

Laying of the Report Report No. 64 of the Director of Audit on the results of value for money audits was laid in the Legislative Council ("LegCo") on 22 April 2015. The Public Accounts Committee ("the Committee")'s Report (Report No. 64) upon the report of the Director of Audit was subsequently tabled on 8 July 2015, thereby meeting the requirement of Rule 72 of the Rules of Procedure of LegCo that the Report be tabled within three months of the Director of Audit's Report being laid.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 64 was laid in LegCo on 28 October 2015. A progress report on matters outstanding in the Government Minute was issued on 31 October 2016. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 13 below.

Buildings Department's actions on unauthorized building works *(Chapter 1 of Part 4 of P.A.C. Report No. 64)*

3. Hon SHIU Ka-fai declared that he was engaged in the trading business of construction materials.

4. The Committee was informed that:

General

- the Administration continued to take proactive and concrete steps to implement the recommendations of the Committee and the Audit Commission ("Audit") on various enforcement actions against unauthorized building works ("UBWs"). In particular, the Buildings Department ("BD") was allocated additional resources for the creation of more posts in the professional and technical grades in 2016-2017 to assist in the enforcement against UBWs. Furthermore, following an overall review by a dedicated Task Force chaired by Deputy Director of Buildings, BD implemented a series of measures to enhance its actions against UBWs. These measures included:
 - (a) reviewing and revising internal guidelines in light of the Committee and Audit's recommendations and current circumstances in order to help staff in their discharge of duties,

- and promulgating the criteria for prioritizing "actionable" rooftop-podium-lane UBWs for enforcement;
- (b) revamping its internal information system to better monitor the registration of outstanding removal orders at the Land Registry ("LR") and the performance of and payments to the consultants engaged for large-scale operations ("LSOs");
 - (c) holding briefing and experience sharing sessions among staff on strategies for applications for closure orders and entry warrants in clearance operations, and on the supervision and monitoring of consultants' performance;
 - (d) expediting enforcement actions to strengthen deterrent effect; and
 - (e) expediting and making substantive progress in clearing outstanding illegal rooftop structures on single-staircase buildings, and in meeting the revised target timeframe for the previous LSOs against different UBWs;

Implementation of government policies on UBWs

- BD completed its review on all relevant internal guidelines and promulgated suitable enhancements in 2015. Staff briefings were held to explain the considerations for the revisions;

Handling of public reports on UBWs

- of the 4 522 public reports mentioned in paragraph 3.5 of Chapter 1 of the Audit Report No. 64, BD had dealt with over 86% of them (all reports associated with structural or higher fire safety concerns had been covered) with actions being taken on the remaining cases with lesser safety risks;

Actions through LSOs

- BD had added a new function in its Building Condition Information System ("BCIS") for producing management reports on a per-building basis that set out the number of removal orders issued and "actionable" UBWs identified under LSOs in each building;

- apart from stepping up measures to monitor consultants' performance, and revising the target completion schedules of LSOs in view of operational experience, BD had developed a new management report template in BCIS to monitor the compliance of contract milestones and submission of deliverables, which would facilitate the assessment on whether the percentage of payments was appropriate. Furthermore, monitoring of progress of LSOs had been escalated to the level of Progress Monitoring Committee chaired by Director of Buildings. Additional manpower and resources had been deployed to expedite the completion of LSOs;

Follow-up actions on removal orders

- monitoring of the registration of outstanding warning notices had been escalated to the Progress Monitoring Committee chaired by Director of Buildings. For past removal orders still outstanding and yet to be registered at LR or the registration date of which had not been recorded in BCIS, the joint review of BD and LR had found that automatic matching and sharing of the data on registration dates was technically infeasible due to lack of a common identifier between the departments' systems. Nevertheless, as and when the order had been complied with or BD took further enforcement action on the case, BD would take the opportunity to update the records in BCIS or register the outstanding removal order at LR;
- for new removal orders, BD had revamped BCIS to add a new interface function with LR such that their registration dates would be automatically updated in BCIS with data from LR, and could be monitored and matched with BD's referral dates;
- of the four removal orders identified by Audit, three were registered at LR in 2015. For the remaining case, BD conducted a thorough investigation and noted that the relevant order was in fact withdrawn in July 2013 and its registration at LR was thus not necessary;
- under BD's UBW enforcement policy, newly built UBWs was accorded high priority as in the case of UBWs constituting obvious or imminent danger to life or property. Persons found to be carrying out UBWs were also among the priority cases for prosecution. Upon review, BD had stepped up measures to enhance the efficiency of initiating prosecutions against breaches of removal orders, e.g. setting out clearer criteria for identifying cases for prosecution, timelier preparation of

