefits by 2023 by monitoring three of the four key parameters for the economic model of the cruise industry in Hong Kong very closely, namely the number of ship calls, passenger throughput and passenger spending. TC had reported to the Legislative Council the number of ship calls and passenger throughput from time to time. In view of the significant decrease in the average per-passenger spending of cruise vessels using Hong Kong as their turnaround port in the period from 2013 to 2015, will the Administration consider reporting the passenger spending to the Legislative Council from time to time as well?

Apart from reporting the number of ship calls and cruise passengers throughout to the Panel on Economic Development of LegCo, in the annual Policy Address and Budget from time to time, we have also provided information on average cruise passenger spending in our replies to LegCo Special Finance Committee questions. We will continue to make available information on cruise passenger spending to LegCo from time to time and are prepared to provide such information to the LegCo Panel on Economic Development regularly.

3. According to paragraph 2.13(d), it is TC's plan to conduct a mid-term assessment on the progress in achieving the expected economic benefits of the whole cruise industry in Hong Kong by 2023 at a suitable juncture, say around 2018, after gaining sufficient operational experience. Does the Administration have a plan and a timetable for conducting the mid-term assessment? Will the Administration consider conducting the mid-term assessment earlier so that timely improvements can be made?

We are well-gearred for the mid-term assessment scheduled for 2018 on the progress in achieving the expected economic benefits of the whole cruise industry in Hong Kong by 2023. We consider it an appropriate timing because while KTCT was commissioned in mid-2013, it was only fully operational in 2016 with the completion of the planned dredging works in end 2015 to enable its two berths to accommodate the world's largest cruise vessels simultaneously. In fact, the number of occasions on which the two berths of KTCT were in use simultaneously also started to grow, with 16 days in 2016 and expecting to grow to 60 days in 2017, representing an increase of 275%.

KTCT is the Government's long-term investment in promoting the development of cruise tourism in Hong Kong. Any assessment of the economic benefits brought about by the whole cruise tourism industry in the initial years of the commissioning of KTCT would unlikely be as adequate and representative, given the short duration since KTCT has become fully operational (about one and a half year as of now).

Furthermore, an important parameter in the economic model, namely, the economic multiplier, has a time lag of about two years and the latest available multipliers are only up to 2014 because it involves collection and collation of data by the Census and Statistics Department, and further estimation work with the data by the Government Economist. Hence, we consider it appropriate to conduct the mid-term assessment in 2018 after obtaining sufficient operational experience and with sufficient data.

Notwithstanding the above, we would continue to monitor closely the key parameters of the economic model, namely, the number of ship calls, cruise passenger throughput and cruise passenger spending, on an on-going basis. While we will commence the preparatory work of the mid-term assessment early next year, we will continue to step up our promotional work of cruise tourism and

review and streamline the operation of KTCT to further drive the economic benefits that the cruise tourism will bring to Hong Kong.

4. According to paragraphs 2.18(b) and 2.19, the utilization rates of the Kai Tak Cruise Terminal ("KTCT") (i.e. percentage of days with a cruise vessel at one or both of the two berths) for the peak seasons (i.e. January to March and October to December) of 2014 to 2016 were 18.1%, 22.5% and 38.3% respectively, and for the peak seasons of 2015 and 2016, the total number of days when both berths were utilized were only 5 and 14 respectively. For non-peak seasons (April to September) of 2015 and 2016, the total number of days with a ship at one or both of the two berths were only 29 and 35 respectively, representing very low utilization rates of 15.8% and 19.1% respectively. According to paragraphs 2.21(f), 3.14(d) and 3.15(d), Commissioner for Tourism has agreed to introduce new initiatives to drive more ship calls and passenger throughput to Hong Kong and urge the terminal operator to promote the use of KTCT for more non-cruise events. What new initiatives have been introduced by the Administration and/or the terminal operator? Are they effective?

Cruise terminal operation around the world generally has clear seasonality with peak season and non-peak season. For KTCT, its peak season is from January to March and October to December each year, while the rest of the year is regarded as non-peak season. In 2016, the utilisation rate of KTCT during peak season is 38.3%, which is comparable with that of the Marina Bay Cruise Centre Singapore (45%) which was commissioned a year earlier than KTCT. For 2017, it is expected that the utilisation rate of KTCT during peak season would further increase to 49%. Many cruise terminals around the world (e.g. St. Petersburg, Melbourne and Copenhagen) would close during non-peak seasons and with no cruise ship at berth in some of the calendar months. For KTCT, we are open every day and since 2015, we have had cruise ships at berth every calendar month.

The Government is committed to continuing the strengthening of strategic planning for developing Hong Kong into a leading cruise hub. We have clear strategic directions and plan and have turned the strategic directions and plan into strategic initiatives as promulgated every year in the Government's Policy Addresses, Policy Agendas as well as Budget Speeches. We have also deployed adequate resources in the promotion of cruise tourism. Specifically our strategic initiatives and facilitations include –

- (i) in 2014, the Asia Cruise Fund was established to encourage regional cooperation among neighbouring ports and incentivise cruise lines to

include Hong Kong and the participating ports in their cruise itineraries. In 2016, the partnership with the participating ports further elevated through the launch of Asia Cruise Cooperation to promote the tourism infrastructure and facilities, as well as the unique appeals of the participating ports to cruise lines through joint promotion and participation in large-scale industry events with a view to synergising the efforts, so as to encourage cruise lines to include the ports concerned in their itineraries;

- (ii) in 2015, further relaxation on the visa arrangements for Mainland cruise passengers coming to Hong Kong to take cruises with itineraries covering both Japan and Korea after visiting Taiwan was implemented; and
- (iii) in 2016, the “fly-cruise” tour programme was launched to diversify the source markets of cruise passengers and to further develop the source markets other than Southern China.

The above strategic initiatives have delivered results, with the total number of ship calls in Hong Kong increased by 115% and total cruise passenger throughput by 254% from 2013 to 2016. Also, the cruise vessels calling at KTCT have also become more diversified, with the number of international cruise brands doubled from 9 in 2015 to 18 in 2016.

In 2017-18, TC has mapped out further strategic initiatives to enhance the competitiveness of Hong Kong in cruise tourism development. An additional \$16 million of funding is, as a result, allocated by the Government to the Hong Kong Tourism Board to carry out these strategic initiatives. These initiatives, as set out in the 2017-18 Budget, include the following -

- (i) \$3 million for penetrating deeper into the source markets in Southern China. This is intended to maintain Hong Kong’s competitive edge in these markets with the increasing competition posed by the ports in Southern China. Our plan is to attract more high-yield and family visitors for these markets so as to differentiate ourselves from the nearby ports;
- (ii) \$10 million for continuation of the “fly-cruise” promotion programme to encourage more cruise passengers to fly to Hong Kong to take cruise, so

as to further diversify and fortify the source markets outside Southern China; and

- (iii) \$3 million for development of shore excursion programmes so as to encourage travel agencies and cruise lines to develop more varied and value-for-money itineraries for cruise passengers. This is intended as one of the means to stimulate spending by cruise passengers.

As regards non-cruise events, with the terminal operator gaining more experience in hosting such events and the positive feedback of event organisers, we have further urged the terminal operator to leverage on KTCT's reputation now established as a good event venue and to step up efforts to attract more non-cruise events. Firstly, in April 2017, we have suggested to the terminal operator to formulate a comprehensive marketing strategy to promote KTCT as an event venue, in addition to its on-going ad-hoc marketing efforts and participation in trade events both locally and internationally. Secondly, with the increasing number of ship calls at KTCT, the available windows for hosting non-cruise events will naturally reduce. That notwithstanding, with the experience that the terminal operator has gained over the years, TC has taken the initiatives to discuss with and solicit the consents of relevant Government departments (including Immigration Department and Customs and Excise Department) in early 2017 to enable cruise operations and non-cruise events to take place simultaneously at the apron. This will maximise the opportunities for hosting non-cruise events at KTCT.

5. According to paragraph 3.3, under the tenancy agreement, the terminal operator was required to pay a fixed rent of \$13 million for the ten-year operation and a variable rent. After deducting the above rent paid by terminal operator, what is the annual operating cost of KTCT borne by the Administration?

KTCT is an important infrastructure for promoting the development of cruise tourism in Hong Kong. Equipped with two berths capable of accommodating the largest vessels in the world simultaneously, KTCT has enabled Hong Kong to capture the growth of the cruise industry in the Asia Pacific region and sustain its development as a regional cruise hub.

Given that the number of ship calls in Hong Kong in 2016 (i.e. 191) already reached the projected range of number of ship calls for 2023 (i.e. 181 to 258) and that the cruise passenger throughput in 2016 (i.e. 677,031) was also within the projected range of passenger throughput for 2023 (i.e. 564,102 to 1,041,031), we are therefore on the right track in achieving the economic benefits projected for 2023 from \$1.5 billion to \$2.6 billion. On the other hand, the annual operating cost of KTCT borne by the Government in 2016-17 was about \$137 million, which mainly included the maintenance cost of the electrical and mechanical systems and equipment, the structural maintenance of the premises, management of the communal areas and the KTCT Park for the use of the general public, and the staff cost of Government departments (including the manpower for immigration and customs clearance).

6. According to paragraph 3.7(a), as at 1 March 2017, one shop on the rooftop with an area of 355 m² had not been leased out and had been left vacant since its handover to the terminal operator. According to paragraph 3.15(c), Commissioner for Tourism has agreed to urge the terminal operator to lease out the shops to merchants that can bring more visitors to KTCT. Is the shop on the rooftop leased out now? What measures have been taken and what is the progress?

The ancillary commercial area of KTCT is about 5,600 m². As at 1 May 2017, of the seven shops at KTCT, six of them (86%), occupying over 93% of the floor area, have been leased out and are contributing variable rent to the Government.

TC has been in close liaison with the terminal operator and reminded the terminal operator to lease out the ancillary commercial areas with best endeavours. The terminal operator has been trying in earnest to do so and ever since 2013, the terminal operator has been arranging site visits with potential sub-tenants when the project was still at the construction stage. As at December 2014, all but two shops at the rooftop were leased out. In 2015, we again urged the terminal operator to lease out the vacant shops (two at that time) and to conduct a “request for proposal” exercise, which the terminal operator did so in December 2015. In June 2016, we requested and the terminal operator conducted another “request for proposal” exercise for the vacant shops (two at that time) and the one on 2/F which had ceased operation. It should be noted that other than these “request for proposal” exercises, the terminal operator has also pro-actively approached potential sub-tenants and arranged many site visits with them.

As at May 2017, the terminal operator has successfully identified prospective sub-tenant which planned to run food and beverages business there. The terminal operator is now in the process of preparing the leasing documents for the prospective sub-tenant’s confirmation in leasing the only remaining vacant shop at the rooftop.

7. According to paragraph 3.7(b), the sub-tenancy of the two shops on the second floor with a total area of 2 196 m² was terminated. The terminal operator was not able to recover the vacant possession of the two shops pending the outcome of the legal proceedings. According to paragraph 3.15(b), TC had already urged the terminal operator to expedite the recovery of vacant possession of the premises for re-letting as soon as practicable. What is the latest position?

In respect of the two shops which had ceased operation, the terminal operator commenced legal action against the sub-tenant concerned by issuing a Writ of Summons to the Court of First Instance (Action No. 1157 of 2016) in 2016. Separately, there were numerous winding-up petitions against the sub-tenant as filed by its other creditors (other than the terminal operator). As the legal proceedings are still on-going, the terminal operator is therefore not yet able to recover the vacant possession of the shops concerned.

That notwithstanding, the legal dispute between the terminal operator and the sub-tenant does not affect the variable rent paid by the terminal operator to the Government, because the variable rent is calculated according to the rent receivable rather than actual rent received.

Although the date of availability of the shops concerned remains uncertain due to the ongoing legal proceedings, the terminal operator has already included the shops that are yet to be recovered in the “request for proposal” exercise in June 2016 with a view to expediting the process of identifying a new sub-tenant and facilitating the early use of the shops once available. Meanwhile, the terminal operator would be on the alert in looking for suitable sub-tenant for the shops concerned and has also pro-actively approached potential sub-tenants for the shops.

8. Further to Questions 6 and 7 above, Audit considers that TC needs to continue to urge the terminal operator to endeavor to lease out the remaining vacant shop on the rooftop. Some commercial operators had shown interests in leasing the rooftop shops for operating bars and seafood restaurants. However, the initiative was not actively followed up by the terminal operator and thus was eventually not pursued. Is TC or the Commerce and Economic Development Bureau aware of the above initiative? What follow-up actions have been taken? If not, the reasons why not?

The terminal operator received a proposal submitted by the *Hong Kong Bar & Club Association* for operating bars and restaurants at the rooftop of KTCT in August 2014. That proposal, among others, required the turning of part of the KTCT Park (managed by Leisure and Cultural Services Department) into commercial areas. The proposal was received after the Vice Chairman of *the Association*'s visit to the then vacant shops at the rooftop arranged by the terminal operator in March 2014.

In response to the above proposal, representatives of Commerce and Economic Development Bureau (CEDB) and TC met with the Vice Chairman of *Hong Kong Bar & Club Association* on 18 September 2014 and explained the issues involved in converting part of the leisure areas for commercial uses. It was agreed at the meeting that *Hong Kong Bar & Club Association* should consider pursuing the proposal of operating bars and restaurants at the then two vacant shops at the rooftop of KTCT. The terminal operator has been in close dialogue with *the Association* since, including inviting members of *the Association* for submitting proposals for leasing the then vacant shops at the rooftop of KTCT.

In the "request for proposal" exercise conducted in December 2015, the terminal operator pro-actively approached *the Association* again to invite it to inform its members about the exercise. Furthermore, the terminal operator arranged a dedicated visit to the then vacant shops for the Vice Chairman and a few members of *the Association* on 23 January 2016 and encouraged their submission of proposal in the "request for proposal" exercise. Up to now, the terminal operator has yet to receive any proposal from *the Association* or its members. The terminal operator would be happy to further liaise with *the Association* and its members should they continue to be interested in renting the available shops in KTCT.

9. According to paragraph 3.18, the terminal operator had not submitted the reports on compliance with the service pledges for 2013, 2014 and 2015 until 30 December 2016. What actions have been taken (e.g. sending written reminders to the terminal operator)? How did the Administration monitor the performance of the terminal operator in the absence of such reports?

Upon our reminder, the terminal operator submitted its report on compliance with the service pledges for 2016 before the end of February 2017 as required under the Tenancy Agreement. We fully agree with the Audit's recommendation that the terminal operator should submit annual reports on compliance with service pledges in a timely manner. We will therefore make it a practice to discuss the report on compliance with the service pledges, at the first Management Committee meeting in the first half of each calendar year, to ensure the timely submission of the report and to further improve the performance management of the terminal operator.

Indeed, the Government has been monitoring the performance of the terminal operator in meeting the operational and customers' needs very closely. In particular, the terminal operator makes regular reports to the quarterly Management Committee meetings which are attended by all Government departments involved in the operation of KTCT.

