

**立法會**  
**Legislative Council**

LC Paper No. CB(2)2169/16-17

(These minutes have been seen  
by the Administration)

Ref : CB2/PL/FE

**Panel on Food Safety and Environmental Hygiene**

**Minutes of meeting**  
**held on Tuesday, 11 July 2017, at 2:30 pm**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Dr Hon Helena WONG Pik-wan (Chairman)  
Hon LAU Kwok-fan, MH (Deputy Chairman)  
Hon LEUNG Yiu-chung  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon LEUNG Kwok-hung  
Hon Claudia MO  
Hon Steven HO Chun-yin, BBS  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung, JP  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Hon SHIU Ka-fai  
Hon Wilson OR Chong-shing, MH  
Dr Hon Pierre CHAN  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon KWONG Chun-yu

Hon Jeremy TAM Man-ho  
Hon Nathan LAW Kwun-chung  
Dr Hon YIU Chung-yim  
Dr Hon LAU Siu-lai

**Members absent** : Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon HO Kai-ming  
Hon SHIU Ka-chun  
Hon Kenneth LAU Ip-keung, BBS, MH, JP

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

**Public Officers attending** : Item III

Professor Sophia CHAN Siu-chee, JP  
Secretary for Food and Health

Mr Kenneth CHAN Siu-yum  
Principal Assistant Secretary for Food and Health (Food) 1

Dr HO Yuk-yin, JP  
Controller, Centre for Food Safety  
Food and Environmental Hygiene Department

Item IV

Miss Vivian LAU, JP  
Director of Food and Environmental Hygiene

Mr LAM Wing-hong  
Assistant Director (Operations) 2  
Food and Environmental Hygiene Department

Miss Diane WONG  
Principal Assistant Secretary for Food and Health (Food) 2

Item V

Miss Diane WONG  
Principal Assistant Secretary for Food and Health (Food) 2

Mr David WONG  
Deputy Director of Food and Environmental Hygiene  
(Administration and Development)

Mr LI Ka-kei  
Assistant Director (Operations) 1  
Food and Environmental Hygiene Department

Mrs Claudia TSANG  
Chief Treasury Accountant  
Food and Environmental Hygiene Department

Mr Eric CHEUNG  
Senior Superintendent (Licensing)  
Food and Environmental Hygiene Department

**Clerk in attendance** : Miss Josephine SO  
Chief Council Secretary (2) 2

**Staff in attendance** : Ms Wendy LO  
Senior Council Secretary (2) 2

Miss Cally LAI  
Legislative Assistant (2) 2

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**I. Confirmation of minutes**  
(LC Paper No. CB(2)1772/16-17)

The minutes of the meeting held on 9 May 2017 were confirmed.

**II. Information paper issued since the last meeting**  
(LC Paper No. CB(2)1857/16-17(01))

2. Members noted that the Administration's paper on the implementation progress of the major initiatives under the New Agriculture Policy had been

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issued since the last meeting. The Chairman informed members that arrangement would be made for discussion of the subject in the future.

**III. Labelling system for genetically modified food and proposal on introduction of pre-market safety assessment on genetically modified food items**

(LC Paper Nos. CB(2)1809/16-17(01) and (02))

3. At the invitation of the Chairman, Secretary for Food and Health ("SFH") briefed members on the current regulatory control of genetically modified ("GM") food in Hong Kong and the Administration's proposal on the introduction of a mandatory pre-market safety assessment scheme ("PMSAS") for GM food, as set out in the Administration's paper (LC Paper No. CB(2)1809/16-17(01)). Members noted the background brief prepared by the Legislative Council ("LegCo") Secretariat on the subject (LC Paper No. CB(2)1809/16-17(02)).

Implementation of a mandatory genetically modified food labelling system

4. The Deputy Chairman expressed concern about the long-term effect of consumption of GM food on human health. In his view, the Administration should consider putting in place a mandatory GM food labelling system; and in order to achieve effective regulation, comprehensive and clear food safety standards applied to GM food products that fit Hong Kong's situation should be formulated. To enable consumers to make informed food choices, the Administration should step up its publicity and education efforts on GM food labelling.

5. SFH responded that the Administration was open-minded about the suggestion of introducing a mandatory GM food labelling system in Hong Kong. At present, the Centre for Food Safety ("CFS") monitored the safety of food (including GM food) through its Food Surveillance Programme, encouraged the trade to adopt the voluntary GM food labelling system and conducted public education actively. In the Administration's view, it was worthwhile to consider introducing in Hong Kong PMSAS for GM food in order to provide the legal basis for preventing unauthorized GM food products from entering the local market. The introduction of PMSAS would facilitate the Administration in considering whether and how a mandatory GM food labelling system should be introduced.

