

立法會 *Legislative Council*

LC Paper No. CB(2)1809/16-17(04)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

Background brief prepared by the Legislative Council Secretariat for the meeting on 11 July 2017

Hawker management and control

Purpose

This paper provides background information on current enforcement strategies adopted by the Food and Environmental Hygiene Department ("FEHD") in respect of hawker management and control, and summarizes major views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the subject.

Background

2. According to information available on FEHD's website, to control hawking activities, a total of 190 squads of Hawker Control Teams ("HCTs")¹ are deployed at district and division levels². HCTs are responsible in both the management of licensed hawkers and control of unlicensed hawkers. The staff establishment of the hawker control officer grade in 2014, 2015 and 2016 (position as at 1 April of the relevant year) was 2 209, 2 210 and 2 243 respectively.

Enforcement strategies against hawking activities

3. FEHD's current enforcement strategies are as follows:

¹ There are 124 squads in Hong Kong and Kowloon, and 66 squads in the New Territories.

² 26 squads of HCTs, i.e. the Divisional Task Force, are deployed at the division level (15 squads in Hong Kong and Kowloon divisions and 11 squads in the New Territories division).

- (a) HCTs continue to take stringent enforcement action against unlicensed hawkers selling prohibited/restricted food or cooked food;
- (b) HCTs maintain hawker-free situation in major thoroughfares, areas of high pedestrian flow (e.g. heavily used footbridges, MTR Lines/ West Rail Lines/Light Rail Lines entrances/exits, ferry concourse and bus termini, tourist spots and pedestrian precincts, etc.) and places under repeated complaints of hawking activities; and
- (c) provided that food and environmental hygiene would not be compromised, HCTs will issue verbal warning to licensed hawkers or unlicensed hawkers (selling non-food dry goods) if and when they cause obstruction or are subject of complaint. If the verbal warning is not heeded, HCTs will take the normal course of enforcement and seizure action.

4. In discharging their duties, officers of HCTs inspect licensed fixed-pitch hawker stalls regularly, regulate the operation of itinerant hawkers to ensure that they do not cause street obstruction, and conduct sector patrols and raids at hawker black-spots.

Members' views and concerns

5. Members' major views and concerns on issues relating to hawker management and control are summarized below.

Need for reviewing the existing hawker control policy

6. There were views that hawking provided a means of living for some grass-root people, especially those low-income and unemployed persons. The Administration should review its hawker control policy, including the question of whether to totally eradicate hawking activities. There were also suggestions that in order to preserve the hawking trade, consideration should be given to issuing new hawker licences to interested operators and setting up "hawker permitted areas" in areas of high pedestrian flow to regulate unlicensed hawking activities.

7. According to the Administration, street hawking in Hong Kong had a long history. While some people held the view that hawking provided customers with a cheap supply of goods, it also gave rise to environmental nuisances and hygiene problems. There were also complaints that street

hawking posed unfair competition to operators of on-street shops and market stall tenants who paid full rent for their trading premises or stalls. Against this background, the Administration introduced a voluntary surrender scheme for itinerant hawkers to gradually reduce the number of licensed hawkers. Nevertheless, in view of the economic downturn in 2001, FEHD had adopted flexibility in taking enforcement action against hawking activities provided that food and environmental hygiene would not be compromised. As a general rule, in places not considered as black-spots, hawking activities would be accorded a lower priority for enforcement. The hawkers would be verbally warned to disperse, and prosecution action would follow if the verbal warning was unheeded.

8. Regarding the suggestion of designating "hawker permitted areas", the Administration advised that it maintained an open position towards the proposal and would consider the feasibility of designating "hawker permitted area" at specific locations so recommended by the respective District Council ("DC") and with the support of the parties concerned including residents and shop keepers/retailers/market stall lessees in the vicinity.

Effectiveness of hawker control and enforcement

9. In light of growing number of disputes and conflicts between HCT officers and unlicensed hawkers during HCT enforcement operations, enquiry was raised as to whether the operational guidelines issued by FEHD were made available to the public and clear to HCT officers. Concern was also raised on whether performance of HCTs was evaluated in terms of enforcement and arrest actions taken.

10. The Administration advised that it was clearly laid down in the operational guidelines issued by FEHD that the effectiveness of hawker control was not evaluated in terms of arrest or prosecutions figures. HCT officers would give verbal warning first before taking enforcement action, and prosecution action would be taken only if the verbal warning was not heeded. Besides, in the event that elderly or disabled hawkers were involved, HCT officers would exercise their powers in a reasonable manner having regard to the actual circumstances. To render anti-hawking operations more effective, the following improvement measures had also been implemented:

- (a) to avoid arguments that hawkers might not know which locations were classified as black-spots at which no prior warning would be given before taking enforcement action against hawking offences, DCs would be provided with an updated list of such areas in their respective districts at regular intervals;

- (b) 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; and
- (c) to enhance the skills of HCT staff in handling crises/incidents, focused training courses would be organized for HCT staff.

Latest developments

11. There has been much public concern about a recent incident in which a 75-year-old woman, who collects cardboard to make a living, was charged by an HCT for unlicensed hawking on the street when a domestic helper got several pieces of cardboard from her for \$1. Although the charge was withdrawn subsequently on the advice of the Department of Justice, this operation of HCT has attracted criticism over FEHD's enforcement and prosecution against hawking activities. At the request of members, the Administration will brief the Panel on the subject matter at the meeting on 11 July 2017.

Relevant papers

12. A list of relevant papers on the Legislative Council website is in the **Appendix**.

Relevant papers on hawker management and control

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	11.7.2006 (Item VI)	<u>Agenda</u> <u>Minutes</u>
Legislative Council	18.5.2011	<u>Written question raised by Hon WONG Kwok-hing on "Hawker control and management" (Question 10)</u>
Panel on Food Safety and Environmental Hygiene	12.5.2015 (Item VII)	<u>Agenda</u> <u>Minutes</u>
Report of Subcommittee on Hawker Policy under the Panel on Food Safety and Environmental Hygiene	-	<u>Report of Subcommittee on Hawker Policy (LC Paper No. CB(4)1497/14-15)</u>