Apart from the quarterly Management Committee meetings mentioned above, TC has, since the commissioning of KTCT in 2013, put in place the following additional measures -

- (i) to conduct monthly operational meetings with the terminal operator and the building management services contractor to discuss the detailed operational issues, including the services delivered by the terminal operator;
- (ii) to attend joint site inspections with relevant Government departments, the terminal operator and cruise lines / event organisers to plan for the actual operation;
- (iii) to attend meetings to discuss special cruise operations (e.g. maiden calls by cruise ships, double-berthing operations or berthing of mega cruise ships) to ensure that the terminal operator can deliver the services as stipulated in the service pledges;

- (iv) to attend conference calls with the terminal operator;
- (v) to request the terminal operator to submit different types of reports (e.g. cruise passenger profiles of arriving cruise vessels, traffic arrangement plans, etc) almost every week; and
- (vi) to conduct on-site inspection and surveys in order to monitor the performance of the terminal operator effectively.

Taking 2015 and 2016 as examples, TC had up to 113 meetings and site walks etc. with the terminal operator.

The above additional arrangements, as initiated by TC on top of the report on compliance with the service pledges as set out in the Tenancy Agreement, ensure that timely information that facilitated TC's daily supervision of the terminal operator's performance can be made available. Where necessary, suitable advice can be provided to the terminal operator instantly and that remedial measures can be put in place as soon as possible.

A recent example is that due to the very last minute booking of a cruise line, the disembarkation time of a cruise ship clashed with a pre-planned event at the Kai Tak areas on 8 January 2017 during which road closure of the access road leading to KTCT was required. Disembarked cruise passengers therefore could only leave KTCT by sea. Such a challenging situation was brought up and discussed at the Management Committee and several other operational meetings in December 2016 and January 2017. It was with the early discussion at our regular meetings and the concerted efforts of all Government departments, the terminal operator and the cruise line concerned that we managed to resolve all operational issues under such a challenging situation swiftly and that the operation was eventually successful.

The above example shows that apart from the annual submission of reports on the performance of the terminal operator, we have put in place suitable arrangements to monitor the performance of the terminal operator on a day-to-day basis.

10. According to paragraph 4.3(a), the total number of shopping malls providing free mall shuttle bus services on a regular basis had decreased from three in 2013 to two in 2015. According to paragraphs 4.8 and 4.9, Commissioner for Tourism has agreed to urge the terminal operator to explore with shopping malls to provide mall shuttle bus services to KTCT, prepare necessary contingency in the event of discontinuation of mall shuttle bus services, as well as update the traffic management plan annually to ensure proper transport arrangements are in place. TC will also discuss with the Transport Department to improve the franchised bus service. What has been achieved so far?

General transport services enhancements

TC has been working closely with Transport Department (TD) and the terminal operator in improving the transport services provided at KTCT. For the transportation for cruise passengers during cruise days, there are free mall shuttle bus services and paid shuttle bus services arranged by the terminal operator, coaches for shore excursion programmes arranged by cruise lines, as well as taxis and other privately-arranged transportation such as limousines.

Separately, there are also franchised bus services, mini bus services and ferry services for local citizens going to and from KTCT. At the request of TC, these public transportation services have been strengthened to provide daily services since 2016. The ferry service was made available after the completion of TC's initiative of refurbishing of an ex-fire boat pier near KTCT in March 2016. TD is monitoring the current service level of the mini bus services and see if further strengthened service should be provided. Other specific enhancements to the public transport services are also set out in the following paragraphs.

Free mall shuttle bus services

The number of shopping malls providing free shuttle bus services decreased from three to two in 2015, but the services provided by the remaining two malls were strengthened, so that the carrying capacity has remained the same. At present, cruise passengers do not have to wait before boarding the free mall shuttle bus for most of the time, indicating that there is an adequate supply of the services. In May 2017, TC has already requested the terminal operator to explore with other shopping malls to provide free mall shuttle bus services to KTCT. We have also

requested the terminal operator to discuss with the mall which might have problems in continuing with the provision of the said services due to the complaints from nearby residents on the drop-off locations and see if the problems still existed and whether they could be resolved. According to the terminal operator, it meets with the management of the shopping malls providing the services regularly and the two shopping malls remain keen to continue to operate the services. This notwithstanding, we have urged the terminal operator to make contingency plan in the event of discontinuation of mall shuttle services and submit draft plan for TC's consideration by July 2017.

Traffic management plan

The terminal operator submitted an updated traffic management plan taking into account the latest development of transport services provided at KTCT and the refinements to the traffic arrangements in the light of the experience gained in the past few years of operation. The updated traffic management plan, with comments from all Government departments incorporated, was approved in May 2017. TC requested, and the terminal operator agreed, at the Management Committee meeting in May 2017 that it would update the traffic management plan on an annual basis before the end of each calendar year to ensure effective and efficient traffic management measures would be in place. In addition to the traffic management plan, the terminal operator has been requested to continue with its practice of providing dedicated traffic plans for special occasions to ensure that proper transport arrangements would be implemented for such occasions.

Franchised bus services

The franchised bus service is mainly for local citizens, including park users. At the request of TC through TD, the service has been strengthened to provide daily service since August 2016. To address the anticipated demand of cruise passengers on some special operational situations (e.g. simultaneous berthing of two mega cruise ships with passengers from both cruise ships disembarking at almost the same time), TC has, on a need basis, requested the franchised bus operator through TD to extend its service to help disperse cruise passengers from time to time. For instance, on 19 March 2017, we requested the service provider to extend the service to start before the usual service hour of 11:00am when passengers from two cruise ships disembarked concurrently. We note that around 20 cruise passengers, out of a total of 4,710 disembarked, used the service. That notwithstanding, since April 2017, the franchised bus operator has, at the request

of TC made through TD, advanced the service hours of Route 5R to cover the period between around 7:00 am and 11:00 am on every Sunday morning on a trial basis to dovetail with the disembarkation time of passengers of a cruise ship which calls at Hong Kong regularly every Sunday. Although the number of cruise passengers using the extended service on Sunday was very low (less than 20 passengers each morning), the franchised bus operator has agreed to continue to provide the service on a trial basis and will review the situation in mid-2017.

Separately, a new bus route connecting KTCT and Kowloon Tong is planned to be introduced in 2018. Consultation with relevant district councils was commenced in April 2017.

Potential cross-boundary ferry services

In addition to strengthening local transport connectivity, TC has also been facilitating the terminal operator in actively exploring the proposal of operating cross-boundary ferry services at KTCT for its cruise passengers. Subject to the detailed arrangements to be discussed among the terminal operator, cruise lines and the appointed cross-boundary ferry services provider, cruise passengers from the Mainland may take cross-boundary ferry to KTCT direct and complete immigration and customs clearance thereat before commencing their cruise journeys. We understand that there are cruise lines that are interested in arranging such service for their passengers and there are chances that the services will be available in the coming months.

11. The Administration reported to the Legislative Council Panel on Economic Development in 2014 that the recurrent expenditure for operating KTCT would be \$220 million per year. Apart from the operation and maintenance costs charged by the Electrical and Mechanical Services Trading Fund as listed in Table 9 in paragraph 4.25, please provide a breakdown for the recurrent expenditure for operating KTCT per year.

The recurrent expenditure of \$220 million for operating KTCT was estimated and provided to LegCo in 2009 to 2010 when we sought LegCo's funding approval for the KTCT project. This estimate was also included in the paper prepared by LegCo Secretariat in December 2014.

The annual operating cost of KTCT borne by the Government mainly includes the maintenance cost of the electrical and mechanical systems and equipment, the structural maintenance of the premises, management of the communal areas and the KTCT Park for the use of the general public, and the staff cost of Government departments (including the manpower for immigration and customs clearance). The actual expenditure in 2016-17 was about \$137 million, and the breakdown is as follows –

Department	Actual Expenses in 2017-18 (\$ million)
Customs & Excise Department	9.22
Department of Health	3.31
Hong Kong Police Force	5.14
Immigration Department	39.44
Leisure and Cultural Services Department	5.04
Architectural Services Department	0.17
Tourism Commission <i>(including the service level agreement for management and maintenance of electrical and mechanical systems and equipment)</i>	73.10
Civil Engineering and Development Department	1.31
Total	136.73

12. As mentioned in paragraphs 4.11 and 4.12, the video wall installed on the external wall of the terminal building facing the Hong Kong Island could be let to outside parties for income which forms part of the gross receipt of the terminal operator in the calculation of the variable rent payable to the Government. Has TC ascertained with the terminal operator why the video wall has not been let out thus has not generated any income? Has the terminal operator conducted any promotions and advertisement on the letting of the video wall?

According to the Tenancy Agreement, if the terminal operator is desirous of using the video wall for the display of advertisements and signs, it shall obtain the Landlord's prior written approval. All income generated from the video wall shall be included as part of the gross receipt of the terminal operator in the calculation of the variable rent payable to the Government.

The terminal operator has been making efforts in identifying a suitable media agent to act as its sole agent for arranging commercial advertisements using the video wall on a fixed licence fee plus variable licence fee on revenue sharing basis. The terminal operator arranged site visits with media agents as early as in April 2013. Follow-up visit with representatives of some major media agents was arranged in September 2013. Subsequently, the terminal operator conducted a "request for proposal" exercise in October 2013. However, there was no positive response from the market.

The terminal operator maintained dialogue with potential major media agents but was not successful in identifying an agent for arranging commercial advertisements using the video wall due to lukewarm market response. At the request of TC, the terminal operator conducted another "request for proposal" exercise in September 2016.

The terminal operator has recently reviewed the partnership approach in engaging a suitable media agent and is considering to engage the agent on a more flexible basis (e.g. the agent will only need to pay fees to the terminal operator whenever they use the video wall, instead of paying any fixed rent). The terminal operator is discussing with a potential media agent the detailed terms and arrangements at the moment.

Meanwhile, the video wall is functioning properly and is displaying messages to cruise passengers and during some non-cruise events or events organised by the Government.

13. According to paragraph 4.15, Audit commented that there was a need to review the optimal use of the two plant rooms, which had been used temporarily by the Electrical and Mechanical Services Trading Fund ("EMSTF") since 2015, with the Government Property Agency's ("GPA") assistance. In this regard,

- a) Has TC discussed with GPA regarding the optimal usage of the rooms? If yes, the details; and if no, the reasons why not.
- b) how long EMSTF would make use of the two plant rooms?
- c) Is the temporary usage of the two plant rooms by EMSTF contrary to the objective of installing an on-shore power supply ("OPS") system in KTCT, which aims to reduce air pollutants emission from cruise ships?
- d) As the number of cruise ships using KTCT will be on a rise in the future, without the installation of an OPS system, whether air pollutants emission from cruise ships will affect the air quality of nearby districts such as Kai Tak, Kwun Tong and Kowloon Bay?
- e) Has any study being conducted on the impact of air pollutants emission from cruise ships using KTCT on the air quality during the period in which the two plant rooms were temporarily used by EMSTF without the installation of an OPS system?
- f) What is the estimated expenditure of installing the OPS system? Does the two plant rooms being temporarily used by EMSTF lead to improper use of resources? Can the impact of the improper use of resources be quantified?

Development of Onshore Power Supply System

Spaces have been reserved in the KTCT project for the potential installation of Onshore Power Supply (OPS) system. In November 2013, the Environmental Protection Department (EPD) engaged EMSD to study the installation of OPS system at KTCT, including gauging the readiness of cruise terminals and cruise liners to use OPS systems. In July 2014, EMSD submitted to EPD its report which confirmed the technical feasibility of installing OPS system at KTCT. EPD and EMSD conducted follow-up survey in 2015 and concluded that (a) while the installation of OPS system at KTCT was technically feasible, OPS-capable vessels were not common worldwide; (b) no Asia cruise terminal was providing OPS system, and only a few OPS-capable cruise vessels were deployed to the Asia region; and (c) only 32 international cruise vessels were OPS-capable in 2014 and that three cruise vessels would be retrofitted with OPS equipment in 2015, and the total number of OPS-capable cruise vessels would account for 16% of the

international cruise vessels in 2015.

With the above findings, EPD reported the study and survey results to LegCo Panel on Environmental Affairs in June 2015. Having regard to the findings of the study and survey and that an increasing number of cruise vessels had been fitted with scrubbers to comply with the fuel sulphur cap set by the International Maritime Organisation, the Panel supported the EPD's recommendations to put the installation of OPS system at KTCT on hold, while keeping a close watch of the development on OPS-capable cruise vessels to review whether it would be appropriate to take forward the installation of OPS at KTCT.

Consideration in putting the spaces reserved for OPS system to gainful use

In view of the above policy decision of EPD which was supported by LegCo, TC put the spaces originally reserved for the OPS system to suitable gainful uses in June 2015.

In considering the possible uses of the OPS system, we have paid due regard to the fact that (a) the locations of the spaces are within the restricted areas of KTCT; (b) the spaces can only be accessed through the apron of KTCT which is a restricted area and cannot be accessed freely, particularly during cruise operation; (c) the spaces are semi-enclosed and not air-conditioned; and (d) the level of the spaces is lower than that of the apron and the level difference renders the moving-in and moving-out of goods and equipment frequently not without challenges (please refer to the photo at **Annex A**).

Given the limited accessibility and the specifications of the spaces, TC has identified that the use of the spaces as EMSTF's maintenance workshop for conducting maintenance and repairing works for the systems and equipment at KTCT would be a suitable gainful use. This arrangement could enable the systems and equipment are maintained in a timely and efficient manner and help reduce the time for the maintenance and repairing works, thus minimising the interruption to the operation of KTCT. Photos showing the current use are at **Annex B**.

EMSTF intends to use the spaces as its maintenance workshop for as long as they are available. That said, if it is the Government's decision to install OPS system at KTCT any time in future, EMSTF can vacate the spaces accordingly. Hence, the temporary use of the spaces by EMSTF is not contrary to the objective of

installing OPS system, nor has it involved any improper use of resources.

In the light of Audit's observation that there is a need to review the optimal use of the spaces with Government Property Agency's assistance (paragraph 4.15 of the Audit Report), we will review the use of the spaces in consultation with EPD and EMSTF, and invite Government Property Agency to explore the optimal use of the spaces having regard to their limited accessibility and the need to protect the integrity of the restricted area.

Emissions from cruise vessels and air quality of nearby districts

The proposed installation of OPS system is not the only effective way to reduce the impact of emissions from marine vessels. In recent years, the Government has actively implemented a number of measures to reduce the emission of sulphur dioxide from marine vessels. Since April 2014, the sulphur content of locally supplied marine light diesel has been capped at 0.05%. Ocean going vessels including cruise vessels have been required to switch to low sulphur marine fuel (with sulphur content not exceeding 0.5%) while at berth since July 2015. EPD is also working with the Guangdong maritime authorities to implement a Domestic Emission Control Area (DECA) in the Pearl River Delta region in January 2019 such that vessels plying within the DECA will be required to use low sulphur fuel with sulphur content not exceeding 0.5% with a view to further improving air quality in the PRD region.

The Kwun Tong Air Quality Monitoring Station ("AQMS") is situated in the vicinity of KTCT. The concentration of sulphur dioxide recorded thereat can be taken as an indicator of the air quality impact of KTCT. So far, the annual average concentration of sulphur dioxide recorded remains low. Despite the number of ship calls at KTCT has been increasing since its commissioning in mid-2013, the annual average sulphur dioxide concentration recorded in 2016 is 27% lower than that in 2012 (i.e. before the operation of KTCT). Furthermore, after the mandatory requirement for ocean going vessels including cruise vessels to switch to low sulphur fuel while at berth came into effect in July 2015, the average concentration of sulphur dioxide recorded at the Kwun Tong AQMS when it was downwind of KTCT has reduced by 33%. These indicated that the implementation of the above control measures has been effective in improving the air quality in the areas nearby, notwithstanding that the OPS system is yet to be installed.