6. The Deputy Chairman and Dr CHIANG Lai-wan both considered that the Administration should step up education and publicity to enhance public knowledge of GM food, including the labelling requirements for GM food.

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SFH said that CFS of the Food and Environmental Hygiene Department ("FEHD") had been disseminating information on GM food to the trade and the public through seminars, trade consultation forums, publications and CFS' website. The Chairman requested the Administration to provide more detailed information on CFS' publicity and education efforts in this respect.

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7. Dr CHIANG Lai-wan suggested that the Administration should conduct research to study the prevalence of GM food in the local market, before considering the introduction of a mandatory GM food labelling system. She asked whether hazard was present in any GM food available for sale in Hong Kong or the international market.

8. SFH and Controller/CFS advised that according to the World Health Organization ("WHO"), GM food currently available for sale in the international market had passed risk assessments of the food safety regulatory bodies of relevant countries or places and was not likely to present risk for human health. In the past twenty years or so, there had not been any food safety incidents presenting risk to human health involving GM food that had passed safety assessment of national authorities. The Codex Alimentarius Commission ("Codex") had formulated guidance on the safety assessment of GM food. It also recommended member countries to set up a regulatory framework for safety assessment of GM food. WHO recommended the use of the Codex guidance for conducting safety assessments of GM food. The Administration considered that the proposal of introducing PMSAS in Hong Kong for GM food could help enhance the safety control over GM food.

9. Mr Steven HO expressed concern that the appearance of GM food might lead to a reduction in the growing/rearing of traditional crops/species by farmers, causing disruption to the ecological balance. He hoped that the Administration would, in formulating policies concerning GM food, take into account the impact of GM food on the ecology and the environment. At Mr HO's request, SFH undertook to provide the Panel with information on studies relating to the impact of GM food on the ecology and the environment.

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#### Proposed introduction of pre-market safety assessment

10. Mr Tommy CHEUNG asked whether it was the case that under PMSAS, any food items with 5% or more GM materials in their respective food ingredient(s) would be required to go through the safety assessment before they were put on the market. He and the Deputy Chairman expressed concern about the criteria to be adopted by CFS in conducting food safety assessments and the estimated time required for processing an application under PMSAS.

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11. SFH and Controller/CFS advised that:

- (a) according to the guidance issued by Codex, the safety assessment of GM food focused on direct health effects (toxicity), possibility of allergic reaction (allergenicity), change in nutritional profile or toxic properties, and any unintended effects which could result from the gene insertion, etc.;
- (b) under the proposed PMSAS, GM food which consisted of, or was derived from, GM microorganisms, plants and animals should pass the safety assessment before it might be sold in Hong Kong;
- (c) a GM food developer who intended to place a GM food (including GM ingredient) on the local market would be required to submit an application together with the necessary supporting documentation to CFS for evaluation. CFS would determine whether the GM food developer had adequately addressed the safety issues based on Codex principles and guidelines. The GM food developer was also required to provide information on the testing method adopted for the GM materials/ingredients contained in the food samples to facilitate further testing/inspection of the samples by the Government Laboratory ("GL"). CFS would draw up a list of approved GM food and upload the list on its homepage for the reference of the public and the trade; and
- (d) under the proposed PMSAS, the Administration would be able to identify the types of GM food and build up the capacity for taking actions on GM foods, if needed. This would facilitate the Administration's consideration of whether a mandatory GM food labelling system should be implemented in the future.

12. Mr Tommy CHEUNG expressed concern about the impact of the proposed PMSAS on the food trade and the supply of GM food in Hong Kong. SFH responded that it was envisaged that an application for pre-market safety assessment would normally be submitted by biotechnology companies which developed the GM organisms for food production. As such, the expected impact of the proposed PMSAS on traders, importers, distributors and retailers should be minimal.

13. Mr Tommy CHEUNG asked whether the GM food developer had to submit application to CFS for GM food items that had already been approved for human consumption by other food safety regulatory bodies.

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Controller/CFS responded that for GM food that had already been approved for food use by other food safety regulatory authorities, the proposed assessment procedures that would be carried out in Hong Kong would be much simplified, provided that the approach and principles adopted by the relevant regulatory authorities were similar to those of Codex. The applicants (i.e. GM food developers or biotechnology companies) would be required to submit approval certificates from the relevant regulatory authorities, if any, and the detailed findings of their evaluation to facilitate the processing and consideration of their applications. CFS would evaluate the application by making reference to the safety assessment conducted by the relevant regulatory authorities. Controller/CFS further advised that CFS would devise suitable transitional arrangements for GM food items that were already available on the market at the time when the proposed PMSAS came into operation. During CFS' evaluation and pending the result of the application, the GM food concerned could continue to be put on sale in Hong Kong. CFS would consult the trade later on the transitional arrangements.

