

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

HEAD 49 – FOOD AND ENVIRONMENTAL HYGIENE DEPARTMENT Subhead 000 Operational expenses

Members are invited to recommend to Finance Committee the creation of the following supernumerary post in the Food and Environmental Hygiene Department with immediate effect upon approval of the Finance Committee up to 29 June 2022 –

1 Senior Principal Executive Officer
(D2) (\$171,200 - \$187,150)

PROBLEM

We need to strengthen the staffing support at the directorate level in the Private Columbaria Affairs Office (PCAO) under the Food and Environmental Hygiene Department (FEHD) for the implementation of the regulatory regime on private columbaria.

PROPOSAL

2. We propose to create a supernumerary Senior Principal Executive Officer (SPEO) (D2) post in the FEHD, designated as Assistant Director (Private Columbaria) (AD(PC)), with immediate effect upon the approval of the Finance Committee up to 29 June 2022, to support the Head, Private Columbaria Affairs Office (H, PCAO), an Administrative Officer Staff Grade B post (D3), in leading the PCAO under the FEHD to implement the regulatory regime under the Private Columbaria Ordinance (Cap. 630) (the Ordinance).

/JUSTIFICATION

JUSTIFICATION

3. The Ordinance, which introduces a licensing scheme to regulate the operation of private columbaria, came into effect on 30 June 2017. Our policy objectives include ensuring compliance with the statutory and Government requirements, enhancing protection of consumer interests and fostering the adoption of a sustainable mode of operation by private columbaria. The Ordinance introduces for the first time a regulatory regime on private columbaria. Tackling the historical legacy of private columbaria is a daunting task not only because of the sensitivity of involving the ashes of deceased persons who are related to hundreds of thousands of families, but also because of the conflicting interests of different stakeholders, including operators, consumers, nearby residents, family members of the deceased persons, etc. To implement the Ordinance, a dedicated office, the PCAO, has been set up under the FEHD. The PCAO is headed by the H, PCAO which is a five-year supernumerary post created on 30 June 2017 following the enactment of the Ordinance. The H, PCAO also assumes the role of serving as the Chairperson of the Private Columbaria Licensing Board (PCLB) set up under the Ordinance to deliberate applications for specified instruments (SIs), i.e. licence, exemption or temporary suspension of liability (TSOL) under the Ordinance, taking into account all relevant circumstances including views regarding compliance with requirements relating to planning, land, building and fire safety, rights to use the premises, environmental protection, electricity and lift/escalator safety, management, financial arrangement, etc.

Major Responsibilities of the PCAO

4. The PCAO comprises a PCLB Secretariat, a Licensing Team, an Enforcement Team, and a Branch Administration Unit.

(a) PCLB Secretariat

5. A statutory PCLB is set up under the Ordinance to consider and determine applications for SIs, to formulate relevant guidelines, procedures and mechanisms, and to impose conditions on the SIs as it thinks appropriate. The H, PCAO chairs the PCLB and supervises the work of the PCLB Secretariat which provides secretariat support to the PCLB. The Secretariat also assists the PCLB in formulating its rules and procedures, guidelines and declaration of interest arrangements; preparing meeting papers and minutes; making arrangements for conducting Board meetings; and public communication of PCLB's work such as information on applications received, decisions on SI applications and key information about the SIs granted.

/(b)

(b) Branch Administration Unit (BAU)

6. The BAU in the PCAO provides administrative support to the PCLB Secretariat, the Licensing Team and the Enforcement Team.

(c) Licensing Team

7. The Licensing Team provides executive support to the PCLB in discharging its statutory functions. The PCLB started accepting applications for SIs on 30 December 2017. All pre-cut-off columbaria¹ must submit their applications on or before 29 March 2018. The Licensing Team carries out executive work relating to the handling of SI applications, including –

- (a) preparing application guidelines, application forms, management plan template, forms of SIs, sales agreement templates, as well as guidelines for maintaining a register of such agreements and a register on interment and disinterment of ashes, etc.;
- (b) conducting sessions to brief prospective applicants on the eligibility criteria and procedures for making applications;
- (c) formulating protocol and operation manual with relevant bureaux and departments to put in place elaborate procedures for processing applications received in a coordinated manner;
- (d) vetting huge amounts of particulars contained in the applications and coordinating with more than ten other relevant bureaux and departments in vetting compliance with various legislative, Government and other application requirements including town planning, land use, building and fire safety, rights to use the premises, environmental protection, electricity and lift/escalator safety, crowd and traffic management, plans covering ash interment layout, ash interment capacity, ash interment quantity, as well as financial proposal, etc.;
- (e) conducting on-site inspections to check factual accuracy of the information submitted in the applications;
- (f) making recommendations on any requirements on the applications to be imposed by the PCLB and any conditions to be attached to the SIs to be granted by the PCLB, in consultation with relevant bureaux and departments; and
- (g) handling enquiries and complaints from stakeholders.