According to the study conducted by EMSD in 2014, the capital cost of the OPS system at KTCT will be about \$315 million, and the annual operation and maintenance cost will be about \$14 million.

14. According to paragraph 4.33(d), TC said that EMSTF will explore ways to further improve the performance of the lifts and escalators and educate users on the proper use of lifts and escalators. What actions have been taken so far?

According to EMSTF, a majority of the fault call cases of lifts / escalators received in 2015 and 2016 were caused by improper operation mainly related to misuse of keyswitch and external influence such as by foreign objects. Equipment failure involved 12 lifts / escalators out of the total of 78 at KTCT during the two-year period.

Nonetheless, TC has worked closely with EMSTF to reduce the number of fault call cases through (i) improving the operation environment of the lifts / escalators; and (ii) educating users on the proper use of lifts and escalators.

Improving the operation environment of lifts and escalators

On improving the operation environment of the lifts and escalators, we have installed larger canopies and wind/rain shields to reduce the exposure of some of the lifts / escalators to heavy rainfall (please refer to photos at [Annex C](#)). Separately, since large pieces of luggage on wheels and baby trolleys could potentially disrupt the normal operation of escalators, passengers with these items should use the lifts instead of escalators. Against this, we have installed bollards in front of some escalators so as to avoid passengers with luggage / baby trolleys from using the escalators (please refer to photos at [Annex D](#)). Meanwhile, we are also making efforts in educating users on using the escalators properly, as elaborated in the paragraphs below.

Educating users

Given that a major reason leading to fault call cases of lifts / escalators is improper operation, EMSTF has stepped up its trainings to educate the users (including the terminal operator and building services contractors) so as to minimise the chance of improper operation such as misuse of switchboard, etc. In addition to the basic training, enhancement trainings were conducted on 9 March 2017 and 26 May 2017.

The terminal operator has also been using mobile public announcement system during peak hours to remind cruise passengers to use the escalators properly

(including asking cruise passengers carrying large pieces of luggage / baby trolleys to use the lifts instead of escalators). The terminal operator has also displayed more prominent signages to impress upon cruise passengers the importance of using the escalators properly (please refer to **Annex E**).

Latest fault call cases

With our above efforts, the number of fault call cases in the first four months of 2017 has dropped. The following table summarises the situation -

	Fault call cases		
	Equipment failure	Improper operation and other causes	Total
2015 and 2016	30	68	98
2017 (<i>January to April</i>)	3	5	8

15. According to paragraph 4.46(b), Commissioner for Tourism has agreed that in the process of formulating the strategic directions and initiatives on cruise tourism development, TC will extend its consultation to cover tourist attractions, hotels and the retail sector starting this year. Commissioner for Tourism will also formalize this engagement process and consolidate the various strategies and initiatives into a single document entitled “Strategic Plan for Cruise Tourism” for easy reference. What actions have been taken in this regard?

TC has all along formulated the strategic directions and plan for cruise tourism development regularly in consultation with the Advisory Committee on Cruise Industry (ACCI) with members comprising representatives from major stakeholders including cruise lines, travel agents, ground-handlers and port agents, etc..

In early April 2017, apart from engaging the ACCI, TC has already started to extend the consultation in relation to the formulating and updating of the strategic directions and plan for cruise tourism development to cover the Tourism Strategy Group, which comprises a wide spectrum of representatives from the travel trade, major attractions and hotels.

TC’s plan is to further extend our consultation to cover more tourist attractions, hotels and the retail sector when we formulate and update the strategic directions and plan. We will also consolidate the various strategies and initiatives into a single document entitled “Strategic Plan for Cruise Tourism” for issue in the first quarter of each year.

**Space Reserved for On-shore Power Supply System:
Level Difference with the Apron**



**Current Use of the Space Reserved for On-shore Power Supply System:
EMSTF's Maintenance Workshop**



**Improving the Operation Environment of Lifts:
Canopy and Shield**



**Improving the Operation Environment of Escalators:
Bollards in front of Some Escalators**



**Educating Users of Escalators:
More Signages**



政府總部
勞工及福利局
香港添馬添美道
政府總部



LABOUR AND WELFARE BUREAU
GOVERNMENT SECRETARIAT

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29 May 2017

Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Mr Anthony CHU)

Dear Mr CHU,

Public Accounts Committee

Consideration of Chapter 6 of the Director of Audit's Report No. 68

Management of projects financed by the Lotteries Fund

I refer to the following questions raised in your letter of 18 May 2017 to the Secretary for Labour and Welfare on the Special Scheme on Privately Owned Sites for Welfare Uses (Special Scheme) –

“According to paragraphs 2.19 and 2.24, as of November 2016, of the 63 preliminary proposals targeting to provide 17 000 additional service places, only 1 project providing 100 service places had been completed, 11 projects that would provide 3 609 service places were at different implementation stages, and the remaining 51 projects were still at the planning stage. Given that the completion of these projects will substantially improve the provision of welfare services to persons in need of the services, will the Administration strengthen actions to implement these projects as early as possible? What improvement measures will be taken in this regard?”

I am authorised to reply as below –

The Government sought the approval of the Legislative Council (LegCo) Finance Committee in 2014 for the transfer of \$10 billion from the General Revenue Account to the Lotteries Fund (LF) for the implementation of the Special Scheme, and reported its progress to the LegCo Panel on Welfare Services on three occasions in 2015 and 2016. At these meetings, the Government stated clearly that the technical feasibility of the preliminary proposals submitted by the non-governmental organisations (NGOs) were subject to confirmation, and that the details would be adjusted in light of the discussion between the NGOs and the Social Welfare Department (SWD), as well as the comments made by other departments on the development parameters of the sites. The progress of the proposed projects would hinge on various factors, including the site location and surrounding environment, availability of communal facilities and transport facilities, restrictions stipulated in the land lease conditions and outline zoning plan on uses and development intensity, feedback received from local consultations, distribution of the existing services as well as demand and supply of the proposed services, and therefore the implementation schedules vary under different projects.

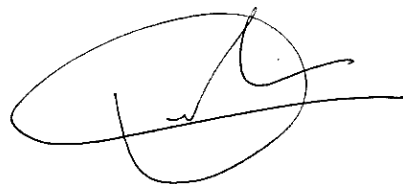
The Government has been closely monitoring the implementation of the Special Scheme and assisting the applicant NGOs in delivering their projects as soon as possible. Since the launch of the Special Scheme, SWD has held rounds of meetings with the applicant NGOs to refine their proposals and address issues of mutual concern. The Labour and Welfare Bureau (LWB) and SWD have altogether conducted six information exchange sessions with the applicant NGOs. Various arrangements under the Special Scheme have been further clarified and refined in response to the views raised at these sessions, such as assisting the NGOs, through the LF, in preparing funding applications for the conduct of technical feasibility studies (TFSs) and monitoring the project delivery during the project implementation stage; subsidising the construction and fitting-out costs of some ancillary facilities; subsidising the costs of furniture and equipment items in respect of the self-financing facilities on the list of facilities specified by the Government; considering relaxation of the height restriction for individual facilities on a project-by-project basis; and exercising discretion in handling the redevelopment projects that involve demolition of buildings less than 25 years old. These arrangements can help the applicant NGOs in handling the required procedures for the expansion, redevelopment or new development of facilities and speed up the work flow. LWB and SWD have

also adopted other suitable measures to strengthen communication with the applicant NGOs, such as visiting the applicant NGOs and conducting on-site inspection and discussion of their respective projects, facilitating early resolution of the key issues among the departments concerned. Besides, the Policy and Project Co-ordination Unit (PPCU) under the Chief Secretary for Administration's Office assists LWB in coordinating the applicant NGOs' submission of the required information and applications in respect of each project to the relevant departments. LWB and SWD have maintained close contact with PPCU, and convened interdepartmental meetings on a need basis to help the applicant NGOs resolve some technical issues.

As at the date of this letter, one project under the Special Scheme has been completed and commenced service, and five other projects are expected to be completed in 2018-19 or before. In addition, LF grants have been approved for eight projects to proceed with TFSs. One of these projects completed the TFS in November 2016, and has been provided with an LF grant to commission a consultant to conduct detailed design, tender exercise, contract administration for construction, etc. The aforementioned projects are expected to provide about 4 870 additional elderly and rehabilitation service places in total.

The Government will continue to provide the required assistance to the other projects under the Special Scheme, and having regard to the circumstances of individual projects, SWD will consider supporting the respective applicant NGOs to proceed with TFSs with a view to implementing the projects as soon as possible.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a small upward stroke.

(Kelvin MA)
for Secretary for Labour and Welfare

c.c. Director of Social Welfare (Attn: Kenneth WOO)

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26 May 2017

Mr Anthony CHU
Clerk
Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr CHU,

Public Accounts Committee

Consideration of Chapter 6 of the Director of Audit's Report No. 68

Management of projects financed by the Lotteries Fund

Thank you for your letter of 18 May 2017. Our reply in respect of the various issues covered in your letter is appended below :

Question : According to paragraph 2.6, for Lotteries Fund (LF) grants processed and approved from April 2011 to September 2016, the time taken to process 236 (19% of the 1 251 major grant applications) and 245 (23% of the 1 087 minor grant applications) applications had respectively exceeded the Social Welfare Department (SWD)'s target time of nine months for major grants and four months for minor grants. According to paragraphs 2.15(f) and 2.16, Director of Social Welfare has agreed to strengthen measures with a view to processing grant applications within the target completion time. What measures will be taken in this regard?



According to paragraphs 2.15(g) and 2.16, Director of Social Welfare has agreed to consider promulgating performance pledges on the time of processing applications for LF grants. Furthermore, according to paragraph 2.16(c), SWD will examine the target processing time to take into account the complexity of a project, the need for revisions of the scope of a project, the need for consultation with different stakeholders and other government bureaux or departments (B/Ds), and the upsurge in the number of LF applications. Is there a timetable for taking forward these matters? What is the progress?

The target processing times of 9 months for major grant applications and 4 months for minor grant applications in respect of the LF, as referred to in paragraph 2.6 of Chapter 6 of the Director of Audit's Report No. 68 (Audit Report) making reference to another Director of Audit's Report of March 2002, were used for comparing the average processing times among various government funds at that time. Over a decade from 2002 up to now, there have been significant changes in the processing of LF applications by SWD in terms of the number of applications, the degree of their complexity or the process of consultation.

The processing time for LF applications as mentioned in the Audit Report was derived based on the data stored in the existing LF database. By design, the LF database is intended to record the time taken from receipt of an LF application as submitted by an applicant organisation to the granting of approval/ rejection. There are no prescribed fields in the LF database to capture the time taken by various procedures during the vetting of the application and the dates involved. When an organisation proposes major changes to its application such that the application needs to be handled afresh, the application is still not re-classified as a new one under the existing system. Therefore, the data are not reflecting accurately the actual situation in the processing of LF applications. The time required in processing an LF application very much depends on the complexity of the application, the procedures required, the adequacy of information submitted by the non-governmental organisation (NGO) and whether the consultation process with various stakeholders is smooth. In general, the following procedures are



involved when processing LF applications :

- (a) **Initial screening** – upon receipt of an application, the Lotteries Fund Projects Section of SWD will conduct initial screening and liaise with the applicant organisation for supplementary information to ensure that essential information is available for service assessment and technical assessment;
- (b) **Service assessment** – after completion of initial screening, the LF application is forwarded to the relevant service branch of SWD and/ or other B/Ds for comments on its support-worthiness;
- (c) **Technical assessment** (for projects related to works or purchase of vehicles) – the relevant department will conduct technical assessment of the project (including assessment of the feasibility of works items, specifications, requirements and cost estimates);
- (d) **Clarification and revision of application** – upon receipt of service and/ or technical assessment, an applicant organisation or B/D will make clarifications and provide supplementary information for further assessment by the SWD or Architectural Services Department (ArchSD). If the NGO requests major changes to the scope of the project, SWD may need to re-start the application process (as mentioned in (a) to (c) above) afresh;
- (e) **Consultation with different stakeholders** – For projects having impact on the environment, transport or society, SWD will consult various stakeholders, such as District Councils, Incorporated Owners and related organisations. For projects with policy and financial implications, the SWD will also seek the endorsement of relevant B/Ds; and
- (f) **Funding approval** – If an application is considered eligible SWD will seek funding approval from the relevant approving authority. For projects which incur additional recurrent expenditure exceeding \$10 million a year, SWD will consult the relevant Panel of the Legislative Council.



Some LF applications require longer processing time for various reasons, including :

- (a) the information provided by the applicants is insufficient or incomplete and NGOs have to submit supplementary information in numerous rounds;
- (b) during the vetting process, NGOs request significant changes to the scope of their applications or propose adding a number of new items into the applications, thereby necessitating the applications to be revised substantially and to be re-submitted;
- (c) the applicant organisations or their Authorised Persons (APs)/ Consultants have delayed in replying to enquiries or submitting relevant supplementary information; and
- (d) other reasons (including the applications require the collection of comments from other departments, and hence incur longer processing time, etc.).

Since the applications for LF involve diversified scopes and their complexities are different, SWD needs to obtain sufficient information, communicate with relevant stakeholders and arrive at consensus with the applicant organisations on the feasibility of the application projects before endorsing the applications.

The Audit Report has recommended SWD to follow up long-outstanding applications and remove those applications no longer in need of LF grants from the LF database. In response to the recommendations in the Audit Report, SWD will adopt the following measures :

- (a) to study, in collaboration with other B/Ds (including ArchSD), on how to implement the recommendations in the Report, including discussing the various options and their feasibility, in order to assist the NGOs to meet the application requirements more effectively;
- (b) to liaise with NGOs closely and provide assistance when



necessary. Regarding those applications with incomplete information or those NGOs delaying in replying to enquiries, SWD will consider setting a deadline for reply. For example, for minor grants, applicant organisations should reply to enquiries within one month, failing which SWD will regard the applications withdrawn; and

- (c) to enhance the existing LF database to better reflect the application processing time :
 - (i) recording the time required for different procedures so as to better reflect the progress in processing the application ;
 - (ii) starting to count the processing time of an application only from the point where the required information has reached the SWD; and
 - (iii) re-classifying the applications which have been revised due to significant changes in the scope during the vetting process as new applications, as stated in paragraph 7 of Case 3 in the Audit Report.

We are sorting out with the current database system contractor the information and time required for the enhancement. Initially, the newly added functions of the LF database should be implemented in early 2019, including enhanced reporting features to facilitate SWD to keep track of individual applications and the progress of the projects approved. With the implementation of the enhanced LF database, SWD will be able to store and consolidate the data of the applications to analyse the calculation method of the average application processing time in various procedures for devising more reasonable average target processing times for processing applications in general.

Question : According to Case 1 in paragraph 2.7, while the land grant was executed in July 2006 under which the Administration was committed to reimbursing \$32.5 million to the developer for constructing three welfare facilities at the private development,



SWD had not obtained the approval of the Financial Services and the Treasury Bureau for the related LF grant of \$35.7 million until May 2012. Was it unsatisfactory that Project A commenced and completed works without first obtaining funding approval? What lessons were learned from this case?

Insofar as Case 1 is concerned, the developer was required under the then land grant conditions to complete the construction of three welfare premises by July 2011 and would be reimbursed upon the completion of works the construction costs at an amount not exceeding the Consideration Sum as set out in the same conditions.