14. Mr Steven HO was concerned whether CFS would rely solely on the supporting documents submitted by the applicants in its evaluation. He asked whether GL had the capability of conducting a complete assessment of the safety of the GM organisms in any food items. He also asked about the measures to be taken by CFS if problematic GM food was found to have entered the market.

15. SFH responded that like any other food, GM food was covered in CFS' routine Food Surveillance Programme. CFS released the test results to the public through various channels. Controller/CFS advised that as voluntary GM food labelling system had been implemented in Hong Kong for years, GL had developed its capacity in testing GM-related products and GL staff were trained to conduct such tests. As the GM food developers would be required to provide their own results of laboratory tests and the testing method adopted for the GM materials/ingredients contained in the food samples, GL should be able to conduct further tests.

16. The Chairman and Ms Tanya CHAN requested the Administration to provide (a) individual food materials/ingredients that covered by/fell under GL's testing surveillance in respect of GM-related products and the relevant testing methods adopted by GL; and (b) GM materials/ingredients and GM food/food items that had already been assessed and approved for food use by other food safety regulatory authorities and currently available for sale in the international market.

17. The Chairman expressed concern that some GM food developers might put to sale their GM foods as "ordinary foods" so as to circumvent the

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requirements to label GM food and the need to submit application/documentation to CFS for evaluation. She enquired about the respective role of GM food importers/wholesalers/retailers under the proposed PMSAS. Controller/CFS responded that CFS would take food samples at the import, wholesale and retail levels for testing. Upon the implementation of the proposed PMSAS, the sale of unauthorized GM food would not be allowed. CFS would upload a list of approved GM food on its homepage for the reference of the public and the trade. Importers, wholesalers and retailers would have to ensure that a GM food item imported into Hong Kong/put on sale was on the approved list.

18. In response to the Chairman's enquiry, Controller/CFS advised that the list of approved GM food for sale in Hong Kong would include the name of the relevant food developer, the type of GM plants/materials (e.g. GM corn, soybeans and papaya) contained in the food concerned as ingredients etc. Mr LEUNG Yiu-chung considered that the Government should ensure that all GM food products currently available for sale on the local market should be safe and fit for human consumption. He and Ms Tanya CHAN enquired whether CFS would shoulder any legal responsibility in providing a list of approved GM food for the reference of the public and the trade in the event that any entry therein contained was subsequently found to present a hazard to human health.

19. SFH and Controller/CFS responded that the Public Health and Municipal Service Ordinance (Cap. 132) ("PHMSO") stipulated that all food for sale in Hong Kong, locally produced or imported, should be fit for human consumption. This was applicable to both GM and conventional food. The proposed PMSAS sought to provide a further safeguard to enhance the food safety control over GM food and provided the legal basis for preventing unauthorized GM food from entering into the local market. It should be stressed that under PMSAS, GM food should pass the safety assessment before it could be sold in the market.

20. The Chairman said that Members belonging to the Democratic Party were supportive of the proposed introduction of a mandatory PMSAS underpinned by law to further enhance the regulatory system in respect of GM food. In her view, the Administration should in tandem consider introducing mandatory GM food labelling, while implementing the proposed PMSAS. In response to the Chairman's enquiry about the timetable for introducing PMSAS, SFH responded that the Administration would launch a public consultation on the proposed scheme, when ready.



**IV. Enforcement strategy relating to hawker control**

(LC Paper Nos. CB(2)1809/16-17(03) and (04) and CB(2)1705/16-17(01) to (03))

21. At the invitation of the Chairman, Director of Food and Environmental Hygiene ("DFEH") briefed members on FEHD's enforcement strategy relating to hawker management, as set out in the Administration's paper (LC Paper No. CB(2)1809/16-17(03)). Members noted the background brief prepared by the LegCo Secretariat on the subject (LC Paper No. CB(2)1809/16-17(04)).

Effectiveness of hawker control

22. Mr Jeremy TAM said that he had a copy of a letter dated 7 July 2017 from the staff association of FEHD to DFEH, expressing concerns of FEHD's frontline staff (in particular members of the Hawker Control Teams ("HCTs")) that some of their supervisors had demanded that enforcement actions/prosecutions against illegal hawking be stepped up, so as to "meet target quota" set for the teams. Mr TAM said that he also had in hand a copy of a summary of the performance appraisals of Assistant Hawker Control Officers ("AHCOs") which suggested that the performance of AHCOs was assessed based on the numbers of (a) arrests made, (b) summonses and/or fixed penalty notices issued as well as (c) seizure actions taken during hawker control operations under a marking scheme with different scores assigned for each assessment criterion. He and Ms Tanya CHAN expressed grave concern whether frontline HCT staff were required to meet any operational targets/quota and whether their work performance was evaluated based on the number of enforcement actions taken. In their view, the management of FEHD should not allow evaluation of work performance of frontline staff on the basis of the numbers of prosecutions instituted/enforcement actions taken. Echoing their view, Ms Claudia MO and Mr CHAN Chi-chuen considered it necessary for the Administration to review the management culture of FEHD.