/(d)

¹ A “pre-cut-off columbarium” means a columbarium that was in operation, and in which ashes were interred in niches, immediately before 8:00am on 18 June 2014.

(d) Enforcement Team

8. The Enforcement Team in the PCAO undertakes enforcement work against the operators of private columbaria who contravene provisions in the Ordinance, particularly in respect of –

- (a) sale of niches or interment rights without a licence after the Ordinance comes into operation;
- (b) improperly disposing of ashes in their columbaria;
- (c) continuing operation without valid SIs after the expiry of the grace period specified in the Ordinance;
- (d) continuing operation after their applications for new issue or renewal of licence, exemption and TSOL (as the case may be) have been rejected and appeals, if lodged, dealt with; and
- (e) failing to comply with the conditions imposed by the PCLB.

9. It is necessary to put in place brand-new procedures, guidelines and mechanisms on the handling of concerned complaints, conducting of investigations, collecting of evidence and taking out of prosecutions against the new offences in the Ordinance. The actual investigation and prosecution work is also complicated and contentious.

10. While the primary responsibility for proper disposal of ashes kept by a private columbarium rests squarely with the columbarium operator concerned, the Enforcement Team will need to be proactive in ensuring that this is done and to keep information on ash disposal by columbaria. The ash disposal procedures are highly complicated as it involves personal data of claimants, court procedures on occupation orders and claiming of ashes and items displaced from the niches. Also, it could become a sensitive issue when we come to the final disposal of unclaimed ashes. If many columbaria cease operation, it could take a long time (could be in terms of years) for FEHD to handle all the ashes. In view of the sensitive nature of ash disposal and likely significant concerns of the family members of the deceased persons, it is necessary for the management of PCAO to closely supervise and steer the enforcement work and the handling of disputes and complaints from parties concerned.

/Need

Need for the creation of the proposed AD(PC) post

11. We propose to create the supernumerary post of AD(PC) to support the H, PCAO having regard to the wide range of complicated and contentious issues as follows –

- (a) the applications for licences have to comply with various requirements relating to planning, lands, building safety, fire safety, rights to use premises, etc. According to the information gathered by the Development Bureau (DevB) and under the Notification Scheme² administered by FEHD as well as the information obtained in the course of processing the applications received, the majority of existing private columbaria do not fully comply with these requirements. The relevant regularisation/rectification work is a complex process and may involve disputes. Furthermore, many unanticipated complications may arise in processing the applications;
- (b) the work is contentious. We expect significant conflicts in interests among different stakeholders, particularly between the private columbaria operators and residents nearby. Resolving the conflicts would not be easy, given the financial stakes involved, residents' concern about their living environment and the interests of consumers affected by the cessation of columbarium operations. In addition, we would not under-estimate the possible reactions of land/premises owners whose properties would be affected by the ash disposal procedures upon cessation of columbarium operations; and
- (c) the workload is also heavy. As at 22 October 2018, some 340 applications for SIs from a total of 140 private columbaria are under processing³. The PCAO is now intensively engaged in the meticulous work relating to vetting and liaising with applicants, coordination with other bureaux and departments and relevant parties, inspections, handling enquiries and complaints. Some vetting necessitates verification of the legality of actions taken/instruments entered into decades ago. Upon the issue of the determination of PCLB on the applications, appeals or even judicial reviews may need to be handled as well.

/12.

² In June 2014, FEHD rolled out an administrative Notification Scheme to invite private columbaria operators to provide information about the operation of their columbaria.

³ As of close on 29 March 2018 (being the deadline for submission of applications for SIs in respect of pre-cut-off private columbaria), applications for SIs have been submitted by 144 private columbaria. Subsequently, the applications from three private columbaria were withdrawn by the applicants and the application from one private columbarium was returned to the applicant due to no concrete information.