On the basis of the estimated construction cost of the welfare facilities concerned as advised by the ArchSD and after consulting the Lotteries Fund Advisory Committee (LFAC), the SWD obtained the approval-in-principle from the Financial Services and the Treasury Bureau (FSTB) in December 2004 to meet the estimated construction cost (i.e. the Consideration Sum included in the relevant land grant conditions) under the LF. At the time, FSTB also asked for a more accurate and detailed technical appraisal of the estimated construction cost.

After seeking the advice of ArchSD and the Lands Department (LandsD), SWD explained to FSTB in February 2005 that pending the formal granting of the site to the developer and in the absence of the detailed design plans for the welfare premises concerned, ArchSD had, in accordance with the established practice, prepared the estimated construction cost on the basis of the net operational floor area and the technical schedules of the welfare facilities concerned and with reference to the construction costs of similar facilities.

Besides, LandsD pointed out that the Government had already reserved considerable control on the construction cost, as the eventual amount to be reimbursed to the developer for the construction of the welfare facilities would either be the Consideration Sum as stated in the land grant conditions or the actual cost of construction of the welfare facilities to be determined by LandsD, whichever is the less, and the decision of the Director of Lands as to the actual construction cost should be final and binding on the developer.

For the funding arrangements in respect of welfare premises to be constructed by developers in future, SWD had a detailed discussion with FSTB and ArchSD and clarified that a mechanism had been in place on the assessment



and control of the estimated construction cost for similar projects, with a view to ascertaining that funding approval would be obtained before the execution of the land grant concerned. SWD will continue closely liaising with LandsD and request the latter to provide update on the latest progress of the land grant in respect of related developments. ArchSD will advise on the cost breakdown of the estimated construction cost computed on the basis of the technical schedules to facilitate the consideration of the funding approval sought.

Question : According to paragraph 3.5, as of September 2016, works for five LF-funded projects with approved LF grants totalling \$15 million had not commenced five to eight years after approval of the LF grants. What were the causes for the delay in commencement of the works? When will the works commence? What measures will be taken to improve the situation? In addition, according to paragraph 3.6, as of September 2016, 259 projects had been completed but the NGOs and B/Ds involved had not finalized and submitted the project accounts to SWD, where approvals for these grants had been made 5 to 25 years ago, involving unpaid LF commitments totalling \$690 million. Given that unpaid commitments not required for LF projects could be released for funding other projects after finalization of the project accounts, does the Administration agree that such project accounts should be finalized as soon as possible? What measures will be taken to improve the situation?

On projects not yet commenced after approval (re paragraph 3.5)

After the approval of LF grants, NGOs will hire AP/ Consultant for the works projects and then submit works tender documents to SWD for vetting. The ArchSD or other B/Ds will provide their technical advice on these applications. After completion of the related procedures, NGOs may commence works for the projects. The reasons for delay in the commencement of works for the five projects mentioned in the Audit Report differ, including NGOs seeking changes to the project scope after approval has been granted (e.g. Case 4), NGOs changing their APs (e.g. Case 4), NGOs being involved in litigation issues, etc. SWD has been liaising closely with the



NGOs concerned on the progress of the five outstanding cases, amongst which one has already commenced works; three are pending submission of supplementary information or revision in the project scope (e.g. Case 5) by the NGOs concerned; and the remaining one is being handled by ArchSD on the vetting of tender documents.

The LFAC endorsed in January 2017 that applicant organisations approved with LF grants be required to submit estimated milestones of the projects at the time of submission of applications and to undertake to commence work related to the projects within a short period of time after approval of grants. In addition, grantee organisations need to submit periodic progress reports of the projects to facilitate SWD to monitor their progress (including whether the works have commenced or have been completed) and follow up on the items requiring assistance. If individual project cannot be commenced as planned, SWD will request the organisations concerned to submit full justifications and revise the project schedule with the expenditure adjusted. These measures have been adopted by stages and are planned to be fully implemented within 2017-18. Simultaneously, SWD is discussing with ArchSD on the measures to assist NGOs to hire qualified consultants and follow up the approved LF projects with a view to enhancing the quality of works documents to be submitted by the consultants and expediting the response time of NGOs to enquiries so that the works can be commenced as soon as possible.

On project accounts requiring timely finalisation (re paragraph 3.6)

For a normal works project, the NGO concerned has to agree with the contractor on the project cost and then apply to SWD for finalisation of project account and release of outstanding payment claims. Upon receipt of the application, SWD will arrange for ArchSD to assess whether the reported project cost is reasonable before releasing the outstanding payment claims and closing related project account.

The major reasons for failing to finalise the project accounts are as follows :

- (a) the NGO is not able to reach an agreement with its AP over the project cost, or there is dispute between the two parties thus affecting the progress of finalising the project account;



- (b) the AP hired by the NGO has closed the business or lost its recognised qualification before project finalisation; and
- (c) the NGO and/ or its AP fails to respond to the enquiries of SWD/ ArchSD in a timely manner, or they fail to provide supplementary information or data to facilitate early closure of the project account.

In view of the above, SWD will arrange to issue written reminders for those projects, which have been completed or are about to be completed, to require the NGOs concerned to finalise the project accounts within the timeframe as specified. Such arrangement will be implemented by stages starting from the second half of 2017. Besides, SWD will report the progress of approved projects to its management and the LFAC periodically. If there are projects with complications or NGOs requiring assistance, SWD will liaise closely with the relevant B/Ds (e.g. ArchSD) or management of the NGOs to discuss the problem resolution as soon as possible.

The Hong Kong Housing Authority (HKHA) and SWD have established procedures to monitor the finalisation of projects within schedule in respect of those projects entrusted to HKHA. HKHA will set a target to finalise project accounts within three years after completion of the works entrusted to HKHA by SWD.

Question : According to paragraphs 3.19(c), 3.20 and 3.20(b), (c) and (d), Director of Social Welfare has agreed to take measures to ensure that works-project accounts are finalized in a timely manner after works completion, consider requiring NGOs who have invoked the Exception Authority in procurement of goods and services to submit annual returns with pertinent details and justifications, maintain a register for advance payments under LF, and consider the ways to publish the evaluation results of experimental projects. Is there a timetable for taking forward these matters? What is the progress?



On the recommendation to follow up on early finalisation of project accounts and the implementation timetable

See the above reply on “project accounts requiring timely finalisation”.

On the recommendation to request NGOs to submit written records on the approvals to exercise Exceptional Authority in procurement matters

SWD is considering requesting NGOs to submit annual returns on their exercise of Exceptional Authority with details and justifications on each case. In this connection, SWD will start discussing the arrangement with around 170 subvented NGOs in the second half of 2017. After reaching consensus and acquiring endorsement of the LFAC, SWD will update the LF Manual on the requirement accordingly.

On the recommendation to maintain a summary record for advance payments under the LF

The original mechanism of SWD on the handling of applications for advance payments under the LF is as follows :

- (a) when being released advance payments, the NGOs are reminded in the notification letter that they should follow the requirement under the LF Manual to submit documents to support the expenditures incurred to the SWD within one month;
- (b) for every project file involving advance payment, there is a project-based control sheet to record and keep track of the submission of documentary proof for the expenditure; and
- (c) the project-based control sheets are regularly checked and the NGOs concerned are reminded to submit outstanding documentary proof on the expenditures.

In response to the recommendation of the Audit Commission, SWD has already added a register providing a summary of the overall status of all projects involved in advance payment.



On the recommendation to publish the evaluation results of experimental projects

SWD will study the way and format of publishing the required information as well as clearly stipulating this requirement in the notification letter on funding approval in respect of experimental projects newly supported by LF. SWD will brief NGOs on the relevant arrangements within 2017 before its implementation.

Question : According to paragraph 5 of Case 6 in paragraph 3.6, more than 23 years after the substantial completion of the works in November 1993, although Project F should be financed by the Capital Works Reserve Fund instead of LF, expenditures of about \$20,000 under Project F having been disbursed from LF had not been reimbursed to LF. Furthermore, the HKHA had wrongly charged the cost of Project F to another LF-funded project account. What are the reasons behind this case? What lessons have been learned from this case? What improvement measures will be taken to prevent recurrence of the anomalies?

The HKHA launched the Comprehensive Redevelopment Programme (CRP) in 1988-89 under which older public housing estates were demolished for redevelopment to improve the standard of living for residents. The welfare facilities accommodated in the estates affected by CRP had to be reprovisioned elsewhere. To ensure that the fitting-out works of the reprovisioned welfare facilities could tie in with the redevelopment programme, the fitting-out works had to be entrusted to the Housing Department (HD). At the time, FSTB and SWD reviewed the long-term funding mechanism for this type of reprovisioning projects. In order that the fitting-out works and the reprovisioning arrangement would not be adversely affected, it was agreed then that the fitting-out works would first be funded by LF as an interim measure. In 1992, it was further agreed that reprovisioning projects involving social welfare facilities affected by CRP should be funded by the Capital Works Reserve Fund (CWRF), and reimbursement could be made from CWRF to LF in respect of those projects already financed by LF.

In 1995, a new Block Allocation vote was created under CWRF Head 708 Subhead 8001SX in 1995 to provide for expenditure arising from the



reprovisioning of welfare facilities affected by CRP, subject to a ceiling of \$15 million per project.

It was against the above background that the fitting-out works of the child-care-centre (CCC) in Case 6, which was subject to reprovisioning arising from CRP, was first funded by LF and then reimbursed by CWRF.

Regarding the difference of about \$20,000 (between \$0.84 million and \$0.86 million) as mentioned in the Audit Report, the fitting-out works were substantially completed in around November 1993 and CCC also started its operation thereafter. In May 1995, HD informed SWD that the final cost of the fitting-out works was about \$0.84 million, which was subsequently used as the basis for seeking funding under the Block Allocation of CWRF in October 1995 for reimbursement to LF. The funding application was subsequently approved. In April 2004, HKHA advised SWD that the final project cost should be \$0.86 million. After reviewing the records, HD indicated that the amount concerned should be part of the project cost, but was not included in the final cost reported to SWD in May 1995. In September 2006, SWD sought HKHA's clarifications on the reason for the difference of about \$20,000 in the final project cost, and HKHA clarified that about \$20,000 was part of the project cost. The latest development is that HD already arranged to refund the amount of about \$20,000 to LF in May 2017.

With the completion of CPR, the Finance Committee of the Legislative Council agreed at its meeting on 17 December 2012 to revise the ambit of Subhead 8001SX to cover "provisioning of welfare facilities in the Housing Authority's public housing estate development" only. Therefore, there is no more funding arrangement for the construction cost of the welfare facilities in the public housing development similar to Case 6 (i.e. to be first funded by LF and then reimbursed by CWRF). Currently, the project cost of welfare facilities (except RCHes) in public housing development not exceeding \$30 million each would be funded directly by the Block Allocation under CWRF Head 708 Subhead 8001SX.

Question : According to paragraph 5 of Case 7 in paragraph 3.6, more than 19 years after the substantial completion of the works in December 1997, owing to the social centre for the elderly not having been assigned to the Administration, the account of Project G could not be finalized. What are the reasons behind



this case? What lessons have been learned from this case? What improvement measures will be taken to prevent recurrence of the anomalies? Furthermore, according to paragraph 3.6, as of September 2016, the Architectural Services Department was the technical adviser for 20 projects which had been completed but the project accounts had not been finalized. What is the latest position? What measures will be taken to finalize the project accounts as early as possible?

Regarding Case 7, an LF allocation of \$1.46 million was approved in February 1993 to meet the construction and fitting-out works for a social centre for the elderly located in a private development (Project G). According to the land exchange document executed in October 1993, the land grantee was required to construct a social centre for the elderly within the subject land lot and to assign the premises to the Government after the completion of the works. LF would reimburse to the developer the cost incurred subject to a ceiling of \$1.22 million.

The construction and fitting-out works for the social centre for the elderly were substantially completed in December 1997. The land grantee arranged the handover of the premises to SWD in August 1998, which were subsequently handed over to an NGO for providing the service. In December 1998, the land grantee entered an agreement with a private organisation (hereinafter referred to as “the developer”) for the assignment of the facilities outside the railway facilities of the site (including the social centre for the elderly) to the developer.

From July 1998 to December 2008, SWD and ArchSD had repeatedly requested the developer to provide information on the project cost of Project G. On SWD’s request, LandsD wrote to the land grantee to ask for the information on the project cost of Project G. After receiving the related information provided by the developer in January 2009, ArchSD and SWD agreed in March 2009 that the project cost of \$1.22 million for Project G should be reimbursed to the developer. However, before releasing the amount, the developer was required to complete the assignment of the premises to the Financial Secretary Incorporated (FSI).

From 2000 to 2014, the Government Property Agency (GPA) had, pursuant to its function, repeatedly requested the developer to submit the draft assignment document but did not receive a reply. After SWD had brought this



to LandsD's attention, LandsD issued a letter to the land grantee and the developer in July 2014 to warn the latter to complete the assignment procedure as soon as possible in accordance with the Conditions of Exchange. The land grantee responded to GPA in August 2014 explaining that pending the completion of the Deed of Mutual Covenant, the assignment document and drawings of the premises concerned were still under drafting. GPA thereafter received the draft assignment document from the developer in January 2015, and advised the latter of the proposed amendments on 13 February 2015 for their consideration. As there had been no response, GPA kept reminding the developer to submit the revised draft assignment document promptly. LandsD, on SWD's request, also issued a warning letter to the land grantee and the developer on 12 May 2017, demanding them to complete the assignment procedure as soon as possible or LandsD would take lease enforcement action.

The developer submitted the revised draft assignment document on 19 May 2017. The departments concerned are now vetting the document, in a hope to complete the assignment procedure as soon as possible so that the developer would be reimbursed the project cost and the project account be finalised.

Generally, it is set out in the land lease or land exchange document that the grantee should assign the premises concerned to FSI after the completion of the works, and will be paid the consideration sum or the actual construction cost, whichever is the less, subject to the completion of the assignment of the premises to FSI. Since the assignment procedure in Case 7 has not been completed, the project cost could not be reimbursed to the developer. In the event of similar cases in future, we will liaise with GPA and LandsD as early as possible and will consider, if required, all possible means to ensure the timely completion of the assignment procedure after the works completion and then to arrange reimbursement of the project cost to the developer, as well as finalisation of the project account.

For the 20 projects pending finalisation of project accounts after works completion, in respect of which ArchSD is the technical adviser, as per paragraph 3.6 of the Audit Report, SWD has already closed eight project accounts, and has made arrangement to close two others by the end of June 2017. The updated position of the remaining 10 projects is as follows :



Progress	Number of Projects
Within the Defects Liability Period (DLP) and release of security money and closure of account to be considered after the DLP	1
Pending defects rectification or submission of supplementary documents before release of security money and closure of account	4
Following up with relevant department to close the account as soon as possible	3
Pending ArchSD's confirmation of no further expense before closure of account	1
Pending completion of assignment procedure before arranging reimbursement of construction cost and closure of account (i.e. Case 7)	1

SWD will maintain close liaison with the parties concerned with a view to finalising, as soon as possible, the accounts of the completed projects.

Question : According to paragraph 4.8, two Lotteries Fund Advisory Committee (LFAC) members who had attended pertinent LFAC meetings from September 2015 to July 2016 and had returned the declaration forms had not made declarations of potential conflicts of interest in relation to association with two and one NGOs respectively for agenda items involving these NGOs discussed at LFAC meetings. What follow-up actions have been taken on the issue?