23. In response, DFEH said that FEHD's Operational Manual for Hawker Control ("the operational guidelines") contained instructions as well as regulations and procedures that all HCT members were required to comply with. The operational guidelines clearly stated that the effectiveness of hawker control was not evaluated in terms of arrest or prosecution figures. DFEH further said that FEHD had neither set operational quota for its frontline enforcement staff nor forced them to meet any target which was based on the number of arrests made. It was noteworthy that the number of prosecutions instituted against illegal hawkers had dropped in recent years, from about 26 000 in 2014 to about 23 000 in 2015 and further down to about 15 000 in 2016. All frontline HCT staff were trained to exercise their power in a reasonable manner having regard to the circumstances on the ground.

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24. DFEH stressed that the work performance of frontline HCT staff was not assessed on the basis of enforcement actions taken against illegal hawking activities. FEHD followed the criteria and guidelines issued by the Civil Service Bureau for the assessment of staff performance. Generally speaking, officers were selected for promotion on the criteria of character, ability, experience and any qualifications prescribed for the higher rank.

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25. Ms Tanya CHAN sought clarification on whether the performance assessment form mentioned in the letter from the staff association of FEHD had ever been used within FEHD. DFEH responded that she had not come across any performance assessment form so mentioned by Mr Jeremy TAM. The Chairman requested the Administration to provide after the meeting: (a) the criteria adopted for evaluating the performance of HCT staff including AHCOs; (b) a copy of the appraisal form(s) currently used within FEHD for assessing the performance of different ranks of HCT staff; and (c) a written response to the question of whether any senior FEHD staff had evaluated the performance of AHCOs using the assessment form mentioned by Mr TAM.

26. Mr KWONG Chun-yu asked whether there was a "ranking chart" listing the performance of all frontline HCT staff in taking out enforcement actions in respect of hawker control and market management. He and Mr LEUNG Kwok-hung hoped that DFEH would meet with representatives of FEHD's frontline staff to understand and address their concerns.

27. DFEH responded that while hawker management was not assessed on the basis of the number of enforcement actions taken, relevant statistical data had to be collected in order to gain a full picture on hawker control and management but they did not serve the purpose of comparing performance among staff members. DFEH assured members that the senior management of FEHD had maintained constant and direct communication with staff representatives to understand their needs and concerns. The management team would keep reviewing whether there was room for improvement, taking into account the views of FEHD staff.

28. Ms Starry LEE shared the view that the work performance of HCT staff should not be evaluated on the basis of the numbers of prosecutions instituted/enforcement actions taken. Expressing concern about the deteriorating situation in environmental hygiene in various districts and the failure of HCT staff to take effective enforcement actions against street obstruction problem caused by shop front extension, Ms LEE suggested that effectiveness in maintaining environmental hygiene and dealing with street management issues could be used as performance indicators for HCT staff. She and Mr Steven HO said that they understood from some shop operators and licensed hawkers that HCT staff had asked shop operators and licensed

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hawkers to place their goods/trading articles on carriageways instead of pavements to avoid being prosecuted. They queried whether it was really the case. The Chairman requested the Administration to provide a written response to the above question.

#### Enforcement work against hawking activities

29. Dr LAU Siu-lai said that according to her observation, most of the unlicensed hawkers prosecuted by FEHD were elderly. Citing a recent incident where a 75-year-old woman who collected cardboards to make a living was charged for unlicensed hawking on the street when a domestic helper got several pieces of cardboard from her for \$1, Dr LAU expressed concern whether the incident revealed selective enforcement on the part of HCT staff and whether HCT staff had followed the operational guidelines in dealing with illegal hawking activities (i.e. giving verbal warning before taking prosecution actions and taking the normal course of enforcement and seizure action if the verbal warning was not heeded). Mr LEUNG Kwok-hung shared a similar concern.

30. Ms Claudia MO said that in the case cited by Dr LAU Siu-lai, the HCT staff concerned had given the public an impression that FEHD's enforcement work was targeted at those unlicensed hawkers who were old and weak. Mr CHAN Chi-chuen held the view that FEHD should strengthen the training for frontline HCT staff to ensure that they would observe the operational guidelines issued by FEHD. In the event that elderly or disabled hawkers were involved, HCT staff should exercise their powers in a reasonable manner having regard to the actual circumstances.