12. The PCAO is now at a critical stage of the implementation of the Ordinance. It has to formulate and consolidate numerous systems, mechanisms, guidelines, procedures and operation manuals covering a wide spectrum of aspects including licensing, enforcement, ash disposal, administrative, financial, personnel, complaint handling, information databases and processing systems, public education and publicity, staff training. While the H, PCAO will focus more on the directions and strategies as well as interface among different systems, procedures and guidelines, the proposed AD(PC) will provide important directorate support to the H, PCAO in the detailed formulation and closely driving the implementation of these systems, mechanisms, guidelines, procedures and operation manuals as well as in enhancing publicity, public education and engagement.

13. Moreover, the number of SI applications received is much higher than expected as some private columbaria not on DevB's list have come forward to submit applications and quite a lot of private columbaria submitted more than one set of SI applications. In view of the sensitive and complex nature of columbarium operation and the application requirements for SIs, it is necessary to provide close management attention to and guidance and supervision over the handling of each and every application for SIs, to ensure that the applications are processed most expeditiously with close coordination with a huge number of relevant bureaux and departments to identify problems as early as possible and work out solutions efficiently. This is important particularly as it is in the public interest to have these applications determined as early as possible so as to resume the supply of private niches, allow the interment of ashes in niches already sold and give comfort to the family members of the deceased persons about the continued operation of those columbaria they are concerned with. While the H, PCAO will focus more on resolving overall policies and approaches in handling major issues that are applicable to various SI applications, the proposed AD(PC) will provide important management support to the H, PCAO in helping to expedite and closely supervise the processing of individual SI applications, especially in this critical period in which a huge number of applications for various types of SIs have come at around the same time.

14. On the enforcement side, it is expected that a considerable number of existing private columbaria may be closed down in the coming years because their applications for SIs may eventually be rejected by the PCLB as they are unable to meet the application requirements. The PCAO is also required to handle complaints against operators of the private columbaria (e.g. about cases of illegal columbarium operation or abandoned columbaria) and conduct investigations. Besides, the PCAO also has to carry out disposal of ashes displaced from the abandoned private columbaria and deal with lots of controversies and arguments

/raised

raised by the claimants of ashes and related items in the urns. Taking enforcement actions against illegal columbaria and ash disposal operations against those private columbaria which cease operation require tact, sensitivity and judgment. In view of the high complexity and great sensitivity of the issues, the proposed creation of the AD(PC) post to support the H, PCAO is crucial.

15. We consider that an SPEO with rich executive experience in different parts of the Government and a rich management horizon is considered necessary to take up such work given the complexity and intricacy of the matters straddling planning, coordination, implementation and stakeholder engagement issues to enable the H, PCAO to focus more on matters at the policy and strategic levels.

16. We propose to create a supernumerary post of the AD(PC) at the SPEO rank to support H, PCAO in leading PCAO to implement the regulatory regime under the Ordinance. The tenure is proposed to tie in with that of the H, PCAO post, i.e. up to 29 June 2022. The proposed job description of the AD(PC) post and organisation chart of the PCAO are at Enclosures 1 and 2 respectively.

Encl. 1 & 2

Non-directorate support

17. The proposed AD(PC) post will be supported by a team of about 60 non-directorate staff, comprising those in the Administrative Officer, Executive Officer, Health Inspector, secretarial and clerical grades.

ALTERNATIVES CONSIDERED

18. We have critically examined whether the duties of the proposed directorate post could be absorbed by the existing relevant Assistant Directors (ADs). Having regard to their portfolio and current workload as well as the complexity and huge volume of work involved in the implementation of the Ordinance, we consider it not feasible for the existing ADs to absorb any such additional work without compromising the delivery of their existing duties. The existing organisation chart of FEHD and the details of the work schedule of the existing relevant ADs are at Enclosures 3 and 4 respectively.

Encl. 3 & 4

FINANCIAL IMPLICATIONS

19. The proposed creation of the supernumerary SPEO post will incur an additional notional annual salary cost at mid-point of \$2,179,800. The additional full annual average staff cost, including salaries and staff on-cost, is \$2,916,000. FEHD has included the necessary provision in the 2018-19 Estimates and will reflect the resources required in the Estimates of subsequent years.

/PUBLIC

PUBLIC CONSULTATION

20. The Panel on Food Safety and Environmental Hygiene was consulted on the proposed creation of the supernumerary SPEO post on 13 February 2018. Members supported the submission of this proposal to the Establishment Subcommittee.

