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ENVIRONMENT AND ECOLOGY BUREAU
(FOOD BRANCH)
GOVERNMENT SECRETARIAT

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2 January 2024

Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road Central, Hong Kong
(Attn: Ms. Shirley Chan)

Dear Ms. Chan,

Public Accounts Committee
Consideration of Chapter 2 of the Director of Audit's Report No. 81

Licensing of food premises

Thank you for your letter dated 15 December 2023 to the Secretary for Environment and Ecology regarding Chapter 2 of the Director of Audit's Report No. 81 – Licensing of food premises. The consolidated reply of the Environment and Ecology Bureau and the Food and Environmental Hygiene Department is enclosed at **Annex.**

Your sincerely,

A handwritten signature in black ink, appearing to be "Wendy AU".

(Ms. Wendy AU)

for Secretary for Environment and Ecology

c.c. Director of Food and Environmental Hygiene
Director of Buildings
Director of Fire Services
Director of Home Affairs
Secretary for Financial Services and the Treasury
Director of Audit

Ch 2 of the Director of Audit's Report No. 81
"Licensing of food premises"

Part 1: Introduction

- (a) **with reference to Table 1 in paragraph 1.7 of the Audit Report, please explain the rationales behind the classification of different types of food business licences and whether such classification can be streamlined to accelerate the processing of applications:**

The classification of different types of food business licence largely follows relevant legal provisions: s. 31 of the Food Business Regulation, Cap. 132X, s. 5 of the Milk Regulation, Cap. 132AQ and s. 17 of the Frozen Confections Regulation, Cap. 132AC, which are made under s. 56 of the Public Health and Municipal Services Ordinance, Cap. 132. There are different licensing requirements, conditions and fees for different types of licence, and different Government departments may be involved when processing the applications. The trade is accustomed to the current regime and the Food and Environmental Hygiene Department (FEHD) believes that the classification system would not prolong the application process.

FEHD will continue to take into account the views of the catering trade and improve the licensing regime. For example, FEHD will introduce a "composite permit" in 2024 that covers multiple restricted food items to obviate the need for separate permit applications.

- (b) **referring to paragraph 1.10 of the Audit Report about the Environmental Hygiene Branch ("EHB") of the Food and Environmental Hygiene Department ("FEHD"), please provide/advise:**

- (i) **the staff establishment and strength of the three Regional Licensing Offices and 19 District Environmental Hygiene Offices ("DEHOs") under the three Operation Divisions of EHB as at 31 March in the period from 2018 to 2023 as well as the current situation;**

The required staff establishment and strength figures from 2018 to 2023 (as at 30.11.2023) is at Appendix.

***Note by Clerk, PAC:** Appendix not attached.

- (ii) whether FEHD has regularly reviewed the organization structure of EHB as shown in Appendix A with a view to shortening the processing time of applications for food business licences and permits and at the same time help reducing the workload and operating expenditure of FEHD; if not, why not; if yes, the details; and**

As mentioned in paragraph 1.10 of the Audit Report, while there are different divisions and offices under the Environmental Hygiene Branch (EHB), they carry out different functions with respect to food premises. For example, the three Licensing Offices are responsible for processing new food business licence applications, while the 19 District Environmental Hygiene Offices (DEHOs) are responsible for the regulatory control of the existing food business. At the same time, the offices are responsible for other regulatory and enforcement duties, such as regulatory control of non-food related licences and investigation of environmental hygiene related complaints. The current organisation structure has largely enabled EHB to perform its functions, and there are no particular organisational issues which hinder the processing of applications or cause unnecessary costs. That said, FEHD will continue to monitor and review various work processes with a view to identifying room for improvement and enhancing efficiency.

- (iii) given that the revenue received from the issue of food business licences and permits in 2022-2023 was only about \$5 million and the expenditure of FEHD offices responsible for the work in licensing and regulatory control of food premises amounted to about \$497 million, how FEHD could ensure that the processing of applications for food business licences and permits could achieve full cost recovery;**

As mentioned in Note 6 of the Audit Report, in 2022-23, to ease the operating pressure of food businesses during the COVID-19 epidemic, fees for all types of food business licences and permits were waived (except for temporary food factory licence and administration fee/levy such as amendment fee on transfer of licences). The revenue received from the issue of food business licences and permits was therefore exceptionally low in 2022-2023. For comparison purpose, the relevant revenue received was about \$166 million in 2018-2019 before the fee waiver exercise.

Further, as mentioned in Note 5 of the Audit Report, the expenditure of about \$497 million also included the expenditure of some other

environmental hygiene services of the respective offices. FEHD does not maintain a breakdown of expenditure which only involved the licensing and regulatory control of food premises.

In general, the fees for food business licences and permits were set in accordance with the user-pays principle, taking into account the work and costs involved in processing the respective types of licences and permits. FEHD is currently conducting a fees and charges review to see if the fees for food licences and permits continue to adhere to the aforementioned principle.