SWD has re-visited the issue of omission of the reporting of potential conflicts of interest by LFAC Members as mentioned in the Audit Report and confirmed that no actual conflict of interests was involved. One agenda item concerned was on the “lots-drawing arrangement for the applications for flag days in 2016-17”. There were over 200 applicant organisations for that agenda item and Member A had not directly participated in the preparation of or handled the 2016-17 flag day applications of NGO 6 and NGO 7. During the



meeting on that day, the meeting endorsed the item as a whole, and there was no need for and had not been any separate discussion on the applications from NGO 6 and NGO 7 specifically.

The other agenda item was about the application made by NGO 8 (a statutory body) for an LF grant to meet the construction cost of a neighbourhood elderly centre, which was part of a private residential development project taken up by NGO 8 as the works agent for the Government. In general, the construction costs of this type of subvented social welfare facilities are borne by the LF all along. Member B reported his involvement in NGO 8 after the meeting.

LFAC decided to further enhance the reporting system at its meeting held on 19 January 2017 by adopting the Two-Tier Reporting System. At the meeting held on 22 March 2017, the LFAC Secretariat made a list of NGOs involved for each agenda item in every LFAC meeting for members' reference to facilitate their declaration of potential conflicts of interest. This practice is to continue for subsequent LFAC meetings.

Question : According to paragraph 4.12, the Standing Orders of LFAC stipulated that if a member was a paid executive staff of an agency of which a matter would be considered by the committee, the member normally would not be issued the relevant committee paper of the agenda item concerned. However, according to paragraph 4.13, two LFAC members, who were paid executive staff of two NGOs respectively, were issued relevant LFAC papers and attended LFAC meetings involving discussion of three and one grant applications respectively which were related to the two NGOs concerned. What are the reasons behind this case? What improvement measures will be taken? Does the Administration agree that LFAC members who are also paid executive staff of NGOs should abstain from attending meetings involving discussion of matters related to pertinent NGOs?

The agenda items discussed at the LFAC meeting held in November 2015 and January 2016 were about the applications from 14 NGOs (including



NGO 9) to meet the cost on purchase of vehicles for service delivery. In general, the calculation of the LF allocations to NGOs for meeting the cost on purchase of vehicles is based on the standard service operation entitlement. Under normal circumstances, no discussion is required for individual applications of this kind from NGOs in the meeting.

The other agenda item concerned is about the annual applications from 151 NGOs for non-recurrent Block Grants for meeting the costs of replenishment of furniture and equipment and minor works and maintenance, which was discussed at the meeting of the LFAC held in March 2016. The allocation entitled by each NGO was calculated at 1.5% of its SWD recurrent subvention.

As the above applications were on general items for which the allocations were based on standard entitlements, it was considered at that time that the receipt of relevant documents by individual members and their presence at the meetings would not affect discussion of these agenda items. Taking into consideration the recommendations of the Audit Commission, the LFAC Secretariat, when circulating documents and inviting members to the meetings, has already ceased circulating papers on related agenda items to members who are also remunerated executive staff of the NGOs concerned and has required them to abstain from the meeting during discussion of the relevant agenda items.

Question : According to paragraph 4.27, Audit recommended that SWD should, in implementing a project under a contract in future, strengthen measures to ensure that a contractor completed tasks in a timely manner according to the time specified in the contract, and strengthen actions with a view to making accurate project cost estimates as far as possible. Please provide a concrete implementation plan in this regard.

The Office of the Government Chief Information Officer (OGCIO) updated the Resources Estimation Guide (the Guide) in February 2017 to assist B/Ds in performing resources estimation for information technology (IT) projects. B/Ds are advised to take appropriate measures, such as making



reference to the distribution ratio of technical manpower resources required at different project stages, to achieve more accurate cost estimation on manpower resources, staff training, system maintenance and the acquisition of hardware and software equipment and consumables, in the implementation of IT projects. The Guide is applicable to both in-house development and outsourcing of IT projects including new system development or upgrading of existing IT systems.

When implementing IT projects, the SWD will take appropriate measures in accordance with the updated guidelines issued by OGCIO, such as strengthening business analysis, adopting effective tools for systems analysis and design as well as decomposing large-scale projects into smaller sections by business processes and functions, to facilitate timely and effective implementation of IT projects. SWD has also arranged for staff to attend training courses and briefing sessions in order to enhance the knowledge and skills of staff in the management and development of IT projects.

If you have any further questions, you are welcome to contact the undersigned.

Yours sincerely,

(Manfred Wong)

for Director of Social Welfare

c.c.

Secretary for Labour and Welfare

Secretary for Financial Services and the Treasury

Director of Architectural Services

Director of Housing

Director of Audit



ARCHITECTURAL SERVICES DEPARTMENT 建築署

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26 May 2017

Mr Anthony CHU
 Clerk to the Public Accounts Committee
 Legislative Council
 Legislative Council Complex
 1 Legislative Council Road
 Central, Hong Kong

Dear Mr CHU,

Public Accounts Committee

Consideration of Chapter 6 of the Director of Audit's Report No. 68 Management of projects financed by the Lotteries Fund

Thank you for your letter dated 18 May 2017 requesting response / information to facilitate the Public Accounts Committee's consideration of the above chapter. Please find our reply below:

- (a) According to paragraph 5 of Case 7 in paragraph 3.6, more than 19 years after the substantial completion of the works in December 1997, owing to the social centre for the elderly not having been assigned to the Administration, the account of Project G could not be finalized. What are the reasons behind this case? What lessons have been learned from this case? What improvement measures will be taken to prevent recurrence of the anomalies?

From 1998 to 2008, ArchSD had repeatedly requested the developer to provide the information on the cost of the works which was required for determining the amount of construction cost to be reimbursed to the developer. After receipt of related information from the developer in January 2009, ArchSD issued the final cost advice to SWD on 13 March 2009 for their following up with relevant parties on finalising the accounts and completing the assignment of the social

centre for the elderly to the Government. To assist SWD to prevent recurrence of similar incident, ArchSD will proactively offer suitable assistance/technical advice to SWD to enable the latter to follow up with the developer for expedited submission of the required information.

- (b) Furthermore, according to paragraph 3.6, as of September 2016, the Architectural Services Department was the technical adviser for 20 projects which had been completed but the project accounts had not been finalized. What is the latest position? What measures will be taken to finalize the project accounts as early as possible?

There are now 7 projects pending finalization of project accounts and 2 projects for which the project accounts have been finalized and are in the process of being closed. Of the 7 projects pending finalization of project accounts: one project is within the Defects Liability Period and hence the project has not reached the stage for finalization of the project account; ArchSD has issued final cost advice to SWD for 4 projects and SWD is following up with the developers on defects rectification or document submission for these projects; ArchSD has also issued final cost advice to SWD for 1 project and SWD is following up with the developer for completing the assignment of the premises to the Government (Case 7); for the remaining project, the finalization of its project account is pending resolution of legal matters. ArchSD would provide assistance/technical advice to assist the SWD to close the project accounts as soon as practicable.

Yours sincerely,



(Mrs. Sylvia LAM)

for Director of Architectural Services

- c.c. Secretary for Labour and Welfare (fax no. 2537 3539)
Director of Social Welfare (fax no. 2891 7219)
Director of Housing (fax no. 2761 6700)
Secretary for Financial Services and the Treasury (fax no. 2147 5239)
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Your Ref: CB4/PAC/R68
Our Ref. : L/M in HD2-2/A3/4-5/1
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Date : 5 June 2017

Messrs. Mr. Anthony CHU
Clerk to the Public Accounts Committee
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong.

Dear Mr. Chu,

Public Accounts Committee
Consideration of Chapter 6 of the Director of Audit's Report No. 68
Management of projects financed by the Lotteries Fund

Thank you for your letter dated 18 May 2017 requesting response / information to facilitate the Public Accounts Committee's consideration of the above chapter. Please find our reply in the attached Annex.

(Ada Y.S. FUNG)
Deputy Director of Housing (Development & Construction)
For Director of Housing

Encl.

c.c.

Director of Social Welfare (fax 28917219)
Director of Architectural Services (fax 28107341)
Secretary for Financial Services and the Treasury (fax 2147 5239)
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**Public Accounts Committee
Consideration of Chapter 6 of the Director of Audit's Report No. 68
Management of projects financed by the Lotteries Fund**

Question

According to paragraph 5 of Case 6 in paragraph 3.6, more than 23 years after the substantial completion of the works in November 1993, although Project F should be financed by the Capital Works Reserve Fund instead of LF, expenditures of about \$20,000 under Project F having been disbursed from LF had not been reimbursed to LF. Furthermore, the Hong Kong Housing Authority had wrongly charged the cost of Project F to another LF-funded project account. What are the reasons behind this case? What lessons have been learned from this case? What improvement measures will be taken to prevent recurrence of the anomalies?

Reply

Reasons behind

1. The actual total cost of the Project F should be \$0.86M. Of which, \$0.57M had been wrongly charged to another account titled "Fitting-out welfare projects in various housing estates by the term maintenance and main contractors". This happened some years ago, and from our records we cannot ascertain what led to this incorrect charging. However, from our general experience we had known that the paper-based arrangements prevailing then were less able to guard against mistakes (please see paragraph 4 below).

2. The remaining \$0.29M had been correctly charged to Project F account. This sum included \$0.02M for the installation of air-conditioners. This sum had at first been left out. The Housing Authority (HA) advised SWD in 1995 and re-confirmed in 1999 that the cost for Project F was \$0.84M. In 2004, HA clarified with SWD that the final cost should include \$0.02M for air-conditioning works and should therefore be \$0.86M. In 2006, upon SWD's enquiry, HA reconfirmed that the \$0.02M should be part of the final project cost.

3. This matter was revived by SWD in late 2016. Upon receiving subsequent enquiries from SWD, HA revisited the case in early 2017. Having considered the special circumstances of the case, in May 2017, HA settled the \$0.02M with SWD.

Lesson learnt and improvement measures

4. During the period in question, expenditure recording and monitoring was paper-based and was less able to guard against mistakes. HA has therefore been improving the system. Over the years, HA has been improving the systems and procedures making use of prevailing information technology as it became available to minimize human errors.

5. For example, since 2007 HA has enhanced the computer system for payment process by using “Housing Construction Management Enterprise System” (HOMES) [房屋建設管理系統（房建系統）] to record the funding approval and expenditure position of all on-going HA funded and Government funded projects. All relevant payments have to be processed through HOMES and the system maps the respective User Code, Letter of Intent and the Approved Commitment amount for individual projects. This system presents relevant officer with more comprehensive and updated information of projects and their respective funding authority and thereby reduces the risk of wrong charging of expenditures. The system has also built in control against charges that may exceed the expenditure limit, thus prohibits expenditure exceeding the limit.



中華人民共和國香港特別行政區政府總部食物及衛生局
Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

Our Ref : FHB/H/7/2
Your Ref : CB4/PAC/R68

Tel : 3509 8956
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26 May 2017

Mr Anthony CHU
Clerk to Committee
Legislative Council Public Accounts Committee
Legislative Council Complex
1 Legislative Council Road
Hong Kong
(Fax : 2543 9197)

Dear Mr CHU,

Public Accounts Committee
Consideration of Chapter 7 of the Director of Audit's Report No. 68

Provision of dental services

I refer to your letters dated 17 May 2017 to the Secretary for Food and Health and the Director of Health respectively which have requested the Administration to provide information on matters related to the captioned Director of Audit's Report. The consolidated bilingual responses from the Food and Health Bureau and the Department of Health are at Annex, of which the Director of Health has consulted the Civil Service Bureau in relation to its responses for the questions raised under Part 3 (Provision of Dental Services for Civil Service Eligible Persons).

Yours sincerely,

(Mr James LAM)
for Secretary for Food and Health

c.c. Director of Health
(Attn: Dr. Wiley LAM, Consultant i/c Dental Service))

Secretary for Civil Service
(Attn: Miss Emily NG, Chief Executive Officer (Condition of Service))

**Public Accounts Committee (“PAC”)
Consideration of Chapter 7 of the Director of Audit's Report No. 68
Provision of dental services**

Consolidated Reply to the PAC's Questions and Requested Information

We refer to the letters dated 17 May 2017 from the PAC to the Secretary for Food and Health and the Director of Health respectively, which raised questions and requested information regarding Chapter 7 of the Director of Audit's Report (“Audit Report”) No. 68 “Provision of dental services”. The consolidated reply of the Food and Health Bureau (“FHB”) and the Department of Health (“DH”) is as follows. Among others, the DH has consulted the Civil Service Bureau on the reply to Part 3 (Provision of dental services for civil service eligible persons).

Food and Health Bureau

Part 2: Provision of promotive and preventive services

1. Regarding the situation mentioned in paragraph 4.36, did the FHB, before Audit's review, know that the administration cost spent by Organization A had exceeded the limit approved by the Commission on Poverty? If not, why did it fail to notice such a situation? If it knew beforehand, what measures have been and will be put in place by FHB for the purpose of lowering the administration cost? Has FHB requested Organization A to reduce its administration cost to the required level of below 5%? If yes, what is the response of Organization A? If not, what are the reasons?

Reply: As a general rule, the administration cost of a programme of the Community Care Fund is capped at 5% of the estimated total disbursement of that programme. This rule is to be applied on a programme basis, but not measured on a yearly basis in case a programme lasts for more than a year.

Since the launch of the said Programme, the FHB has been monitoring the Programme's administration cost and is aware that the administration cost incurred is currently above the cap. At the first few years, the

administration cost incurred included set-up cost and hence resulting in a higher administration cost. Currently, the share of the administration cost has already been worked down from 18.8% (as at March 2016) as mentioned in the Audit Report to below 12% (as at April 2017). We will continue to monitor the administration cost incurred and devise relevant measures with Organization A with a view to reducing the administration cost.

2. According to paragraphs 4.38(a) and 4.39, FHB agreed with the Audit's recommendation that measures should be taken to encourage participation of elderly persons in the Elderly Dental Assistance Programme. FHB is requested to inform this Committee of the measures that have been put in place, and whether the participation rate has been improved subsequent to the measures taken by the Government. If there is improvement, what is the latest participation rate? If not, why has the participation rate not been improved?

Reply: Apart from engaging 180 district service units (comprising 160 elderly centres, 5 community centres and 15 non-governmental organization dental clinics that accept direct applications) to assist in processing applications from elders who are Old Age Living Allowance recipients, we also sought the assistance of relevant departments in the past few months to put up posters and distribute leaflets for the Programme at public housing estates, elderly health centers and dental clinics that provide public dental service. Besides, Organization A will continue to keep close contact with the district service units through briefing sessions, sharing sessions, letters and emails to encourage participation of the eligible elders in the Programme. Furthermore, for the briefing session to be held in June 2017, Organization A will extend invitation to non-participating district service units for the sake of increasing the number of participating district service units. Currently, the number of beneficiaries of the Programme (only the completed cases are counted) increased from 10 733 (as at September 2016) as reported in the Audit Report to 15 505 (as at April 2017). We will continue to work with Organization A to encourage more eligible elders to join the Programme.

Department of Health

Part 2: Provision of promotive and preventive services

1. Table 2 of paragraph 2.4 of the Audit Report sets out the attendance at activities of educational and publicity programmes organized from 2011-2012 to 2015-2016 with a breakdown by target group. The attendance of the "general public" group fluctuated considerably during the said period. In this connection, the DH is requested to set out the number of educational and publicity programmes organized for this target group from 2011-2012 to 2015-2016 and the expenditures involved. Regarding DH's response in paragraph 2.12 that target(s) for attendance could be set for educational and publicity activities involving physical participation of the target groups, please provide the details of the target(s) and the implementation timetable. Apart from target(s) for attendance, will DH devise other benchmarks for evaluating the effectiveness of the activities concerned?