ESTABLISHMENT CHANGES

21. The establishment changes in FEHD for the last two years are as follows –

Establishment (Note)	Number of posts		
	Existing (as at 1 December 2018)	As at 1 April 2017	As at 1 April 2016
A	15+(3) [#]	15	15
B	322	308	297
C	10 858	10 856	10 877
Total	11 195 +(3)	11 179	11 189

Note :

A – ranks in the directorate pay scale or equivalent

B – non-directorate ranks, the maximum pay point of which is above MPS Point 33 or equivalent

C – non-directorate ranks, the maximum pay point of which is at or below MPS Point 33 or equivalent

() – number of supernumerary directorate posts created with the approval of the Establishment Subcommittee and Finance Committee

– as at 1 December 2018, there was one unfilled directorate post in FEHD.

CIVIL SERVICE BUREAU COMMENTS

22. The Civil Service Bureau supports the proposed creation of the supernumerary SPEO post. The grading and ranking of the post are considered appropriate having regard to the level and scope of responsibilities.

ADVICE OF THE STANDING COMMITTEE ON DIRECTORATE SALARIES AND CONDITIONS OF SERVICE

23. As the directorate post is proposed on a supernumerary basis, its creation, if approved, will be reported to the Standing Committee on Directorate Salaries and Conditions of Service in accordance with the established procedure.

**Job Description for the Post of
Assistant Director (Private Columbaria)**

Rank : Senior Principal Executive Officer (D2)

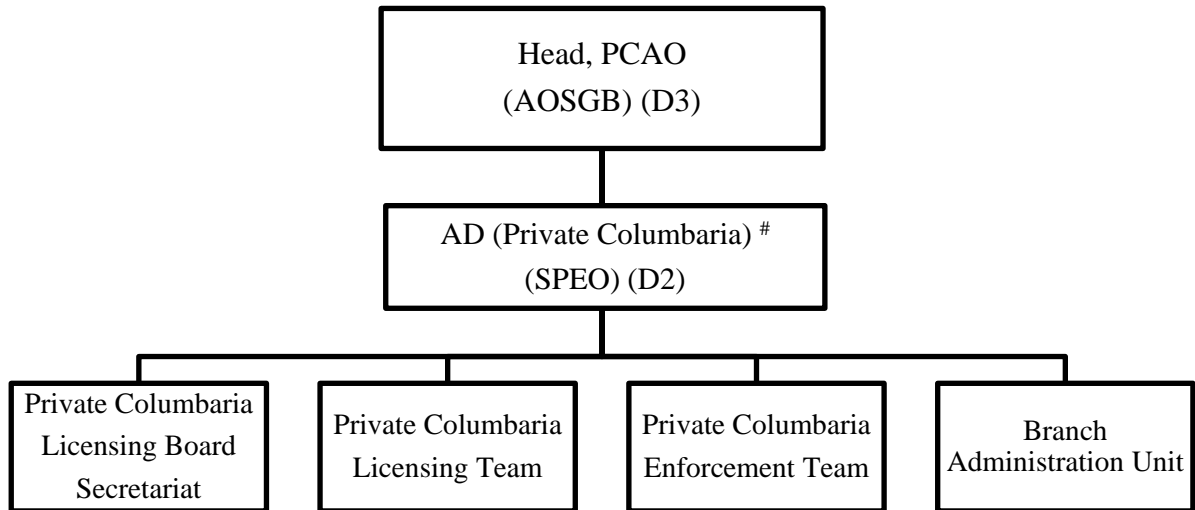
Responsible to : Head, Private Columbaria Affairs Office (H, PCAO)

Main Duties and Responsibilities –

1. To support H, PCAO in the implementation of the Private Columbaria Ordinance (PCO) by assisting in reviewing and enhancing systems, mechanisms, procedures and guidelines and coordinating matters at a senior level that cut across bureaux and departments.
2. To support H, PCAO in handling major issues regarding the Private Columbaria Licensing Board (PCLB) and any other matters relating to the provision of secretariat support to the PCLB.
3. To assist H, PCAO in supervising a multi-disciplinary team of staff in the PCAO and overseeing the overall administration of the PCAO pertaining to appointment, personnel, establishment, conditions of service, staff management and planning issues, accommodation, financial management, records management, IT support, procurement of special services and direct purchase of goods and office equipment, green management and occupational safety, complaints and enquiries, etc.
4. To support H, PCAO in overseeing specified instrument holders' compliance with conditions imposed on specified instruments by the PCLB.
5. To support H, PCAO to handle complaints against operators of the private columbaria and investigate into the allegations; and to plan and oversee enforcement actions against illegal private columbaria and other breaches of provisions in the PCO.
6. To support H, PCAO to implement disposal of ashes displaced from closed-down private columbaria and deal with controversies or arguments raised by the claimants of ashes and other parties.

