

Department of Health's efforts in smoking control

The Audit Commission ("Audit") conducted a review of the Department of Health ("DH")'s smoking control efforts.

2. With a view to implementing the Government's smoking control efforts, the Tobacco Control Office ("TCO") was set up by DH in 2001 to (a) act as a principal enforcement agency under the Smoking (Public Health) Ordinance (Cap. 371) ("SPHO"); (b) assist venue managers of statutory no smoking areas ("NSAs")¹ to ensure public compliance with SPHO; (c) promote a smoke-free culture and enhance public compliance with SPHO through publicity and health education; (d) coordinate smoking cessation services of DH; and (e) assist the Food and Health Bureau in reviewing smoking control legislation. DH also provides funding to the Hong Kong Council on Smoking and Health ("COSH") which conducts publicity campaigns to encourage smokers to quit smoking, and garners public support for establishing a smoke-free Hong Kong. DH also subvents six non-governmental organizations and a university to deliver smoking cessation services and smoking prevention programmes.

3. In 2016-2017, TCO's expenditure on smoking control amounted to \$101.3 million while DH's subventions to COSH, the six non-governmental organizations and the university amounted to \$83.2 million.

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

- of the 18 354 complaint cases received by TCO in 2017, the interim reply dates of 7 003 (38%) cases, the first inspection dates of 7 542 (41%) cases, the inspection results of 8 334 (45%) cases, and the final reply dates of 6 401 (35%) cases had not been recorded in the Master Case Log;²
- the number of inspections conducted by Tobacco Control Inspectors ("TCIs") on complaints and at locations requiring enhanced inspections ("LREIs")³ was left to the individual judgment of TCIs and thus varied

¹ Statutory NSAs include indoor workplaces and public places (e.g. restaurants and bars), some outdoor public places (e.g. public transport facilities) and public transport carriers.

² The Master Case Log is a computerized record system to record details of complaint cases, including interim reply dates, inspection dates, inspection results and final reply dates.

³ TCO maintains a list of venues that have been subjects of frequent smoking complaints and therefore would require more inspections (i.e. LREIs).

considerably. For example, of the 353 LREIs inspected by TCIs in August 2017, one inspection had been conducted at each of the 109 LREIs while five inspections had been conducted at each of the 26 LREIs;

- of the 8 066 inspections conducted by TCO in August to October 2017, "overnight" inspections had the highest percentage (30%) of detecting smoking offences but accounted for only 1.6% of all the inspections conducted;
- as at 31 December 2017, for the fixed penalty notices ("FPNs")⁴ issued in 2013 to 2017, the unsettlement rate of FPNs of non-local offenders visiting Hong Kong (21.5%) was much higher than that of local offenders (1.3%), and the unsettlement rate of FPNs of local offenders rose from 0.4% in 2013 to 3.2% in 2017;
- in 20 (39%) of the 51 supervisory checks⁵ conducted from November 2016 to October 2017, the enforcement teams could not be found at the inspection venues. No supervisory checks were conducted before 9:30 am or after 7:30 pm while the enforcement teams were required to conduct inspections round the clock;
- Audit randomly checked the display of no-smoking signs at enclosed public places, outdoor escalators, public pleasure grounds and public transport facilities in the Eastern District, the Sham Shui Po District and the Kwai Tsing District and discovered that at some NSAs, no-smoking signs were either not displayed or displayed without showing the fixed penalty for violation and the complaint hotlines of TCO or the relevant department, the Leisure and Cultural Services Department ("LCSD") in these cases;
- Audit analysed FPNs issued by the Food and Environmental Hygiene Department ("FEHD"), LCSD and the Housing Department in 2013 to 2017 and found that the number of FPNs issued by FEHD and LCSD

⁴ Under the Fixed Penalty (Smoking Offences) Ordinance (Cap. 600), when witnessing a person smoking or carrying a lighted cigarette, cigar or pipe at a statutory NSA, a TCI can issue an FPN to the offender, demanding a fixed penalty of \$1,500.

⁵ Executive Officers of TCO would conduct supervisory checks to discover any inconsistencies and irregularities of the enforcement teams.

was significantly lower than that of TCO and the Housing Department.⁶ In 2017, FEHD issued 52 FPNs at statutory NSAs under its management, LCSd issued 54 FPNs at statutory NSAs under its management, while TCO issued 517 FPNs and 495 FPNs at statutory NSAs under the management of FEHD and LCSd respectively;

- the number of referrals by the Smoking Cessation Hotline to the primary care out-patient clinic located in Ngau Tau Kok⁷ had decreased by 98% from 619 in 2009 to 13 in 2017, and the number of new cases of the primary care out-patient clinic in Ngau Tau Kok had decreased by 98% from 354 in 2009 to 6 in 2017;
- in 2013-2014 to 2017-2018 (up to January 2018), the overall attendance rates of some meetings of the Community Liaison Committee, the Education and Publicity Committee, the Information and Research Committee and the Legislation Committee of COSH were below 70%. The attendance rates of some committee members were below 50%, one member even did not attend any meetings in 2016-2017; and
- notwithstanding that Director of Administration had issued a Circular Memorandum in March 2003 to promulgate a set of guidelines for the control and monitoring of remuneration practices in subvented bodies by the Government, COSH did not publish the number, rank and remuneration packages of its staff at the top three tiers on its website.

5. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding the measures to improve the performance of TCO; the enforcement work of TCO, FEHD and LCSd; and the operation of COSH. The replies from **Secretary for Food and Health, Director of Health, Director of Leisure and Cultural Services** and **Executive Director, Hong Kong Council on Smoking and Health** are in *Appendices 11 to 14* respectively.

⁶ Under the Fixed Penalty (Smoking Offences) Ordinance, in addition to TCIs, authorized officers of FEHD, LCSd, the Housing Department as well as police officers are also empowered to issue FPNs at statutory NSAs under these government departments' management.

⁷ DH operates the Smoking Cessation Hotline to provide professional counselling and information on smoking cessation. Members of the public calling the Hotline might be referred to the primary care out-patient clinic in Ngau Tau Kok for smoking cessation services where appropriate.

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