31. Mr HUI Chi-fung was concerned that under certain circumstances, HCT staff might not warn hawkers before taking prosecution actions and might tend to take enforcement actions against elderly hawkers who could not resist strongly to such actions. In his view, the Administration should consider stating clearly in the operational guidelines that HCT staff should not take enforcement actions against hawking activities which did not obstruct public places, cause environmental hygiene problem and affect the business of on-street shops and market stalls.

32. In response, DFEH advised that FEHD's frontline staff would, generally speaking, verbally warn hawkers first and ask them to disperse. If the verbal warning was unheeded, prosecution action would follow. She cited examples to explain that while HCT staff would exercise discretion reasonably when handling illegal hawking involving aged or disabled persons, they had to handle the cases in light of the circumstances on the ground. From the legal perspective, FEHD staff were empowered to execute PHMSO

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and its subsidiary legislation, including the Hawker Regulation (Cap. 132AI). Section 83(B)(1) of PHMSO specified that no person should hawk in any street except in accordance with a licence issued under regulations made under section 83A. It was the duty of FEHD's staff to take enforcement actions against offences and the laws should be enforced on a non-discriminatory basis. Under the existing legislation, no particular person was granted immunity from prosecution. FEHD's frontline staff were required to take appropriate actions in accordance with the operational guidelines having regard to the actual circumstances. When exercising discretion, they should be mindful of causing possible misunderstandings about selective or unfair enforcement, or even suspected act of harbouring.

33. DFEH further said that since late 2001, FEHD had adopted the strategy of carrying out immediate arrest and seizure of commodities and paraphernalia without prior warning under the following scenarios:

- (a) sale of prohibited/restricted or cooked food; and
- (b) hawking in major thoroughfares, areas of high pedestrian flow (such as pedestrian precincts, Mass Transit Railway entrances/exits, bus terminals and ferry concourses, heavily used footbridges, overseas workers rendezvous and tourist spots) and places under substantiated and repeated complaints of hawking activities.

To avoid arguments that hawkers might not know which locations were classified as hawker black spots at which no prior warning would be given before taking enforcement action against hawking offences, District Councils would be provided with an updated list of such areas in their respective districts at regular intervals. The same information had also been uploaded onto FEHD's website for the reference of the public.

34. DFEH also advised that in recent years, only 10% to 15% of prosecution cases against unlicensed hawking involved elders aged 65 years old or above. Among the 4 000 odd prosecution cases against unlicensed hawking in 2016, only 478 involved aged hawkers. The figures indicated that FEHD's enforcement work against illegal hawking activities was not targeted at aged hawkers.

35. Dr LAU Siu-lai sought supplementary information on: (a) the number of hawkers prosecuted by FEHD in the past three years and their age distribution; (b) the number of warnings issued to aged hawkers by HCT staff before taking prosecution actions in the past three years; and (c) whether HCT staff would be penalized if they did not give prior warnings to hawkers before taking enforcement action.

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36. Mr LEUNG Yiu-chung expressed concern that under some scenarios, HCT staff might carry out immediate arrest and seizure of commodities/paraphernalia without giving prior warning, resulting in growing number of disputes and conflicts between HCT staff and hawkers during enforcement operations. Noting that HCT staff were advised to take appropriate actions in accordance with the operational guidelines having regard to the actual circumstances, he queried whether HCT staff were given too much flexibility in exercising their powers.

37. DFEH responded that the Administration hoped that members of the public would appreciate the difficulties encountered by frontline staff in carrying out enforcement work in this respect. Under the current hawker management policy, the Government endeavoured to strike a proper balance between allowing legal hawking activities on the one hand and maintaining environment hygiene, safeguarding food safety, ensuring public safety and protecting the public from nuisance on the other. To render anti-hawking operations more effective, the following improvement measures had also been implemented:

- (a) to avoid any misunderstanding of and dispute over the warning administered, FEHD would provide a standard statement for use by HCT staff and require them to report the issue of verbal warnings to the District Control Centre for record through portable radios on site in addition to making records in the notebooks;
- (b) to equip HCT staff with the necessary skills to carry out their duties, arrangements would be made for new recruits to attend, upon assumption of duty, a two-month training programme. The operational guidelines had stipulated clearly that the safety of hawkers, passers-by and HCT staff was of primary importance. HCT staff would immediately stop the enforcement operations if the safety of any parties were at stake; and
- (c) to enhance the skills of HCT staff in handling crises/incidents, focused training courses would be organized for them.