Reply: The number and expenditure of educational and publicity programmes organized by the DH for the general public from 2011-12 to 2015-16 are as follows:

	2011-12	2012-13	2013-14	2014-15	2015-16
Number of educational and publicity programmes	26	28	26	36	34
Total expenditure (Million)	2.4	2.6	2.6	2.9	2.6

As the publicity programmes concerned promote the relevant promotional messages to the general public mainly through mass media or electronic means (e.g. radio and TV advertisements, newspaper articles etc.), there would not be attendance for these programmes. However, as revealed from a telephone evaluation survey conducted by the DH, 83% of the general public had been exposed to these promotional messages.

Besides, since 2014-15, there has been an increase in the demand of oral health talks by various organisations and the DH also started to organize carnivals in the same year to enhance the promotion of oral health. Therefore, the Audit Report shows that there were increases in the number of activities and the attendance figures in 2014-15 and 2015-16.

To follow up the recommendations of the Audit Report, the DH has set the following attendance goals for oral health education and publicity programmes for different target groups taking into account the oral health education methods designed for the groups, population projection, the training approach for “train-the-trainer” as well as the positive impact arising from peer influence (e.g. secondary school students) etc. The attendance goals will be implemented in 2017-18:

Target group	Target no. of participants in 2017-18
Kindergarten children	128 000
Primary school students	27 400
Secondary school students	1 700
Special school students	4 500
Adults	8 600

The DH has been conducting questionnaire surveys and telephone interviews to understand the satisfaction rate and oral health knowledge acquired by the participants etc. to facilitate evaluation of the effectiveness of various oral health education and publicity programmes. The DH will continue to review, improve and formulate appropriate evaluation method for each target group.

2. According to the utilization of Bright Smiles Mobile Classroom as illustrated in Table 4 of paragraph 2.9, most primary schools did not use such service. Regarding the primary schools which did not use the services, the Administration is requested to inform this Committee whether it has promoted this service to these schools. If yes, what are the reasons for their non-participation? If not, why has no promotional work been done?

Reply: To promote the “Bright Smiles Mobile Classroom” service, the Oral Health Education Unit of the DH issues invitation letters with information leaflets to all primary schools in Hong Kong around June every year. In fact, the overall average utilization rate of the “Bright Smiles Mobile Classroom” service already reached 84%. The DH considers that some schools have not participated in the service may be due to various considerations, for example, no suitable parking space can be provided for the oral health education bus; no suitable time can be arranged for such service.

To further promote the service to benefit more schools, the DH will, starting from 2017-18, call the schools which have never joined the service to further promote the service and render necessary assistance to them with a view to further enhancing the utilization rate of the “Bright Smiles Mobile Classroom” service.

3. According to paragraphs 2.23(a) and 2.24, DH agreed with Audit's recommendation that appropriate measures should be explored to encourage Primary 6 students' attendance at appointments of the School Dental Care Service. DH is requested to inform this Committee of the specific details of the relevant measures, and whether such measures have been implemented. If so, how effective are such measures? If not, when will such measures be implemented?

Reply: Regarding the recommendation to encourage Primary 6 students to attend the scheduled dental appointments, the Student Dental Care Service (SDCS) is now exploring with the participating schools on the feasibility of providing round-trip transport for Primary 6 students to attend school dental clinics for annual dental check-up. In addition, SDCS has planned to actively encourage the participating students and their parents to make use of the Student Internet Service which includes an automatic appointment reminder service by email, so that the students can be reminded to attend their appointments as scheduled. We aim to implement the measures in the 2017-18 school year.

Part 3: Provision of dental services for civil service eligible persons

4. As shown in paragraphs 3.13(a) and 3.14, DH agreed with Audit's recommendation that investigations should be launched into the reasons for the increasing proportion of civil service eligible persons declining referrals to other clinics with shorter waiting time for new cases. In this connection, DH is requested to inform this Committee whether the relevant investigations have been completed. If so, what are the reasons? If not, when will the investigations be completed? What measures will DH put in place to shorten the waiting time for new cases?

Reply: The DH conducted a survey recently in seven dental clinics with a greater number of patients and longer waiting time for appointments with a view to understanding the reasons for civil service eligible persons (CSEPs) to decline referrals to other clinics with shorter waiting time for new cases. The majority of CSEPs indicated that they declined referrals to other dental clinics because the locations of their selected dental clinics were more convenient (e.g. near office or home). The DH is actively exploring feasible options for shortening the waiting time for CSEPs' first-time dental appointments, which include reallocation of resources among government dental clinics having regard to their service demands.

5. It is mentioned in paragraph 3.15 that DH has planned to provide a total of 64 new dental surgeries which would commence operation from 2011-2012 to 2015-2016, but it is indicated in Note 18 that DH's records did not provide the estimated project costs of 21 new surgeries. DH is requested to provide the relevant figures.

Reply: Among the 21 new surgeries mentioned above, 14 have been set up at new buildings. According to the information provided by the relevant works department and agent, the expenditures for the overall construction works and the provision of building facilities have been included in the project costs for the buildings. Hence, the estimated project costs involving the 14 surgeries cannot be provided separately. As for the remaining seven surgeries, the details of works have yet to be finalised and the estimated project costs so required are not available.

6. Regarding DH's response in paragraph 3.16 that seven new surgeries had not commenced operation as scheduled because the premises were being occupied by other departments and pending handover to DH, DH is requested to inform this Committee whether the premises concerned have already been handed over to DH at present. If so, when will these seven new surgeries commence operation? If not, please provide the timetable for the handover of the premises and the commencement of operation of the surgeries.

Reply: The premises in question are still being used by the other department and are expected to be handed over to the DH in the third quarter of 2017. Preparatory work is underway for the new surgeries to commence operation in phases from 2019 onward, subject to funding and progress of works.

7. With reference to DH's response in paragraph 3.16, four new surgeries had not commenced operation as scheduled because sufficient Dental Officers could not be recruited, and DH was exploring other means to supplement the workforce of Dental Officers. Please provide the progress of the initiative in supplementing the relevant workforce.

Reply: In order to attract more dentists to join the department, the DH may adjust, under the existing mechanism, the starting salaries of successful candidates by granting increments according to their qualifications as necessary. The DH may also, subject to the approval of the Civil Service Bureau, relax the language proficiency requirements of some posts of dental officers so as to encourage more applications from individuals with the professional qualifications required. Apart from the annual recruitment exercise of civil servants, the DH also accepts applications from candidates with relevant professional qualifications for non-civil servant contract posts all year round. In addition, the DH has also considered making use of other channels, such as the Post-retirement Service Contract Scheme, to engage eligible retired/retiring civil servants to continue their service on contract terms. Preparatory work in this regard has already commenced.

Part 4: Provision of specific dental services for the public

8. According to paragraph 4.3, it was found in a survey conducted by DH in 2014 concerning the General Public Sessions that some 23% of the respondents seeking emergency dental services had the experience of failing to obtain a disc from a government dental clinic and were turned away, while paragraph 4.4 showed that three dental clinics had a high percentage of unutilized disc quota in 2015-2016, ranging from 25.2% to 74.7%. DH is requested to explain why the aforesaid situation has arisen, and the measures that DH has taken to rectify the situation.
9. It is pointed out in paragraph 4.4 that the unutilized disc quota for the General Public Sessions in 2015-2016 totalled 5 480 discs. What are the reasons for the under-utilization?

Consolidated reply to 8. and 9.

In 2015-16, among the 11 government dental clinics which provide General Public Sessions (GP Sessions), there were three dental clinics with relatively high rates of unutilized disc quota, namely Tai O Dental Clinic (74.7%), Cheung Chau Dental Clinic (50.0%) and Kennedy Town Community Complex Dental Clinic (25.2%).

To enhance utilized rate, the DH has stepped up effort to promote the service of the GP Session at Kennedy Town Community Complex Dental Clinic (including handing out clinic's information leaflet to encourage the public who are unable to obtain disc quota from other government dental clinics to visit the clinic). With the above promotional effort, and following the provision of MTR service in Kennedy Town, the percentage of unutilized disc quota had greatly dropped to 13.94% in 2016-17. We anticipate that the percentage of unutilized disc quota will continue to decrease.

As for the rates of unutilized disc quota for GP Sessions of Tai O Dental Clinic and Cheung Chau Dental Clinic, it is quite difficult to attract cross-district clients since these two clinics mainly serve the residents of Tai O and Cheung Chau and their locations are quite remote. However, there remains a need to maintain services of these two clinics to meet the

service needs of the above two districts. To utilize the existing resources in a more flexible manner, the dentists deployed to Tai O GP Sessions and Cheung Chau GP Sessions will be on duty at other government dental clinics during the period other than the above GP Sessions.

Besides, there can be many factors leading to the low utilization rate of disc quota of GP Sessions. Apart from those mentioned above, bad weather (e.g. typhoon, rainstorm, etc.) or the proximity to the traditional festivals (as the extraction of teeth would affect appearance or mastication) would also discourage attendance to the GP Sessions. The DH will closely monitor the utilization rate of the GP Sessions and review the service in a timely manner.

10. It is mentioned in paragraph 4.10 that according to the service requirements for Outreach Dental Care Programme for the Elderly, each outreach dental team needs to meet the target of providing on-site services to at least 1 000 elderly persons for each service year, but it is pointed out in paragraph 4.11(c) that one team failed to serve the target number of elderly persons. DH is requested to inform this Committee whether measures have been put in place to improve the situation. If yes, what are the details of such measures? If not, what are the reasons for that?

Reply: The participation in the Outreach Dental Care Programme (ODCP) is on a voluntary basis. This notwithstanding, the DH will step up promotional activities to encourage participation of residential care homes (RCHes) and day care centres/units (DEs) in the ODCP. If the outreach dental team encounters difficulties in providing the outreach dental service, the DH will contact the relevant non-governmental organization (NGO) direct, and make sure that the NGO concerned has extended invitation to all assigned RCHes and DEs. On the other hand, the DH will revise the list of RCHes and DEs assigned to NGOs as and when necessary to enable the serving of no less than 1 000 elders per annum by each outreach dental team.

11. Regarding DH's response in paragraph 4.24 that it would study the reasons for non-participation of residential care homes/day care centres

in the Outreach Dental Care Programme for the Elderly, DH is requested to provide the relevant study results. How will DH improve the situation where residential care homes/day care centres do not participate in the Outreach Dental Care Programme for the Elderly?

Reply: The DH commenced a study in April 2017 to look into the reasons of non-participation of RCHEs and DEs in the ODCP. It is expected that the study would be completed in the fourth quarter of this year. Based on the findings of the study, the DH will draw up feasible measures with a view to enhancing the participation of RCHEs and DEs in ODCP.

Part 5: Attainment of oral health

12. According to paragraph 5.6(a), given that the 2010 and 2025 oral health goals were set as early as in 1991, they were likely outdated. How can DH ensure that its provision of dental services can cater for the needs of the public? Will DH update the existing oral health goals? If yes, when will they be updated? If not, why are they not updated? Regarding DH's response in paragraph 5.8 that it would consider publishing the level of attainment against oral health goals in future, DH is requested to inform this Committee when such information will be published.
13. According to paragraph 5.8, DH agreed with Audit's recommendation in paragraph 5.7(b) that the conduct of oral health surveys in future should be reviewed. DH is requested to inform this Committee whether there is a review timetable. If yes, will DH expeditiously conduct the review, so as to further enhance the survey expected to be carried out in 2021?

Consolidated reply to 12. and 13.

The Government's policy on dental care seeks to raise public awareness of oral hygiene and encourage proper oral health habits through promotion and education. Therefore, the DH will formulate appropriate oral health promotion measures according to the results of the Oral Health Surveys conducted every 10 years (including the surveys conducted in 2001 and 2011 respectively).

Based on the recommendations of the Director of Audit, the DH has planned to set up an expert group comprising academics and experts of Dental Public Health specialty as well as representatives from other relevant fields as appropriate. The expert group will, taking into account the report of Oral Health Survey 2011 and the local situation, review and formulate appropriate oral health goals for the population of Hong Kong. Moreover, the DH is planning for the Oral Health Survey 2021 and will invite relevant academics and experts of Dental Public Health specialty for their views shortly. The DH will also consider publishing the level of attainment against various oral health goals in the report of the Oral Health Survey 2021.



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2 June 2017


Mr Anthony CHU
Clerk to Public Accounts Committee
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear Mr CHU,

Public Accounts Committee
Consideration of Chapter 8 of the Director of Audit's Report No. 68
The Language Fund

I refer to your letter of 17 May 2017 on the captioned subject. Please find attached our responses/information requested. Thank you.

Yours sincerely,


(Ms Jenny CHAN)
for Secretary for Education

c.c. Secretary for Financial Services and the Treasury
Director of Audit

Public Accounts Committee
Consideration of Chapter 8 of the Director of Audit's Report No. 68
The Language Fund

The Administration's Response to
Issued Raised in Letter of 17 May 2017

Part 2 : Management of initiatives

Management of support measures to school and teachers

- 1. According to paragraph 2.4 of the Audit Report (all paragraph number hereinafter refers to that of the Audit Report), around 73% of funding of Putonghua as the medium of instruction for teaching the Chinese Language subject ("PMIC") Support Scheme was used for the supply teacher grant. What kind of school plans had been carried out and what was the expenditure involved? How many teachers attended the relevant professional development programmes and what was the expenditure involved? Did the Government measure the effectiveness of the above measures; if yes, please provide the details.**

A: 1

In the 2008/09 school year, SCOLAR launched the "Scheme to Support Schools in Using Putonghua to Teach the Chinese Language Subject" ("the Support Scheme") to provide primary and secondary schools that intended to adopt PMIC on a pilot basis with necessary support. The supply teacher grant was provided to participating schools to create room for teachers to implement various school-based plans for introducing or enhancing PMIC as well as to attend professional development activities. For instance, project schools might employ one full time teacher and create room for their teachers to attend professional development activities related to PMIC based on their need. As the activities varied, we do not possess the number of teachers who had attended professional programmes.

According to the findings of the annual questionnaire survey on the project schools conducted by SCOLAR since 2008/09, the Support Scheme had facilitated the implementation of PMIC in the participating schools. For instance, school teachers gained, to a different extent, a better

understanding of the pedagogical knowledge and skills of PMIC. After the completion of the Support Scheme, over 95% of the schools continue to implement PMIC in the 2015/16 school year.

- 2. According to paragraph 2.6, the limitations of the evaluative study were listed out. In this connection, will the Education Bureau ("EDB") inform this Committee the followings:**
 - a) why were there only four schools selected to conduct the PMIC Support Scheme? If it was due to the decrease in the number of participating schools, whether EDB has evaluated the reasons of such decrease; and**
 - b) why the evaluative study was not conducted at an earlier stage, which could widen the scope to cover more than four schools?**
- 3. According to paragraph 2.7, EDB commented that as the evaluative study only focused on examining the specific cases among the schools participated in the PMIC Support Scheme, there were limitations of its findings which might not be deemed as the ultimate conclusion on the subject of using PMIC. In this connection, whether EDB agrees that the evaluative study costing \$ 1.42 million cannot generate the result with reference value? Will the Government conduct a similar evaluative study in the future; if yes, what improvement measures will be taken? Also, according to paragraphs 2.22(b)(ii) and 2.23, EDB agreed to conduct research which would provide more conclusive findings, and determine the way forward in relation to the use of PMIC. Please advise on the timetable for conducting such research.**

A: 2&3

Among about 1 000 primary and secondary schools in Hong Kong, a total of 160 schools had implemented PMIC on a pilot basis under the Support Scheme from the 2008/09 to 2013/14 school years in four phases. Different measures, such as interviewing principals and teachers of participating schools and lesson observation, have been used to monitor the progress and evaluate the effectiveness of the Support Scheme.