7. To support H, PCAO to handle sensitive and complex issues having regard to the interests of different stakeholders; and to resolve issues relating to the handling of disputes, objections, appeals and possibly judicial reviews to be lodged against the PCLB or the Director of Food and Environmental Hygiene under the PCO.
8. To support H, PCAO in formulating overall strategy and action plans on publicity, public education and public engagement and overseeing their effective implementation.

**Organisation Chart of the Private Columbaria Affairs Office (PCAO),
Food and Environmental Hygiene Department**

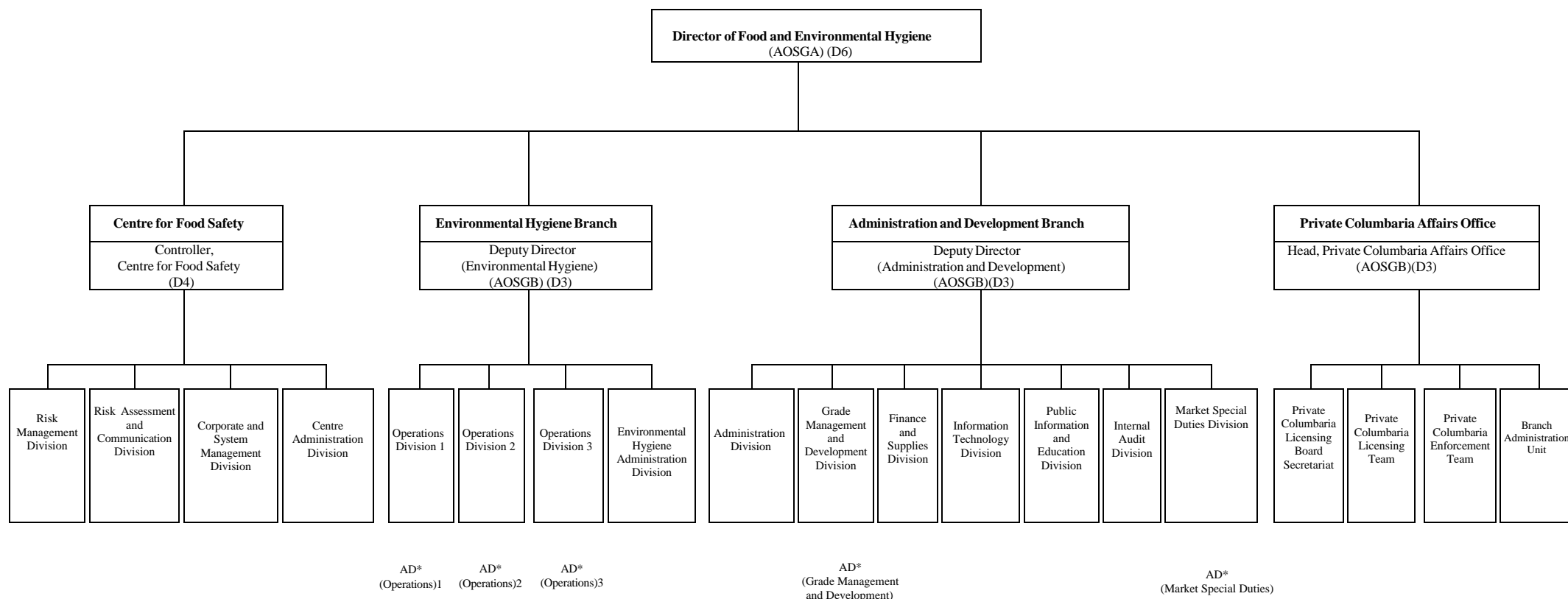


Legend:

AD - Assistant Director
AOSGB - Administrative Officer Staff Grade B
SPEO - Senior Principal Executive Officer

Proposed new post

Organisation Chart of the Food and Environmental Hygiene Department



* AD - Assistant Director

**Major Duties and Responsibilities of
the Existing Relevant Assistant Directors of
Food and Environmental Hygiene Department**