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The Chairman requested the Administration to provide (a) supplementary information on the training programmes provided to HCT staff to upgrade their work skills and (b) a copy of FEHD's existing operational guidelines for hawker control.

38. The Chairman informed members that Mr SHIU Ka-chun, who was unable to attend the meeting due to other commitments, had written to SFH

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on 10 July 2017 expressing concern about the enforcement strategy relating to hawker control (see **Appendix**). The letter was copied to her and tabled at the meeting. The Chairman requested the Administration to provide a response to the views and concerns raised by Mr SHIU in his letter and copy the response to the Panel for members' reference.

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Need to review the existing operational guidelines

39. Mr KWONG Chun-yu said that the way how HCT staff dealt with illegal hawking activities and enforced the laws in some cases had drawn criticism in recent years. He called on the Administration to review its hawker management strategy. Noting that FEHD would conduct a review to improve the existing operational guidelines, the Chairman sought details of the Administration's plan and next course of action.

40. DFEH responded that in view of the increasing challenges to hawker management and enforcement work, FEHD would conduct a review to improve the existing operational guidelines, including studying whether and how the criteria for defining unheeded repeated warnings, evidence collection, prosecution priority, etc. could be clarified, hence rendering the operational guidelines more specific and clear. The views and concerns of frontline staff would be taken into account during the process of review.

41. The Deputy Chairman and Ms Starry LEE, however, expressed concern that the provision of more detailed/specific instructions in the operational guidelines might reduce the flexibility originally intended to be given to frontline staff and increase the work pressure on frontline staff. In their view, the Administration should provide more training to frontline staff to enable them to carry out their duties with both reasonableness and sensitivity. Mr Steven HO considered that apart from ensuring that the operational guidelines were comprehensive, there was also a need to ensure that they were enforceable.

42. The Deputy Chairman said that HCT staff should take enforcement actions even if the cases of street obstruction/environmental hygiene problem involved licensed itinerant hawkers. Ms Tanya CHAN noted with concern that unlicensed itinerant hawkers were highly mobile and often employed the "hit-and-run" tactic. When asked to disperse, they would do so. However, as and when HCT staff had left the scene to patrol other locations, they would take the opportunity to double back to the hawker black spots or locations with heavy pedestrian flow.

43. DFEH responded that following the introduction of the voluntary surrender scheme for itinerant hawkers, the number of licensed itinerant

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hawkers had gradually reduced to less than 500 in 2016. She said that HCT staff would take enforcement actions against licensed itinerant hawkers if they caused obstruction or were subject of complaint.

Motion proposed by members

44. Mr Jeremy TAM and Ms Tanya CHAN indicated an intention to jointly move a motion. The Chairman ruled that the motion proposed by them was directly related to the agenda item under discussion and members present agreed that the motion should be dealt with. Mr Steven HO moved amendments to the motion jointly moved by Mr TAM and Ms CHAN. The Chairman ordered that the quorum bell be rung to summon members, before proceeding to deal with the motion.

45. A quorum was subsequently present. The Chairman put the following motion jointly moved by Mr Jeremy Tam and Ms Tanya CHAN and as amended by Mr Steven HO to vote:

(議案中文措辭)

本委員會認為，食物環境衛生署在部門內如存在任何"交數"或"逼數"的做法，應予以禁止；以及禁止任何職級以檢控、拘捕、發出告票及充公財產的次數來評核員工工作表現。

(English translation of the motion)

This Panel is of the view that the Food and Environmental Hygiene Department should prohibit such practices of "meeting target quota" or "forcing staff to meet target quota" within the Department if they do exist; and prohibit the evaluation of staff performance by any ranks of officers on the basis of the numbers of prosecutions instituted, arrests actions taken, penalty tickets issued and properties confiscated.

46. The Chairman declared that 13 members voted for the motion, and no member voted against the motion or abstained from voting. The motion was carried.

**V. Liquor Licences: improvement measures on processing of applications and review of fees**

(LC Paper Nos. CB(2)1809/16-17(05) and (06))

47. At the invitation of the Chairman, Deputy Director of Food and Environmental Hygiene (Administration and Development)

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("DDFEH(A&D)") briefed members on the improvement measures introduced for processing liquor licensing applications and the Administration's latest thoughts on how to take forward, with respect to fees for liquor licensing services, the 2013-2014 Budget commitment to review fees and charges, as set out in the Administration's paper (LC Paper No. CB(2)1809/16-17(05)). Members noted the information note prepared by the LegCo Secretariat (LC Paper No. CB(2)1809/16-17(06)).