In order to understand the issues and concerns of implementing PMIC, SCOLAR commissioned The Education University of Hong Kong

(formerly known as the Hong Kong Institute of Education) to conduct a longitudinal study (the “Longitudinal Study” hereafter) under the Support Scheme. The case study approach of the Longitudinal Study could provide detailed and contextual information for understanding the different processes, strengths and issues of schools under different conditions which are of reference value to schools of similar contexts. Four schools, with different school backgrounds and experiences of implementing PMIC were therefore selected upon the stage when such basic information was available. The cost had not been the consideration for adopting the case study approach.

SCOLAR Secretariat will continue to collect relevant data to monitor the implementation of PMIC in schools in Hong Kong. With a view to having a more holistic view on the implementation of PMIC in schools in Hong Kong, SCOLAR conducted the “Territory-wide Survey on the Use of Putonghua as Medium of Instruction to Teach Chinese Language in Schools of Hong Kong” in the 2008/09, 2012/13 and 2015/16 school years respectively. The next Survey will be conducted in the 2017/18 school year.

4. According to paragraphs 2.22(b)(i) and 2.23, EDB agreed to consider ways to facilitate schools adopting PMIC to implement the recommendations. What is the progress?

A: 4

Based on the needs of schools, EDB will continue to offer professional support to schools on teaching the Chinese Language Subject irrespective of whether the schools are adopting Putonghua or Cantonese as the MOI. Learning resources provided by EDB, such as the “Lexical Items for Chinese Learning in Primary Schools”, “Anthology of Classical Chinese Poetry and Essay for Reading Aloud in Primary Schools”, “Anthology of Classical Chinese Poetry and Essay for Reading Aloud in Secondary Schools” etc., have both Cantonese and Putonghua versions and demonstration of recitation. EDB will consolidate good practices of schools in Chinese Language (including Putonghua) learning and teaching and disseminate them through different platforms. EDB will also continue to provide teachers with various professional development opportunities

and learning/teaching resources for enhancing their professional knowledge and skills.

- 5. According to paragraph 2.10, the Education Commission and Planning Division ("ECPD") of EDB, instead of the Standing Committee on Language Education and Research ("SCOLAR") Secretariat, was made responsible for the administration of the English Enhancement Scheme ("EES") and the Refined English Enhancement Scheme ("REES"). In this connection, what was the role of ECPD in operating the Language Fund ("LF")? Why was ECPD made responsible for carrying out EES and REES, but not other LF programmes?**

A: 5

It is not uncommon for individual Divisions within EDB to be assigned the task of administering some projects / programmes implemented in schools to benefit students. As regards the EES and REES that ECPD was tasked to administer, SCOLAR had advised to try out the following enhanced arrangements for the schemes which aimed to facilitate participating schools' implementation of school-based measures to strengthen schools' capacity of teaching and learning English with a view to improving English proficiency of students:

- (a) Setting up of an expert panel comprising SCOLAR Members, language education experts and academics in tertiary institutions, frontline teachers and representatives from EDB to assess the appropriateness and feasibility of the school-based plan of each applicant school. Apart from vetting the school plans, the panels offered professional dialogue with individual schools specifically those adopting the Chinese medium to allow schools chances for reflection and to refine, if necessary, the proposed school-based measures so as to better tie in with their school context before agreeing on the implementation plan for approval for funding; and
- (b) Upon approval, each participating school needed to enter into a performance contract with the Government setting out details of its implementation plan with the school-based measures to be

implemented and qualitative and quantitative outcome targets to be achieved within a specified timeframe.

With the aforementioned enhanced arrangements, it was believed that the schemes would be more fruitful to bring about effective teaching and learning for students.

In addition to the above, SCOLAR also advised ECPD to take on a dual role, viz. supporting and monitoring, in administering the two schemes. The resources and expertise required of this role were considered beyond the capacity of the SCOLAR Secretariat. ECPD was made responsible for carrying out the EES and REES because both schemes related to the medium of instruction policy for junior secondary levels which is overseen by ECPD. The EES launched in 2006 was implemented pertaining to the reaffirmation of the policy of upholding the mother tongue as the principal medium of instruction for schools at junior secondary levels, and that all schools, irrespective of their medium of instruction adopted at the junior secondary levels, should strive to enhance students' English proficiency. The REES launched in 2010 aimed to enable schools to build on the basis of their original plans under the EES and refocus their school-based measures upon changing circumstances (relating to the implementation of the fine-tuned medium of instruction arrangements for junior secondary levels starting from the 2010/11 school year) to continue to strengthen schools' capacity of teaching and learning English with a view to improving English proficiency of students. Hence, ECPD, being the related subject Division of EDB, is in the best position to administer the two schemes.

- 6. According to paragraph 2.11, no arrangements were made between the SCOLAR Secretariat and ECPD on the reporting requirements to SCOLAR. Whether the SCOLAR Secretariat had been informed about the implementation of EES and REES between 2006-2007 and 2013-2014; if no, did the SCOLAR Secretariat voice out this concern?**

A: 6

In the case of the EES and REES, according to the arrangements for reporting of expenditure of the funding approved under LF, ECPD had to

route through the Finance Division of EDB for disbursement of funding to participating schools at key stages as elucidated below:

- (a) Upon approval of the school-based plan of each participating school (which was done by batches. For the EES, there were four batches with school-based measures starting in January 2007 being the earliest and the last batch commencing in July 2008. For the REES, there were two batches. Schools which started their measures in January 2011 were the earliest while those in September 2011 the last), ECPD was required to report to the Finance Division the total amount of funding approved and the cash flow in each of the years concerned with breakdown by individual participating schools for disbursement of funding accordingly;
- (b) Annual report to the Finance Division was required in July of each subsequent year for adjustment as appropriate. The actual expenditure of (or amount of funding required for) each school would depend on the measures actually implemented in the year concerned; and
- (c) Adjustments to the funding were also made in response to requests from participating schools to revise implementation plans. To ensure optimal use of the funding approved, participating schools experiencing genuine difficulties in implementing their approved measures were allowed to revise their implementation plans (including revision to individual school-based measures with corresponding changes in the funding approved and reshuffling of the timeframe for completion of individual measures). Approval was given on individual merits having due regard to advice of the expert panelists (as mentioned in QA5) as appropriate.

The Finance Division issued regular reports on expenditure of the funding to the SCOLAR Secretariat and ECPD from March 2008 to December 2016 when the EES and REES were in progress. Upon completion of school-based measures in the 2013/14 school year, participating schools were required to wind up the relevant accounts in six months' time with audit report for further verification by EDB. Similar to the above, ECPD

was required to report to the Finance Division to finalise the total amount of funding disbursed from LF for the EES and REES.

With the above arrangement, the SCOLAR Secretariat was able to assist SCOLAR in overseeing and monitoring broadly the expenditure of the funding of the EES and REES.

ECPD was also responsible for monitoring the detailed implementation of the school-based measures of participating schools. ECPD had completed the tasks in this regard in a manner similar to other projects implemented in schools by EDB. Relevant reports with statistics compiled were prepared for reference and follow-up within EDB. For instance, in light of SCOLAR's advice on ECPD's taking on a dual role, viz. supporting and monitoring the participating schools, in administering the two schemes (as mentioned in QA5), ECPD had informed the Language Learning Support Section (which was established as an initiative funded by LF to provide Chinese Language (including Putonghua) and English Language support services to all primary and secondary schools with a view to enhancing the professional capacity of their Chinese and English panel heads and teachers to implement the curriculum reform) of the performance of the schools concerned for rendering further support as appropriate.

Upon finalisation of the accounts of the participating schools in early 2017, and observations relating to the implementation details of the school-based measures, ECPD had reported the overview of the EES and REES to SCOLAR in early April 2017.

- 7. According to paragraph 2.11(b), ECPD completed an evaluation on EES and REES in December 2015. Up to November 2016, ECPD had not submitted any evaluation report to SCOLAR. Whether SCOLAR had asked ECPD to submit evaluation reports during December 2015 to November 2016? Were EES and REES implemented independently by ECPD, without being held accountable to SCOLAR on the effectiveness of the schemes?**

A: 7

ECPD conducted an internal evaluation on EES and REES in December 2015 which covered two major areas, i.e. the expenditure of the funding

approved and implementation details of the school-based measures of participating schools. It was a snapshot of the situation after the participating schools submitted the final report of EES and REES including winding up the relevant accounts with audit reports in six months' time (i.e. by 28 February 2015) for further verification by EDB.

Regarding expenditure of the funding, accounts of the two schemes have not been finalised till end-January 2017 due to some schools' subsequent updating to the unspent funding to be returned to EDB, with the last report received in December 2016 upon EDB's scrutiny of relevant records. As regards the implementation details of the school-based measures of participating schools, the findings and observations from the above-mentioned evaluation conducted in December 2015 were yet to be finalised to enable SCOLAR to have meaningful discussion, especially on whether they would shed light on possible enhancement of the overall policy on language education (including the medium of instruction policy for junior secondary levels), specifically measures to be taken on board to enhance English proficiency of students.

EDB had finalised the evaluation and reported the overview of the EES and REES to SCOLAR in April 2017, including major findings and observations.

- 8. According to paragraph 2.12, 41% of participating schools in EES and 45% of participating schools in REES did not show satisfactory performance in meeting the pledged targets vis-a-vis objectives of the schools. Given that the schools that were eligible for EES and REES were required to sign with the Government a performance contract in which the schools pledged qualitative and quantitative targets to be achieved within a specified timeframe, whether SCOLAR and ECPD had set up any penalty mechanism against those schools failing to achieve the targets; if yes, please specify the details; if no, please provide the reasons.**

A: 8

Upon approval, each participating school needed to enter into a performance contract with the Government setting out details of its implementation plan with the school-based measures to be implemented

and qualitative and quantitative outcome targets to be achieved within a specified timeframe. Participating schools were required to submit progress cum expenditure reports annually with the final report within six months upon completion of the schemes (i.e. by 28 February 2015). In parallel, performance of individual schools was verified by supervisory visits conducted by EDB to the participating schools. ECPD was required to seek advice from the expert panelists (as mentioned in QA5) specifically if clause 4.5 (suspension of further funding to a participating school) and clause 9 (compensation to the Government upon termination of the project by the Government) were involved when a participating school committed a breach of any term or other condition of the contract including failing to satisfy the Government with the progress of, among others, implementing the project in accordance with the strategy and implementation plan.

The evaluation was of two levels. Having taken into account views of schools and teachers, it was decided that self-evaluation by schools should be done, in brief, through a 3-point scale in each of the progress reports and a 4-point scale in the final report, with score 1 being the lowest (i.e. not meeting the outcome targets vis-à-vis objectives of the schools concerned) while score 3 (in the progress reports) / 4 (in the final report) referring to meeting all outcome targets vis-à-vis the objectives of the schools concerned. The average points of a school's self-evaluation in the progress reports constituted 10% of the total scores while the school's evaluation in the final report accounted for 40% of the total points. EDB's evaluation was based on school visits including supervisory visits, and the average points, if any, made up for the remaining 50% of the total points of a school. Broadly speaking, schools having a total of 2.6 to 4 points in the evaluation based on the weighting mentioned above were grouped as schools having the pledged targets satisfactorily met vis-à-vis the objectives of the schools concerned. The remaining schools having a total of 1 to 2.5 points were grouped as schools not showing satisfactory performance in meeting the pledged targets vis-à-vis the objectives of the schools concerned.

Based on the findings of the aforementioned, 41% of schools participated in the EES and 45% participated in the REES were classified as not fully and satisfactorily meeting all of their pledged targets vis-à-vis the objectives of the schools concerned. Individual schools concerned were

required to provide justifications and EDB had followed up to examine the situation of the schools concerned. The explanations provided by the schools concerned were considered acceptable. For instance, some schools had difficulties in looking for suitable service providers in their school context in the case of procurement of professional services. The outbreak of the human swine influenza in June 2009 had upset the plan of many schools including the schedule of some schools in implementing some of their school-based measures as a result of class suspension and / or advancing the summer break for students. Competing for students with various school programmes / activities held at the same time was another major reason leading to failure of some schools to meet even the pledged target of student participants. In the above cases, document proofs such as advertisement for procurement of professional services and interview records, timetable of the schools concerned, student registers of the activities, etc. were submitted and considered.

- 9. According to paragraph 2.15, the returns of unspent funds by the 75% of the English Enhancement Grant Scheme ("EEGS") projects took an average of 95 days after the final report submission due date. Whether the Government has evaluated the reasons of the late return by the participating schools; if yes, the details; if no, the reasons? Has EDB explored any measures to ensure the timely return of unspent funds in the future; if yes, please provide the timetable for implementing the improvement measures.**
- 10. According to paragraph 2.16, schools applying for EEGS should submit an implementation plan with targets to be attained which should preferably be measureable. However, why did SCOLAR still approve applications with targets vaguely set and not easily measureable? Whether SCOLAR had given out advice in assisting participating schools to set out measureable targets? How did SCOLAR measure the effectiveness of participating schools when the targets were vaguely set (refer to the examples given in paragraph 2.16)?**
- 11. According to paragraph 2.20, the SCOLAR Secretariat was preparing a review of the Professional Development Incentive Grant Scheme for Language Teachers ("PDIGS"). What was the scope of the review?**

Whether the findings of the review will be publicly disclosed? Since 4252 teachers did not possess the qualifications outlined by SCOLAR, whether the Government plans to seek their views on applying for PDIGS?

Management of language education community projects

12. According to paragraphs 2.22(d) and 2.23, EDB agreed to strengthen the project monitoring of future LF schemes. Please provide details of the measures and the implementation timeline.

A: 9-12

The replies to questions 9 to 12 are as follows:

EEGS

The approach in counting late return of unspent funds by “the final report submission due date” under EEGS does not reflect the practical situation. As explained to the Audit Commission, returning of unused allocated fund to the LF by schools would take place upon checking of the End-of-project Reports and Final Financial Reports by the SCOLAR Secretariat. To ensure timely submission of relevant reports by participating schools and their returning unused funds the soonest practicable under the New Grant Scheme to Primary Schools to be implemented from 2017/18 to 2021/22 school years, the SCOLAR Secretariat has considered the following measures:

- emails alongside with fax messages requesting schools to submit the relevant reports within three months after completion of the project will be issued twice (viz, about three months before the completion date of the project and soon after the completion date of the project); and
- additional manpower, if feasible, will be deployed to check the relevant reports from schools with a view to returning unused funds by the schools concerned the soonest practicable.

A panel comprising language education experts and representatives from the EDB assessed the appropriateness and feasibility of the enhancement

measures proposed by the applicant schools under EEGS and recommended revision to the schools' proposals if necessary. The SCOLAR Secretariat provided guiding questions in the template on school-based implementation plan to facilitate schools to set out details such as deliverables/outputs that should preferably be measurable as well as progress monitoring and evaluation on the measures adopted. Schools' self-evaluation of various measures implemented reflected that the objectives of the Scheme were met as the learning and teaching of English language in the schools were generally strengthened and the effects were sustainable in the schools. The experience of the Scheme demonstrated that with the support of the additional resources, primary schools were stimulated to implement various initiatives for strengthening the learning and teaching of English language, and achieving their school-based targets.