Assistant Director (Operations)1

- Overall command of district environmental hygiene operations and facilities in the Central/Western, Eastern, Islands, Southern and Wan Chai Districts, including market management, refuse collection, street cleansing, public toilets, hawker control, inspection of licensed premises and law enforcement
- Management of centralized functions for the five districts including the Prosecution and Licensing Office, Duty Room and Hawker Control Task Force
- Regular review and planning of the provision of environmental hygiene services and facilities for the five districts
- Formulation, promulgation and review of procedures, standards and strategies on licensing, prosecution, environmental hygiene and licensing enforcement matters
- Overseeing the provision of support services to Liquor Licensing Board on liquor licensing matters
- Processing of applications for review to the Licensing Appeals Board (LIAB) and the Municipal Services Appeals Board (MSAB) as appropriate in respect of licensing matters of food and non-food premises

Assistant Director (Operations)2

- Overall command of district environmental hygiene operations and facilities in the Kowloon City, Kwun Tong, Mong Kok, Sham Shui Po, Wong Tai Sin and Yau Tsim Districts, including market management, refuse collection, street cleansing, public toilets, hawker control, inspection of licensed premises and law enforcement
- Management of centralized functions for the six districts including the Prosecution and Licensing Office, Duty Room and Hawker Control Task Force

/Regular

- Regular review and planning of the provision of environmental hygiene services and facilities for the six districts
- Formulation, promulgation and review of procedures, standards and strategies on hawker and market management
- Processing of applications for review to the LIAB and the MSAB as appropriate in respect of hawker and market matters

Assistant Director (Operations)³

- Overall command of district environmental hygiene operations and facilities in the Kwai Tsing, North, Sai Kung, Sha Tin, Tai Po, Tsuen Wan, Tuen Mun and Yuen Long Districts, including market management, refuse collection, street cleansing, public toilets, hawker control, inspection of licensed premises and law enforcement
- Management of centralized functions for the eight districts including Prosecution and Licensing Office, Duty Room, Mechanized Cleansing Services Unit and Hawker Control Task Force
- Regular review and planning of the provision of environmental hygiene services and facilities for the eight districts
- Formulation, promulgation and review of procedures, standards and strategies on public cleansing, waste collection (including planning and supporting work to tie in with the implementation of the Municipal Solid Waste Charging Scheme) and pest control services
- Management and operation of the Intelligence Unit
- Branch Safety Officer and contribution in bringing about improvement to health and safety at work of staff
- Formulation and review of procedures and standards on slaughtering activities and overseeing of slaughterhouses operations including meat inspection services
- Coordination of influenza/coronavirus disease related matters including coordination of cross division operations

/Assistant

Assistant Director (Grade Management and Development)

- Development of a comprehensive Human Resources Management strategy for Environmental Hygiene grades (e.g. Health Inspector, Hawker Control Officer and Foreman etc.)
- Grade management and development for Environmental Hygiene grades
- Outsourcing
- Training programmes for Environmental Hygiene grades
- Management services/Value for money studies
- Surveys and statistics
- Quality Assurance
- Formulation and review of procedures and standards on cemeteries, columbaria and crematoria services and management of public cemeteries, columbaria and crematoria

Assistant Director (Market Special Duties)

- Taking forward a fundamental review of the facilities and management of public markets
- Putting in place a mechanism for more effective and efficient implementation of major improvement works projects for existing markets, cooked food centres and cooked food markets and overseeing the implementation of such major improvement works projects
- Formulating overall strategies, identifying markets for priority actions and working out implementation plans for revitalisation and consolidation of under-utilized markets
- Taking forward air-conditioning projects and related issues with a view to improving the operating environment of the Food and Environmental Hygiene Department (FEHD) markets, ensuring the sustainability of the improvements and tackling any ancillary issue
- Reviewing and enhancing the mode of operation and management of public markets, including reviewing the market management consultation mechanism; and enhancing the engagement with relevant stakeholders

/Conducting

- Conducting a comprehensive review of the adjustment mechanisms for rents and rates, taking into account the role of FEHD markets
- Reviewing and formulating enhanced enforcement strategies and related matters
- Formulating enhanced strategies and implementation plans for strengthening marketing and promotion of public markets
- Reviewing and enhancing the design standards for stalls for selling different types of fresh food products and ancillary facilities in new public markets to better serve the needs of the public and to achieve business viability; assessing the merits of any proposals for new markets; and overseeing the implementation of new public market projects