prosecution documents. Accordingly, BD had raised its annual target for the relevant prosecutions in the Controlling Officer's Report from 3 000 by 10% to 3 300 in 2016. More cases would be issued with summonses within the coming months to bring a greater deterrent effect;

- BD had reviewed its criteria for selecting cases warranting default works and updated the relevant internal guidelines. Additional manpower and resources had been deployed to expedite the clearance of backlog in following up outstanding removal orders, including the carrying out of default works where warranted. Without compromising public safety, default works were only carried out under very exceptional circumstances as owners should be responsible for promptly removing any UBWs;

System for supporting enforcement actions

- apart from the "batch-record uploading" function added in 2015 that ensured the accuracy of the number of removal orders issued each year, which was included in BD's Controlling Officer's Report, BD had further developed a new function in BCIS that processed all removal orders for issue and automatically captured the essential case data in the system. Such function would be rolled out in three months' time, and should further enhance the accuracy of the relevant items published in the Controlling Officer's Report and BD's website; and

Progress made in implementing the recommendations of the Committee and Audit

- follow-up actions had been completed or on-going to address 12 of the 15 Committee's recommendations and all of the 36 Audit's recommendations. The outstanding Committee's recommendations were:
 - (a) taking actions to ascertain the total number of actionable UBWs not having been issued with removal orders;
 - (b) identifying the manpower and expenditure involved in the enforcement actions on UBWs with a view to assessing the manpower and expenditure required to handle actionable UBWs in an effective and efficient manner; and

- (c) formulating an action plan with timeframe to issue removal orders on actionable UBWs.

5. The Committee wishes to be kept informed of further development on the subject.

Public cooked food markets managed by the Food and Environmental Hygiene Department

(Chapter 3 of Part 4 of P.A.C. Report No. 64)

6. The Committee was informed in the Government Minute which was laid before LegCo in October 2015 that:

Vacancy rates of markets

- Cooked Food Hawker Bazaars ("CFHBs") were designed to serve as a transitional arrangement and hence were not built for long-term use. The Administration had since 1972 stopped issuing new hawker licences under normal circumstances. Barring exceptional circumstances, the Administration would not issue licences to newcomers to fill the stalls left vacant by some hawker licensees who had passed away or surrendered their licences. Hence, a progressive increase in the vacancy rate was inevitable over time, leading to the ultimate decommissioning of a CFHB. Furthermore, taking into account the fact that most of the hawker licensees operating in CFHBs were coming from the grassroots, the Administration had been adopting a relatively accommodating approach and consciously refrained from forced eviction to avoid causing significant social acrimony. Past experiences on the introduction of measures affecting relevant CFHB hawker licensees, such as the closure of a CFHB, showed that close liaison with the affected parties and relevant District Councils would be essential to their smooth implementation;
- the Administration agreed that on the development of public cooked food markets ("CFMs"), it was necessary to ensure the optimal use of scarce land resources. The Administration would have to study how to make more effective use of scarce resources, including those public CFMs with high vacancy rates. In this connection, the Food and Environmental Hygiene Department ("FEHD") had formulated improvement or exit plans for some of the CFHBs, and would continue its work for the rest of them and other CFMs, taking into account their

business viability, community needs, resource availability and competing priorities. FEHD was taking active steps to close some of the CFHBs, and had started to discuss the exit plans with the affected cooked food hawkers of Tai Lin Pai Road CFHB and Yu Chau West Street CFHB. The Planning Department consulted the Sham Shui Po District Council on the proposed rezoning of the site of Yu Chau West Street CFHB from "government, institution or community use" to "commercial use" in June 2015 and the Sham Shui Po District Council members did not raise objection to its closure. FEHD was following up with the Development Bureau, the Planning Department and the Lands Department on the arrangement and timetable of releasing this site together with the adjacent refuse collection point site. FEHD would also discuss the exit arrangements with the affected hawkers of another CFHB within 2015;