As regards the new grant scheme, the SCOLAR Secretariat has uploaded reference notes onto the SCOLAR website with a view to facilitating schools in preparing their school-based implementation plans including setting targets (preferably measurable) to be attained.

PDIGS

The SCOLAR Secretariat is preparing a scheduled review of PDIGS covering the age profile of eligible serving language teachers, views of school heads on the Scheme, level of subsidy per eligible teacher vis-à-vis the current level of tuition fees and the level of unspent earmarked amount for the Scheme, etc. Subject to the review findings, the SCOLAR Secretariat will consider appropriate measures to encourage applications and adjusting the level of the funding previously earmarked for PDIGS so that amount which would unlikely be spent can be put to gainful use.

- 13. As stated in paragraph 2.26, spot checks and surprise visits should be conducted in accordance with the Work Manual of LF ("the Work Manual") to monitor project progress. However, according to paragraph 2.27, spot checks and surprise visits were no longer conducted. Instead, the SCOLAR Secretariat conducted observation visits. In this connection, whether the Work Manual was no longer applicable; if yes, why did the SCOLAR Secretariat not update the Work Manual? Why did the SCOLAR Secretariat not record the**

details of observation visits conducted? Whether the SCOLAR Secretariat provided guidelines for observation visits?

A: 13

All the observation visit records were properly kept in individual project files. In carrying out observation visits for promotional projects, SCOLAR Secretariat considers several factors such as the nature of an activity, experience of a programme partner, potential impacts of an activity, etc.. SCOLAR Secretariat will update the Work Manual to promulgate clearer guidelines on the conduct and supervision of observation visits.

- 14. According to paragraph 2.29, some project grantees submitted the project reports late. Whether the SCOLAR Secretariat had established any penalty mechanism against the grantees for late submission of the project reports? If no, please provide the reasons. What measures will be taken to ensure the reports will be submitted in a timely manner in the future?**

A: 14

If there is late submission of a project report, the payment of the next instalment to the grantee concerned shall be withheld until the review of the submitted report is completed. Grantees are required to submit reports according to the schedule stipulated in the agreement. They are reminded of the submission deadlines one month in advance and email reminders will be sent to grantees in case of late submission of reports.

- 15. According to paragraph 2.33, EDB informed the Audit Commission that the criteria of undertaking independent evaluation were mainly for research and development ("R&D") projects on language learning and enhancing the learning environment. Whether the above criteria for initiating an independent evaluation had been stated in the Work Manual? If not, please provide the reasons and what are the reasons for SCOLAR to set out these criteria.**
- 16. According to paragraph 2.33, working groups ("WGs") had been set up to plan and oversee the language education community projects. Whether WGs were set up to conduct independent evaluation for the**

projects? If yes, please provide the details; if no, what was the purpose of having WGs in overseeing the projects?

A: 15&16

The criteria of undertaking independent evaluation were first set out in a SCOLAR Paper and reference to the paper was made in the Work Manual. As for language education community projects, evaluation requirements are spelt out in the agreements signed with the programme partners concerned. They are required to conduct evaluation and collect feedback from participants. Such projects are also monitored by the SCOLAR Secretariat through scrutiny of various reports and visits. Designated Working Groups comprised of SCOLAR Members are set up to map out the themes and objectives of programmes as well as to draw up and review the guidelines in vetting the proposals from various organisations. The progress of the projects is regularly reported to the WGs. SCOLAR Secretariat will ensure that the requirements promulgated in the Work Manual relating to evaluation are up-to-date and complied with.

17. According to paragraphs 2.35(g) and 2.36, EDB agreed to take further measures to enhance the appeal of sponsorship projects. What has EDB done in this regard? Is there any improvement in the number of applications received?

A: 17

To promote sponsorship projects, the commencement of open-call exercises has been announced via different channels, including newspapers, the SCOLAR website, and the Government online portal. The SCOLAR Secretariat will continue to endeavour to promote the sponsorship projects. The number of applications has notably increased from seven in 2016/17 to 12 in 2017/18 school year.

Management of R&D projects

18. According to paragraph 2.39, an example shows that the SCOLAR Secretariat had not taken follow-up action on the reservations and conditions given by the members of the Vetting Committee in assessing the applications for bottom-up R&D projects. In this connection, whether the SCOLAR Secretariat noted the reservations and

conditions given by the members and made reference to the members' comments before approving the relevant application? If yes, please provide the details; if no, please provide the reasons.

A: 18

SCOLAR Secretariat had followed up with the Vetting Committee members on their comments to the relevant application and obtained their agreement before approving the relevant application. The actual amount approved of the application was reduced by taking out the unallowable items according to the application guidelines.

- 19. According to paragraphs 2.40(a) and 2.41, regarding the vetting of bottom-up research and development projects, EDB agreed to take measures to ensure that recommendations of the Vetting Committee that are subject to reservations or conditions are clarified and followed up. Has EDB promulgated any new guidelines to achieve this? Whether the existing manpower of the SCOLAR Secretariat is capable to handle the follow-up actions; if not, will the SCOLAR Secretariat increase the manpower?**

A: 19

SCOLAR Secretariat had already conducted the review of R&D Projects (bottom-up) in September 2016 and reported the outcomes and recommendations to SCOLAR in December 2016. Endorsed by SCOLAR, the Guide to Applicants has been revised to make clearer the principles for allowable and unallowable costs to assist applicants in preparing budget proposals. The revised Guide to Applicants has already been released in March 2017. SCOLAR Secretariat will ensure that qualified and conditional recommendations, if any, are distinguished from clear recommendations and are followed up accordingly.

Part 3 : Governance and administrative issues

Governance of SCOLAR

- 20. According to paragraphs 3.3 and 3.5, the two-tier report system requires the members to submit a Declaration Form to register their personal Interests when they first join SCOLAR. However, for the**

appointment of SCOLAR members for the term from 1 July 2015 to 30 June 2017, the Secretariat only sent the Declaration Forms to members two days after the commencement of the term. Why were the Declaration Forms not sent earlier to allow members to register their personal interests before the commencement of the term? Will the SCOLAR Secretariat send the Declaration Forms together with the appointment letters in future? Also, according to paragraph 3.5, nine SCOLAR members returned the Declaration Forms on conflicts of interest more than 30 days after the commencement of the term, what measures have been taken by EDB to ensure that Declaration Forms are submitted by members in a timely manner?

A: 20

The two-tier report system on declaration of interests commenced only since July 2015 on the advice of SCOLAR Chairman. Regarding the late submission of the declaration forms from some Members, the Secretary of SCOLAR had reminded them of completion of the declaration form. In future, we will send out the declaration forms together with the appointment letters whenever possible, and continue to follow up on late submissions whenever necessary.

21. According to paragraph 3.8, many WGs only held one meeting from 1 July 2015 to 30 October 2016 and some of them recorded low attendance rates. Will SCOLAR review the work and structure of these WGs; if yes, please provide details; if no, please provide reasons.

A: 21

Working Groups under SCOLAR are normally set up specifically to oversee projects or on a need basis. SCOLAR Secretariat had reviewed the functions of various Working Groups when the current term commenced in July 2015 before inviting Members to join the Working Groups. The Working Groups usually meet to review the outcome of the projects implemented in the last school year(s)/round and discuss the next focus/theme. Separate vetting committee meetings will be held to consider the project proposals received through open-call exercises. We will review again the functions and membership composition when the new term begins.

Administrative issues

- 22. According to paragraph 3.20, 6 of the 13 initiatives had been completed or terminated for over one year but the unspent balance of the earmarked funding had not been ploughed back to LF. The SCOLAR Secretariat stated that the closure of project account hinges on a number of factors, for example, submission of final report, settlement of all payments, acceptance of audited report, and refund of unused balance from applicant school. In this connection, whether the SCOLAR Secretariat took any role in these factors which would help expedite the closure of project accounts; if yes, please provide details; if no, please provide reasons.**

A: 22

Of the six projects which have been completed or terminated for over one year but the unspent balance of the earmarked funding had not been ploughed back to the LF, three of them were subsequently closed following refund of unused balance from the school applicant and submission of final report from the programme partner, i.e. ploughing back has been done. For the remaining three projects, two of them will be closed shortly, i.e. ploughing back of unspent balance would be done. SCOLAR Secretariat had made effort in chasing the reports and completing the payment settlement. The last one will be closed in 2018 when the project is fully completed.

- 23. According to paragraph 3.24(b), the actual total funding of \$262 million approved for the period from March 2014 to June 2016 was \$251.3 million less than the interest income of \$513.3 million earned from the Exchange Fund. In this connection, whether the balance of \$251.3 million of interest income was saved up to cope with the challenges during the times of market volatilities; if yes, please provide details; if no, why did the amount of funding approved to support new initiatives decrease dramatically from 2014 to 2016?**

A: 23

We have been prudent in working out the budgets for projects and would recommend implementing worthwhile projects on their merits. We also note a decline in the approved amount of funding from 2014 to 2016, with

the reasons being: (a) proposals on promotion of Chinese (including Putonghua) and English projects are submitted to SCOLAR for consideration and approval on a bi-annual basis since 2015. Hence the funding for these projects approved in 2015 (\$35.92 million) included projects to be implemented in the subsequent school year of 2016/17; (b) SCOLAR had in 2014 and 2015 approved a few projects with substantial amount of funding which lasts for a few years, i.e. “Strengthening language support for different stages of school education” from 2014/15 to 2019/20 school years (total amount of \$185 million with \$80 million allocated for a period up to 2016/17), “Support Scheme on Early Language and Literacy Development in Chinese and English Language of Young Children” from 2015/16 to 2018/19 school years (total amount of \$63.4 million), “Research and Development Projects 2015/16” (total amount of \$50.9 million); and (c) a number of new initiatives with substantial funding were still at the planning stage in 2016. In fact, three new major initiatives involving about \$240 million were recently approved by SCOLAR to be implemented from 2017/18 school year.

24. According to paragraphs 3.25(a) and 3.26, EDB agreed to step up efforts in developing suitable performance indicators for LF and provide more details of the effectiveness of LF in the progress reports to the Legislative Council. What has been done in this regard?

A: 24

SCOLAR Secretariat has already set certain performance targets of projects, including the number of beneficiaries and expected outcomes of activities/programmes and the budgets involved in the proposals for SCOLAR’s consideration. For those applications which are bottom-up initiatives (e.g. research and development studies on language education on a need basis and sponsorship programmes with proposals invited through open call exercises), the number of approved projects in each year depends on the number of applications received, and most importantly, the quality of project proposals submitted by applicants. As such, it is difficult for LF to set outcome targets such as the number of approved projects and the number of beneficiaries for these bottom-up initiatives. That said, we are working on how best to further improve the Fund’s performance measurement and its reporting of performance measures as appropriate in

launching various initiatives. We shall also provide more information on the LF projects in our progress report to the Legislative Council.

- 25. According to paragraphs 3.25(d) and 3.26, EDB agreed to endeavour to identify and fund more worthwhile initiatives. What is the latest position?**

A: 25

SCOLAR has recently approved implementation of three major new initiatives from the 2017/18 school year, they are “Vocational English Programme” (\$10 million), “Grant Scheme on Promoting Effective English Language Learning in Primary Schools” (\$186 million), and “Capacity Building Programme on Chinese and English Literacy and Pedagogy for Kindergarten Teachers” (\$42 million).

Part 4 : Language proficiency of students and working adults

- 26. According to paragraph 4.3, over 20% and over 30% of Secondary 3 students did not meet the basic competencies in Chinese Language and English Language respectively. For the Hong Kong Diploma of Secondary Education Examination, there were about 15% and 20% of Secondary 6 students who did not attain "Level 2" or above in Chinese Language and English Language (i.e. the minimum language requirement for articulation to sub-degree programmes) respectively in 2016. Instead of providing one-for-all language learning programmes, whether LF had programmes to assist the above students in learning Chinese Language and English Language before sitting for the Hong Kong Diploma of Secondary Education Examination; if yes, please provide details and its effectiveness; if no, please provide reasons. What measures will be taken by EDB to improve the Chinese and English language proficiency of students? Has EDB sought advice from SCOLAR as stated in paragraphs 4.5(a) and 4.6?**

A: 26

All along, EDB has been encouraging schools to make use of the flexibility provided by the curriculum to extend students' learning space both in/outside class and create diversified language environment in schools in accordance with students' abilities, so as to enhance students' language

proficiency through practice and application. Since the LF is deployed with a view to focusing on strategic areas such as facilitating effective language education policy formulation and implementation through initiating research studies, creating and nurturing a facilitating language learning environment for students in and beyond school settings, as well as catering for learner diversity, EDB will continue to seek SCOLAR's advice on the appropriate measures/initiatives for enhancing biliteracy and trilingualism of students in Hong Kong.

27. According to paragraph 4.4, since the Hong Kong Certificate of Education Examination was discontinued in 2012, no tools have been available to measure the Putonghua proficiency of students. According to paragraphs 4.5(b) and 4.6, EDB agreed to seek advice from SCOLAR on the development of a set of assessment instruments for gauging Putonghua proficiency of students. What has been the progress so far?

A: 27

As mentioned in our response that we generally agree with the audit recommendations, SCOLAR will consider the recommendation in the Audit Report and will continue to advise EDB on ways for gauging Putonghua proficiency of students. Proposals which have to take into account findings and experiences in various studies will be put up for deliberation by SCOLAR when ready.

ACRONYMS AND ABBREVIATIONS

Audit	Audit Commission
Audit Report	Director of Audit's Report
B/Ds	Bureaux/departments
DH	Department of Health
DLOs	District Lands Offices
ECPD	Education Commission and Planning Division
EDB	Education Bureau
EEGS	English Enhancement Grant Scheme
EES	English Enhancement Scheme
FEHD	Food and Environmental Hygiene Department
GLLs	Government Land Licences
HAB	Home Affairs Bureau
HAD	Home Affairs Department
HK&LYM	Hong Kong and Lei Yue Mun
HKICPA	Hong Kong Institute of Certified Public Accountants
KTCT	Kai Tak Cruise Terminal
LandsD	Lands Department
LF	Language Fund
LFAC	Lotteries Fund Advisory Committee
LIS	Licensing Information System
LRC	Law Reform Commission
LRC Report	Law Reform Commission Report on Charities
m ²	Square metres
NGO	Non-governmental organization
OGCIO	Office of the Government Chief Information Officer
OLA	Office of the Licensing Authority

ACRONYMS AND ABBREVIATIONS

One-stop finder	One-stop finder on the government portal "GovHK"
PMIC	Putonghua as the medium of instruction for teaching the Chinese Language subject
PSPs	Public subscription permits
R&D	Research and development
REES	Refined English Enhancement Scheme
RVD	Rating and Valuation Department
S&L structures	Squatter and licensed structures
SC	Squatter control
SCO	Squatter Control Office
SCOLAR	Standing Committee on Language Education and Research
SS structures	Surveyed squatter structures
SWD	Social Welfare Department
TC	Tourism Commission
TELA	Television and Entertainment Licensing Authority
the Guidance Note	Guidance Note on Internal Financial Controls for Charitable Fund-raising Activities
the Reference Guide	Reference Guide on Best Practices for Charitable Fund-raising Activities
the Special Scheme	Special Scheme on Privately Owned Sites for Welfare Uses
THLs	Temporary hawker licences