48. Mr Tommy CHEUNG was concerned that the substantial increase in the fees for issue of new liquor licence (for the category of "LL (no bar)") and subsequent renewal of which, aiming to recover the full cost of the services rendered (the scenario of recovering the full costs over the two financial years between 2017-2018 and 2018-2019 was set out at Annex B to the Administration's paper) would add undue burden to the trade. He urged the Administration to fully consult the trade on the proposed fees adjustment, before deciding on the way forward. He also expressed dissatisfaction with the slow progress of the Liquor Licensing Board ("LLB") in assessing liquor licence applications, particularly during the summer recess.

49. Dr KWOK Ka-ki said that he did not object to the Administration's review of fees for liquor licensing services in accordance with the "user pays" principle, as there seemed no reason for the Government to subsidize profit-making businesses with public fund. Mr SHIU Ka-fai, however, said that many sectors, including the retail trade, had been operating in severe adversity in recent years. With the Government having accumulated huge fiscal reserves, he queried the justification for increasing the fees for liquor licensing services to achieve full cost recovery. Mr SHIU sought information on (a) various types of licences/permits required by different bureaux/departments that might be obtained by the relevant operators for engaging in catering and/or retailing businesses; and (b) whether any of the bureaux/departments followed the "user pays" principle and the Government policy that fees and charges of Government services should in general be set at levels sufficient to recover the full cost of providing the services, in determining the fees and charges for services under their purviews.

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50. In response, DDFEH(A&D) advised that the Administration's established fiscal discipline was to follow the "user pays" principle and adjust/set the fees for public services at levels sufficient to recover the full cost of providing the services, including the liquor licensing services. The Administration would like to take the opportunity to rationalize the current fee structure, so that it could better reflect the relative costs of respective fee items. This notwithstanding, if some form of mitigation measures were warranted to alleviate the impact on the trade, the Administration might consider implementing the fees adjustment on an incremental basis.



Action

51. Dr KWOK Ka-ki said that over the years, there had been complaints from members of the public about the nuisances caused by bars near their residences. He was concerned that the problem had worsened, consequential to the extension of the maximum validity period of a liquor licence from one year to two years. DDFEH(A&D) responded that in processing liquor licence applications, LLB would strike a balance between public interest and the operation of the trade. In August 2015, following proper consultation, the Administration introduced a new two-year liquor licence issued upon renewal, on top of the one-year licence, for those with a good track record for at least two consecutive years immediately before the liquor licence renewal application was submitted. Since then, a total of 4 422 two-year renewal applications had been received but not all were approved after public hearings and thorough consideration by LLB (as detailed in Annex A of the Administration's paper), demonstrating the vetting role it played.

52. In response to the Chairman's and Mr Steven HO's concerns, DDFEH(A&D) assured members that the Administration would take into account members' views for better consulting stakeholders at the coming liaison meetings with the trade tentatively scheduled for September and October 2017. The Administration would finalize the fee revision proposal as appropriate having regard to members' views and the outcome of the consultation with the trade. It planned to consult the Panel on the finalized proposal in late 2017.

53. Having regard to the Administration's timetable for public consultation and legislative process for implementing the fee adjustment, the Chairman suggested and members agreed that a special Panel meeting be held in September or October 2017 to receive public views on the Government's review of fees and improvement measures for liquor licensing services.

54. Mr Steven HO and Ms Tanya CHAN considered it necessary for the Administration to prepare and issue a paper on the proposed review of fees and improvement measures for liquor licensing services to facilitate consultation with the trade and solicitation of views from the public. The Administration was requested to provide the Panel with the same paper for discussion at the special meeting. The Chairman asked the Clerk to check members' availability and schedule the special meeting in consultation with her.

*(Post-meeting note: Having checked members' availability and with the concurrence of the Chairman, the special Panel meeting was scheduled for Friday, 22 September 2017 at 2:30 pm. The notice of the meeting was issued to members vide LC Paper No. CB(2)1996/16-17 on 3 August 2017.)*

Action

**VI. Any other business**

55. There being no other business, the meeting ended at 5:00 pm.

Council Business Division 2  
Legislative Council Secretariat  
4 October 2017



邵家臻立法會議員辦事處  
Shiu Ka Chun Legislative Council Member's Office

立法會CB(2)1875/16-17(01)號文件  
LC Paper No. CB(2)1875/16-17(01)

本函檔號：SKC/LC/2017/0702

香港添馬添美道2號政府總部東翼18樓

食物及衛生局  
陳肇始局長：

### 有關「小販管理的執法策略」查詢

抱歉本人因事未能出席 11/7/2017 立法會「食物安全及環境衛生事務委員會」會議，然而本人就當天「小販管理的執法策略」的議程，曾拜訪一直關心小販的學者及民間團體以聽取意見。為此，本人現致函當局，冀在「管理層面」、「編制層面」、「小販認可區」及「政策檢討」四方面查詢以下問題，盼局方能以書面回覆。