- for those cooked food venues located at temporary sites, namely Woosung Street Temporary CFHB, Yu Chau West Street CFHB, Lai Yip Street CFHB, Haiphong Road Temporary CFHB, Reclamation Street CFHB and Stanley Market Open Space Hawker Bazaar, FEHD would conduct regular reviews on their operation and re-development potential, and consider if they should be vacated for other uses. Similar considerations would be given to two other CFMs and one cooked food centre ("CFC") which were also located at temporary sites. FEHD had started to discuss the exit plans with the cooked food hawkers of Yu Chau West Street CFHB. FEHD would endeavour to deliver the plans formulated for individual CFHBs, CFCs and CFMs though being keenly aware that some proposals might trigger from some segments of the community strong sentiments which also needed to be addressed to the extent possible and justified;
- taking into account the views of Audit and the Committee on the future development of public CFMs, FEHD would take a holistic approach in considering and taking forward the future development of public CFMs, with due consideration given to the views of the relevant stakeholders;

Provision of facilities in markets

Fire safety measures

- FEHD had worked with relevant departments to follow up Audit's recommendations to improve fire safety in CFMs and CFHBs. Out of

the 39 CFCs managed by FEHD, 31 were equipped with all the six stipulated fire safety measures, namely, automatic sprinkler system, automatic cut-off device for mechanical ventilating systems, emergency lighting, fire hydrant and hose reel system, manual fire alarm and portable fire extinguisher. Seven CFCs, where the automatic cut-off device for mechanical ventilating system was not necessary since there was no central air-conditioning/ventilating system, were already equipped with the other five fire safety measures. The remaining CFC, i.e. Sham Tseng Temporary Market CFC, was provided with four fire safety measures;

- as at July 2015, all 25 CFMs and 11 CFHBs were provided with portable fire extinguishers. Emergency lighting and manual fire alarm would also be installed in cooked food venues where such devices were lacking. For installation of the remaining three fire safety measures (viz. fire hydrant and hose reel system, automatic sprinkler system and automatic cut-off device for mechanical ventilating system), more time would be needed to resolve the technical issues involved and consult relevant departments. Furthermore, it would be necessary to identify suitable space with adequate structural support in the cooked food venues for the construction of water tanks and the associated plant rooms. The location and operation of the water tanks or plant rooms should also avoid affecting existing installations in the venues. The fire safety design/installation proposal as well as the water supply for the fire safety system would require approval by the Fire Services Department ("FSD") and the Water Supplies Department ("WSD") respectively. FEHD would work with relevant departments to ascertain the technical feasibility of installing these fire safety measures in CFMs and CFHBs concerned;

Electricity supply

- FEHD had approached the Architectural Services Department, the Electrical and Mechanical Services Department ("EMSD") and related power companies to explore the feasibility of upgrading electricity supply system for those public CFMs with sub-standard systems;
- working in collaboration with FSD and EMSD, FEHD had issued fire safety tips and guidelines on electrical safety and use of electrical appliances to operators of CFCs, CFMs and CFHBs. FEHD would ensure that relevant guidelines were properly implemented and updated as necessary. For those stalls in CFC/CFM installed with standalone

air-conditioners without approval, FEHD had issued warnings in accordance with the established procedure. Between March and July 2015, a total of 41 verbal warnings and 61 warning letters had been issued. FEHD would continue to follow up closely on the irregularities, and stall tenants found ignoring these warnings would have their tenancy agreements terminated;

Air conditioning

- the Administration was committed to improving the operating environment of public CFMs. Having regard to the demand of tenants who would like to install air-conditioning system while not losing sight of the interest of the sitting tenants who did not support the installation, the Administration had decided to lower the threshold of the support rate from 85% to 80%, with effect from 1 July 2015. Provided that no less than 80% of the stall operators of a CFM or CFC endorsed the installation and agreed to bear the recurrent costs, FEHD would conduct a detailed technical feasibility study for the installation of air-conditioning system;

