

LegCo Panel on Environmental Affairs
Sub-committee on Matters Relating to Environmental Hygiene

Review of Hawker Control Operations
- ICAC Assignment Study

PURPOSE

This paper informs Members of the major recommendations of an assignment study conducted by the ICAC on hawker control operations.

BACKGROUND

2. Hawking has a long history in Hong Kong and hawker control, being a complex matter, has always been a subject of concern. In 1999, a number of hawker control operations had attracted concern over issues like propriety of enforcement actions, discipline, etc.

3. At the Sub-committee meeting held on 20 April 2000, Members were advised by the representatives of the Environment and Food Bureau and Food and Environmental Hygiene Department (FEHD) that the ICAC was conducting an assignment study on hawker control operations and that a paper on the subject would be submitted to the Sub-committee upon completion of the Study.

4. The ICAC has now completed the study and after consulting its Corruption Prevention Advisory Committee, a report was forwarded to FEHD on 5 May 2000. The report is at present being actively studied by FEHD.

5. A short note summarizing the existing arrangements regarding hawker control operations is at Annex.

ICAC ASSIGNMENT STUDY

6. The ICAC has examined in detail the procedures and practices followed by FEHD hawker control officers in the conduct of operations and put forward useful observations and recommendations which can be broadly categorised into four areas, namely,

- (A) modus operandi;
- (B) deployment of human resources;
- (C) instilling a positive culture; and
- (D) issues with policy implications.

(A) Modus Operandi

7. The ICAC has put forward the following recommendations to plug corruption loopholes as well as to enhance the overall efficiency of hawker control operations.

Measures to protect confidential information

Raiding Targets

8. At present, in certain districts, information on raiding targets is given to more officers than necessary. The ICAC recommends that the officer-in-charge of the squad should only be given the list of raiding targets concerning his own squad. Furthermore, the raiding targets for each squad should be separately listed and contained in individually sealed envelopes, with the priority order marked on the cover. The officer-in-charge should only open the envelope for the next target after completion of the raid on a black spot.

Portable Radios

9. In order to improve communication between members of the squads and to prevent the messages relayed through the portable radios be intercepted, FEHD should enhance the efficiency and security of its portable radio system.

Private Mobile Telephones

10. Again, to prevent leakage of information, unless permission is given by the supervisor, officers should be prohibited from carrying their private mobile telephones whilst on operations. Where operationally

necessary, the squad leaders should be provided with office issued mobile telephones.

Measures to prevent perversion of the course of justice

Confirming Identity of Arrested Hawkers

11. As the goods of Itinerant Hawker Licence (IHL) holders are not subject to forfeiture when they are arrested for causing obstruction, they may be hired by unlicensed hawkers to stand in for them when they are caught for illegal hawking in order to avoid forfeiture of goods. In order to prevent possible substitution upon arrest of a hawker or on the way to the police station after arrest, FEHD should explore the feasibility of video-taping hawker control operations, in particular the major ones. Hawker Control Teams (HCTs) should also be required, immediately upon arrest of a hawker, to report to the Control Centre the identity and other identifying details (e.g. sex and approximate age) of the arrested hawker, and make an entry in their note-book simultaneously. Supervisors should check that these entries are made, and sign on the note-book to confirm the details.

Taking Photographs of Seized Goods for Record

12. During operations, HCTs are required to seize all goods of the arrested unlicensed hawkers, and count and record the seized goods at the police station. To ensure that the goods seized are properly recorded and to prevent any changes of seized goods on the way to the police station or seized goods store with the connivance of compromised officers, photographs of goods should be taken immediately upon seizure and kept for record.

Measures to avoid abuse of power in discretionary law enforcement

13. When shop operators are found displaying their commodities on the pavement outside their shops, HCTs usually give them a verbal warning and make sure that the shop operators remove the goods immediately. However, if the obstruction is serious, or the shop operator fails to remove his goods after warning, the operator concerned may be arrested for causing obstructions. To prevent selective enforcement and abuse of power, clear guidelines should be drawn up as to the circumstances under which warnings should be issued and/or charges should be laid against the offenders.