#### A. 管理層面：

由殖民時期開始，香港小販政策已有百多年的發展歷史，市民對食環署小販管理隊的基本期望是訓練有素及指引清晰；然而，小販管理隊繼 2006 年天水圍打擊街頭販賣致發生小販溺斃河中事件以來，至今仍不時發生各式各樣的無理逮捕無牌小販事件。翻查資料，過去 10 年具爭議性的票控或遞捕並不涉及大規模有組織的無牌販賣，相反當中只屬相當小額的金錢，而且往往會在未有警告的情況下票控老弱傷殘人仕。

#### A1. 食環署現正向小販管理隊提供什麼培訓？可否呈交相關資料內容(不涉行動

機密部份)？培訓當中，有沒有一套「先警告，後執法」的行動指引？

#### A2. 食環署現正要求小販管理隊怎樣的工作指引？可否呈交相關資料內容(不涉

行動機密部份)？食環署內部每天或每月是否有「指定檢控數字」的要求？

#### A3. 食環署未來將有什麼方法加強監察員工的表現？會否考慮設立獨立投訴機

制及攝錄執行檢控的過程等建議？

#### A4. 公眾人仕要求食環署一視同仁的執法標準，但為何署方職員往往予人偏頗執

法，只針對無力反抗及走避的老弱傷殘人仕呢？

#### A5. 食環署如何解釋近年多宗爭議事件最終署方選擇自行撤控？



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**A6. 食環署現時如何處理市民投訴無牌小販？如何平衡區內同時也有支持小販擺賣的聲音？**

**A7. 食環署對於處理投訴個案的積極性，似乎遠較回應社區人士支持設立社區墟市的動機為低；其中的例子就包括團體（北區墟市節聯席）申請上水天光墟用地作為社區市集一年，但遲遲未獲批准及約見，當中障礙為何？**

**B. 編制層面：**

文件顯示，小販管理隊現共有 190 隊，合共 2200 多人；主要管理的只是持牌小販 5,900 人，無牌小販 1,450 人，投訴 13,500 宗。然而，根據財政預算資料顯示，上述效果的成本，小販管理工作預算開支竟高達數以億計的公帑。

**B1. 政府究竟是根據什麼準則設定小販管理隊的編制？**

**B2. 粗略計算，政府管理一個持牌小販、管理一個無牌小販、以及處理一個投訴個案的金錢成本是多少？**

**C. 小販認可區：**

香港現時只剩下 44 個及 14 個離街小販市場（前為臨時小販市場），與及 75 個公眾熟食市場（部份與前類重疊）；而當中文件中首次提及劃定新的「小販認可區」的可能性，看來政府有意開放考慮新的小販認可區建議。然而，政府同時又提出遷置離街小販市場（如欽州街小販市場）及清拆熟食小販市場（如長沙灣臨時熟食市場），令人感到政策方向不一，標準不明。

**C1. 政府究竟是根據什麼準則發展或清拆相關的「小販認可區」？否否統一的考慮標準？**

**C2. 政府理解新的「小販認可區」屬於哪一種？有什麼相關的建議程序？**



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#### D. 政策檢討：

2013 年政府宣佈撥款二億，為期五年進行全港小販檔口更新資助計劃。根據官方資料，食環署至今已經回收小販牌照 764 宗以上，估計在 2018 年計劃結束前，將會有大量小販因年老及其他原因放棄牌照，以領取退牌港幣 12 萬特惠金。政府早前曾承諾會積極考慮重發小販牌照以穩定持牌小販數字，惟現在仍未見有任何對持份者的諮詢程序。更重要的是，政府應總結有關小販及墟市政策（尤為議而未決與及影響現時持牌小販的相關部份），並於最遲在 2018 年發表諮詢文件，以開展全面廣泛的政策諮詢。

**D1. 由 2013 年 6 月 30 日至 2016 年 6 月 30 日為止，全港已回收多少個小販**

**牌照呢？請依年份及種類提供資料。**

**D2. 政府有否計劃開展小販墟市政策公開諮詢？有否相關的工作計劃及日程？**

如有覆示，請以郵件回覆至香港中區立法會道 1 號立法會綜合大樓 1018 室或傳真至 2346 8838。如有任何查詢，請與本辦事處職員曾醒祥先生聯絡（電話：2346 8669；電郵：[jordi@shiukachun.org.hk](mailto:jordi@shiukachun.org.hk)）。

敬祝 台安

食物安全及環境衛生事務委員會委員



邵家臻 謹啟

二零一七年七月十日

副本送：

立法會食物安全及環境衛生事務委員會  
黃碧雲主席