Management of market stalls

- FEHD had been conducting necessary inspections and taking appropriate follow-up actions on the cases and irregularities at public CFMs identified in the Audit Report, including the following:
 - (a) FEHD had been closely monitoring the situation of malpractice of occupation of the communal seating area for exclusive use. Daily inspections were conducted to stalls in CFCs/CFMs. If tenants were found in breach of the relevant condition, consideration would be given to terminating their tenancy agreements if three warning letters had been accumulated within a period of six months under the warning letter system;
 - (b) the Department of Justice advised in 1999 that the sale of intoxicating drinks by cooked food stalls of Urban Council's markets (now FEHD's markets) constituted no offence under section 25A of the Dutiable Commodities (Liquor) Regulations (Cap. 109B) if the consumption of the liquor did not take place in the stalls where the intoxicating drinks were sold. The Department of Justice had recently confirmed in writing that the advice still stood. FEHD would closely monitor the sale of

liquor without a licence by cooked food stalls in FEHD's markets and refer dubious cases (such as consumption of the liquor inside the stall area) to the Police for investigation; and

- (c) for unauthorized occupation/unauthorized use of stalls, FEHD would take enforcement action under the Food Business Regulation (Cap. 132X) or issue warning letter for breaches of tenancy agreement as appropriate to curb irregularities such as operating food factory business. FEHD had since February 2015 conducted investigation into nine suspected cases of operating food factory business in cooked food stalls. A total of nine verbal warnings and 17 warning letters were issued to the tenants concerned as at end of August 2015. FEHD would step up inspections and closely monitor the situation. Should non-compliance persist, FEHD would consider terminating their tenancy agreements under the existing sanction mechanism;¹

Management of stall rentals and charges

- although the Administration's proposals in the last couple of years on the market rental adjustment mechanism and the recovery of air-conditioning charges was not supported by LegCo, the Administration would continue its effort in identifying a suitable rental adjustment mechanism and setting up arrangements to recover the rates and air-conditioning charges. As discussed at the meeting on 29 June 2015 of the Subcommittee on Issues Relating to Public Markets set up under the LegCo Panel on Food Safety and Environmental Hygiene, the Administration aimed to revert to the Panel in 2016 with a proposal on the market rental adjustment mechanism and payment of rates and air-conditioning charges;² and

¹ Under FEHD's current departmental policy, it would consider terminating the tenancy agreement of stall tenants in CFCs/CFMs if four offences under any provisions of the Public Health and Municipal Services Ordinance (Cap. 132) or its subsidiary legislation resulting in convictions had been registered against a stall within a period of 12 months. If the offence committed was considered serious in nature, FEHD might consider terminating the tenancy agreement upon one single conviction. Separately, FEHD would consider terminating the tenancy agreement if a stall tenant had accumulated three warning letters resulting from breaches of tenancy clauses/conditions within a period of six months under a warning letter system.

² As at end 2016, the Administration had not provided the Panel on Food Safety and Environmental Hygiene with a proposal on the subjects.

Way forward

- FEHD would:
 - (a) continue to step up its efforts in enhancing the overall management of public CFMs, with due regard to the historical background and the interests of stakeholders;
 - (b) expedite actions, with a view to releasing some of its CFHB sites for redevelopment as soon as possible, while giving due consideration to the interests of hawkers who would be affected by the closure of CFHBs; and
 - (c) explore the redevelopment potential of other public cooked food market sites, particularly those that were located in prime areas, bore high vacancy rates and viability problems, and had limitations in improving the facilities.

7. The Committee wrote to the Food and Health Bureau on 10 January 2017 to enquire on:

- the number of CFMs and CFCs which had met the revised threshold of support rate of 80% from their stall operators for the installation of air-conditioning system with effect from 1 July 2015, and the progress of installing air-conditioning system in these CFMs or CFCs;
- the Administration's views on the effectiveness of lowering this threshold from 85% to 80% for the installation of air-conditioning system in improving the environment of public CFMs;
- the number of CFMs and CFCs which were air-conditioned out of the total number of CFMs and CFCs as at July 2015 and December 2016 respectively;
- whether the Administration had assessed the effectiveness of installing air-conditioning systems in CFMs and CFCs in improving the vacancy rates of such markets/centres. If yes, the assessment result; if no, the reason(s) for not doing so; and
- the average increase in recurrent costs borne by the stall operator after the installation of air-conditioning systems in CFMs or CFCs.

The consolidated replies from **Secretary for Food and Health** and **Director of Food and Environmental Hygiene** are in *Appendix 3*.

