

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

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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).

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- 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 hawkker 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.

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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.

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- 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:

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- 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

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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/).

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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;

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- 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.

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- 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".

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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

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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

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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

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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.

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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

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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

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(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

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- 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 style="text-align: center;">Overall comments</p>
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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).

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- (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.

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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.

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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.

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- 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.

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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).

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- (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

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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.

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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.

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- (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).

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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.

<p>Follow-up action</p>

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.