Logistical arrangements

Means of Transport

14. Departmental vehicles presently used for operations can be easily identified at a distance by unlicensed hawkers or their “lookouts”. To avoid alerting the unlicensed hawkers, FEHD should consider measures to make identity of vehicles less identifiable.

Compilation of Hawker Complaints Statistics

15. Complaints about illegal hawking activities provide an indicator of the seriousness of the hawker problem, and help FEHD to identify hawker black spots in the districts. The FEHD Headquarters monitors hawker complaints through monthly statistical returns which however, at present do not include the number of telephone complaints received by some District Control Centres (DCCs). In order that the management is presented with a complete picture of hawker complaints, the monthly statistical returns should include telephone complaints received by all DCCs.

16. Districts should be required to submit separate statistics on enforcement actions taken against illegal shop front extensions and to draw up lists of shop front extension black spots so as to assist the senior officers in selecting targets for enforcement actions.

Updating of List on Hawker Black Spots

17. At present, in certain districts, lists of hawker black spots are updated only on a quarterly basis. In order to ensure that the Divisional Hawker Control Task Force (HCTF) is kept abreast of the most up-to-date information in respect of illegal hawking activities in all districts, the District Offices should inform the HCTF concerned immediately of any amendments to the hawker black spot list.

(B) Deployment of Human Resources

18. The ICAC has also made recommendations on deployment of human resources to increase the unpredictability and enhance the effectiveness of hawker control operations, as summarised below :

- (a) FEHD should deploy the District HCTs for ad hoc cross-district operations;

- (b) Divisional HCTFs should also be required to conduct cross-division operations or be deployed to form a central task force to conduct independent raids territory-wide;
- (c) Senior officers should conduct random field visits in plain clothes with a view to ascertaining the extent of the illegal hawking activities at the black spots in their respective Districts and Divisions;
- (d) Due to historical reasons, the present leave arrangements in one Division have resulted in no HCTF coverage for a certain shift on a certain weekday. This may lead to a compromised officer tipping-off the hawkers of these “rest days” so that the hawkers can be rest assured that any illegal hawking activities on these days will not be “disturbed” by the HCTFs. In order to ensure HCTFs coverage throughout the entire week for all districts, the Department should review its leave arrangement and pattern of staff deployment; and
- (e) Again due to historical reasons, one division at present does not have a Divisional Control Centre for reporting its operations. This is not conducive to effective supervision of the work of the HCTFs and should be rectified.

(C) Instilling a Positive Culture

19. The Study has identified the need for a culture change and enhanced supervisory accountability for the Hawker Control Officer grade. Moreover, training on enforcement of the law during operations should be reinforced so that hawker control officers are in no doubt of the proper procedures when exercising their powers during raids (e.g. making arrests and seizures). In this regard, new training programmes should be jointly developed by the Community Relations Department of ICAC and Training Section of FEHD as soon as possible.

(D) Issues with Policy Implications

20. According to the existing policy and as mentioned in para. 11 above, as the goods of IHL holders are not subject to forfeiture when they are arrested for causing obstruction, they may be hired by unlicensed hawkers to stand in for them when they are caught for illegal hawking in order to avoid forfeiture of goods. The ICAC considers this policy may be exploited, as there has been suspicion that some IHL holders are employed by the unlicensed hawkers to stand in for them in case of arrest. FEHD should consider introducing a penalty point system whereby an IHL holder convicted of obstruction for a number of times within a specified period will have his licence suspended or terminated.

RESPONSE FROM FEHD

21. The FEHD is actively studying the ICAC recommendations with a view to implementing appropriate improvement measures as early as practicable. Some of the recommendations such as to ensure confidentiality of operations and compilation of statistics are comparatively straightforward and can be implemented in the near future. There are however certain issues which have wider policy as well as other implications, such as imposing a penalty point system on IHL holders and video-taping hawker control operations which require thorough consideration including seeking legal advice.