8. The Committee wishes to be kept informed of further progress in the implementation of improvement measures, including the installation of additional fire safety measures in public CFMs.

Management of water supply and demand
(Chapter 4 of Part 4 of P.A.C. Report No. 64)

9. The Committee was informed that:

Developing seawater desalination

- to safeguard water security in face of the climate change, the Administration had taken action to develop seawater desalination in Hong Kong. In this respect, WSD engaged consultants to embark on the design and site investigation works for the first stage of the proposed desalination plant at Tseung Kwan O in November 2015. The first stage of the plant would have a water production capacity of 135 million litres per day with provision for expansion to 270 million litres per day to meet 5% to 10% of the fresh water demand of Hong Kong;

Water consumption increases after retrofitting water-saving devices at government facilities

- WSD had completed a review of the 119 government and school premises where there were increases in water consumption after retrofitting of water-saving devices. It was revealed that the increased consumption was primarily due to changes in the user environment after retrofitting of the water saving devices. These changes included major renovation work, construction of green roofs and the subsequent irrigation, water leakages, extra cleansing and increased patronage, etc., which outweighed the saving achieved by using the water saving devices. Where the premises required remedial actions to rectify the defects (like pipe leakages), such actions had been taken;

Fresh water production costs and publication

- starting from 2014-2015, WSD had informed the public of the net and full fresh water unit production costs which included a target return on average net fixed assets through its annual reports;

Per capita domestic fresh water consumption

- apart from promotion of the "Let's Save 10L Water" Campaign in 2014, the Cherish Water Campus Integrated Education Programme launched in 2015 for primary schools and the commissioning of a new permanent Water Resources Education Centre in Tin Shui Wai in 2018-2019 would help foster the water conservation culture amongst students and the general public. Further, WSD had also been making efforts to develop an education kit for kindergartens and would be holding a Water Conservation Week in November 2016 with participation from teachers, students, environmentalists, government departments, trade representatives as well as the public; and

Progress made in implementing Audit's recommendations

- follow-up actions had been completed or on-going to address 7 of the remaining 11 Audit's recommendations. The four outstanding ones were:
 - (a) expediting actions to implement the project for supplying reclaimed water for flushing in Northeast New Territories;
 - (b) formulating a strategy for rolling out the schemes on using grey water for flushing and rainwater for non-potable purposes to other government/school buildings and promoting implementation of the schemes in private buildings;
 - (c) expediting actions to implement the Inter-reservoirs Transfer Scheme; and
 - (d) considering setting a target date for achieving 10 litres of water saving per capita per day.

10. The Committee wrote to WSD on 10 January 2017 to enquire about the latest progress in implementing the supply of reclaimed water for flushing in

Northeast New Territories, the percentage of population using fresh water, salt water and reclaimed water for flushing purpose after implementing this measure, any other measures to reduce the use of fresh water for flushing purpose, and the action plan, scope and timetable in implementing the Inter-reservoirs Transfer Scheme. The replies from **Director of Water Supplies** are in *Appendix 4*.

11. The Committee wishes to be kept informed of further development on the subject.

Hong Kong Sports Institute Limited
(Chapter 5 of Part 4 of P.A.C. Report No. 64)

12. The Committee was informed that:

Governance and government monitoring

- the drafted Corporate Governance Manual was approved by the Board of Directors of the Hong Kong Sports Institute Limited ("HKSIL") at its meeting on 11 March 2016 and had been in effect since then;
- the establishment of an internal audit function was approved by the Board of Directors of HKSIL on 11 March 2016 to ensure independence of the internal audit function and its articulation into the HKSIL governance structure;

Administrative issues

- the energy audit for the sports complex had been scheduled to commence in October 2016, taking into account usage information during the peak summer months;

Redevelopment project

- the Administration and HKSIL were consulting relevant departments with a view to devising the way forward on the construction of boat launching facilities, including consultation with the Lands Department regarding land application matters; and

Lease arrangement

- the Administration was reviewing the lease arrangement for the HKSIL Fo Tan premises and aimed to come to a view before the expiry of the current tenancy agreement in March 2017.

13. The Committee wishes to be kept informed of further development on the way forward on the construction of boat launching facilities and the lease arrangement for the HKSIL Fo Tan premises.