22. While the ICAC recommendations are extremely useful, the emphasis of the Study understandably is on corruption prevention. The Department has already identified the need to conduct a comprehensive review on hawker control operations and the management of HCT. It is against such background that the ICAC has been requested to conduct the study. In conducting the comprehensive review, the Department will take the ICAC recommendations into consideration. The review will cover the following areas :-

(a) Organizational Structure

We will examine the organizational structure of hawker control operations, e.g. the division of responsibilities among the three tiers, i.e. the Headquarters, the Operations Divisions and the District Offices; the squad structure, etc. with a view to arriving at a structure which can best meet our operational

requirements, and is most efficient and cost-effective.

(b) Human Resources Management (HRM)

We will identify the necessary HRM measures which will improve and enhance the quality of our hawker control operations. Our primary objectives are to set up an appropriate system for rewards and punishment and to enhance the quality of staff through fostering of esprit de corp and upgrading of the professionalism of HCT. Recruitment, posting, appraisal, promotion and discipline will form an integral part. In addition, the existing training programmes and the juncture for introducing mid-career training will be reviewed. In this regard, we will consult staff in due course and give full consideration to the views they express.

(c) Modus Operandi of HCT

We will review the existing modus operandi of HCT and the related operational procedures and guidelines with a view to identifying areas for improvement, e.g. whether there are any grey areas resulting in difficulty in enforcement actions. In this area, the ICAC Study has provided very useful input.

23. In conducting the review, we will accord priority to implementing the ICAC recommendations. We expect the whole review will be completed towards the end of the year.

Food and Environmental Hygiene Department
May 2000

Existing Arrangements Regarding Hawker Control Operations

The Environmental Hygiene Branch of the FEHD, headed by a Deputy Director, is responsible for, among other duties, the management of licensed hawkers and the control of illegal hawking activities. In broad terms, this function is being carried out by a 3-tier set up, i.e. the Headquarters, the Operations Divisions and the District Offices.

2. At present there are three geographical Operations Divisions, each headed by an Assistant Director (Operations) and responsible for six to eight Districts. Each Operations Division has a Hawker Control Task Force (HCTF) which works 24 hours a day on three shifts. It is tasked to conduct independent hawker control operations in the Districts within its own geographical Division.

3. In both the Hong Kong and Kowloon Operations Divisions, a Senior Health Inspector (SHI), assisted by a Principal Hawker Control Officer (PHCO), is in charge of the HCTF. Each HCTF comprises six to nine hawker control squads. A Chief Hawker Control Officer (CHCO) supervises two to three hawker control squads in a shift.

4. In the NT Operations Division, there are three HCTF teams, each under the charge of a SHI and stationed in three different offices (Tsuen Wan, Kwai Chung and Sheung Shui). Each HCTF team, comprising four squads, is under the supervision of a CHCO.

5. There are at present a total of 20 District Offices, each headed by a District Environmental Hygiene Superintendent. Each District is divided into a number of zones for “sector patrols” and “raids” by hawker control staff at hawker black spots.

6. The District HCT, headed by a PHCO, comprises four to 13 squads, depending on the number of black spots and the size of the hawker population within the District. The squads work in two shifts by rotation under the charge of a CHCO and provide daily coverage from 0700 to 2300 hours, but they may vary their shift hours to meet district operational needs.

7. A small team comprising a Senior Hawker Control Officer (SHCO), a number of Assistant Hawker Control Officers (AHCOS) and Workmen I (Wm I) provide support services to the operation teams, including the management of the communication control centre and the seized goods store.

8. As at 1 May 2000, the establishment of the Hawker Control Officer grade is 2,717. Due to historical reasons, the squad structure in urban and NT districts is different as follows:

Urban HCT structure : 1 SHCO, 2 HCOs, 10 AHCOs and 1 Wm I

NT HCT structure : 1 SHCO, 1 HCO, 6 AHCOs and 4 Wm I