- (c) **with reference to paragraph 1.11 of the Audit Report, please explain the referral mechanism adopted by FEHD for processing the applications for food business licences and permits, including the circumstances under which referrals of applications are required to be made to other relevant government bureaux/departments (“B/Ds”) for comments and the relevant timeframes set for referrals;**

Upon receipt of an application for food business licence, FEHD will conduct a preliminary screening of the proposed plan(s) to ensure that the application and the plan(s) conform to the requirements, e.g. whether the submitted plan has covered the food room or sanitary fitments, before further processing. On passage of preliminary screening, depending on the type of food business licence, the application will be referred to other relevant B/Ds as appropriate. The general referral protocols could be accessed vide the following link:

https://www.fehd.gov.hk/english/howtoseries/forms/new/general_referral%20protocols.pdf

Depending on the circumstances of individual cases, case officers may refer a case to B/Ds other than those set out in the protocols as necessary. For example, for cases involving New Territories Exempted Houses, we will refer the cases to the Lands Department for comment.

The timeframes set for referrals are set out in Table 5 of the Audit Report.

- (d) **with reference to paragraph 1.13 of the Audit Report, please advise:**
- (i) **how and when an operator whose food business licence/permit has been suspended or cancelled can resume his business or re-apply for a new licence/permit;**
- Paragraph 1.13 refers to food business licence/permit that has been suspended/cancelled under the Demerit Points System and Warning Letter System. In this context, the suspension or cancellation of

licence is administered by FEHD as a penalty due to contravention of legislative or licensing requirements or conditions. For suspension of licence/permit, the licensee/permittee may resume business after the suspension period specified by FEHD. No application is required. For a licence/permit which has been cancelled, if the operator wishes to carry on business on the same premises, a fresh application for licence/permit has to be submitted. Under the current licensing regime, for a licence which has been cancelled under section 125(1)(b) of the Public Health and Municipal Services Ordinance, Cap.132 or surrendered for cancellation before sanction, any fresh application from the licensee or from his/her representative or business partner/proprietor for the same type of licence in relation to the same premises will not be accepted within 12 months from the date of cancellation of the licence.

(ii) the consequences/penalties for an operator who has his food business licence/permit suspended or cancelled; and

Suspension or cancellation of food business licence/permit would lead to loss of business revenue and reputational damage on the part of the licensee/permittee. For cancellation of licence/permit, the operator is also required to bear the administrative cost for obtaining a fresh licence/permit in order to continue the business.

(iii) measures to prevent such an operator from applying for new licences/permits repeatedly;

As mentioned above, for a licence which has been cancelled under section 125(1)(b) of the Public Health and Municipal Services Ordinance, Cap. 132 or surrendered for cancellation before sanction, any fresh application from the licensee or from his/her representative or business partner/proprietor for the same type of licence in relation to the same premises will not be accepted within 12 months from the date of cancellation of the licence.

For premises with food licence cancelled by FEHD, the incoming applicant of the same type of business is required to submit relevant documents like BRC to prove that he/she has no business connection with the former licensee or former business partner/proprietor. This is to prevent an ex-licensee from applying for food business licence repeatedly by submitting application through his/her business partner/proprietor. FEHD will also check an application against the particulars of ex-licensee.

- (e) **referring to paragraph 1.15 about the use of information technology by FEHD, please elaborate the features of the Licensing Management Information System (“LMIS”) 2 and 3, and the Online Licence Application Tracking Facility;**

LMIS 2 was rolled out in May 2023. It adopts business process management (BPM) system to handle new application of licences and permits, so all vital information including dates of incoming and outgoing correspondences, submissions, approvals, etc. can be tracked. The system automatically records key milestones of the application process. Alerts and notifications are in place to remind users (i.e. FEHD officers) of important milestones and timeframes. The system also facilitates information exchange with other B/Ds, as it includes functions to send out and receive memos, documents, plans, etc. Further, LMIS 2 compiles management reports for supervisory staff to monitor the progress of licence applications.

LMIS 3 is scheduled to be rolled out in 2025. It will make use of BPM system to control process handling of existing licences and permits, including renewal, transfer, layout alteration, etc. Enforcement functions associated with the Demerit Point System and Warning Letter System will also be provided in LMIS 3 to replace manual paper recording and counting. In addition, “e-inspection” for licensed and permitted premises will be enabled by LMIS 3, under which the findings and actions taken by staff during inspection will be recorded by electronic means and synchronised in the system. Annual risk assessment and classification of licensed premises will be handled by the system. Further, the new system will enable a licensee to check inspection results and various information by electronic means on the licensing portal.

The Online Licence Application Tracking Facility provides a platform for the food business licence applicant to keep track of and follow up with his/her application. After login, the applicant can check the status of the application and submit relevant documents or plans through the platform. By Q1 2024, an applicant may also have access to all correspondences sent by FEHD to him or her through the platform.

- (f) **according to paragraph 1.18 of the Audit Report and the opening statement made by the Secretary for Environment and Ecology at the public hearing, the Environment and Ecology Bureau (“EEB”) would provide policy steer and oversight for FEHD to take forward the Audit recommendations. Please advise the specific measures taken/to be taken by EEB to enhance the collaboration between FEHD and other relevant B/Ds in facilitating the processing of applications for food business**

licences and permits, particularly in respect of formulating timeframes for providing comments by B/Ds;

The Environment and Ecology Bureau (EEB) is committed to safeguarding food safety, environmental hygiene and public health, while facilitating the operations of food businesses. Over the years, EEB has provided policy steer and support to FEHD for implementing a wide range of initiatives to facilitate the processing of applications for food business licences and permits and enhance the effectiveness of regulatory control over food premises.

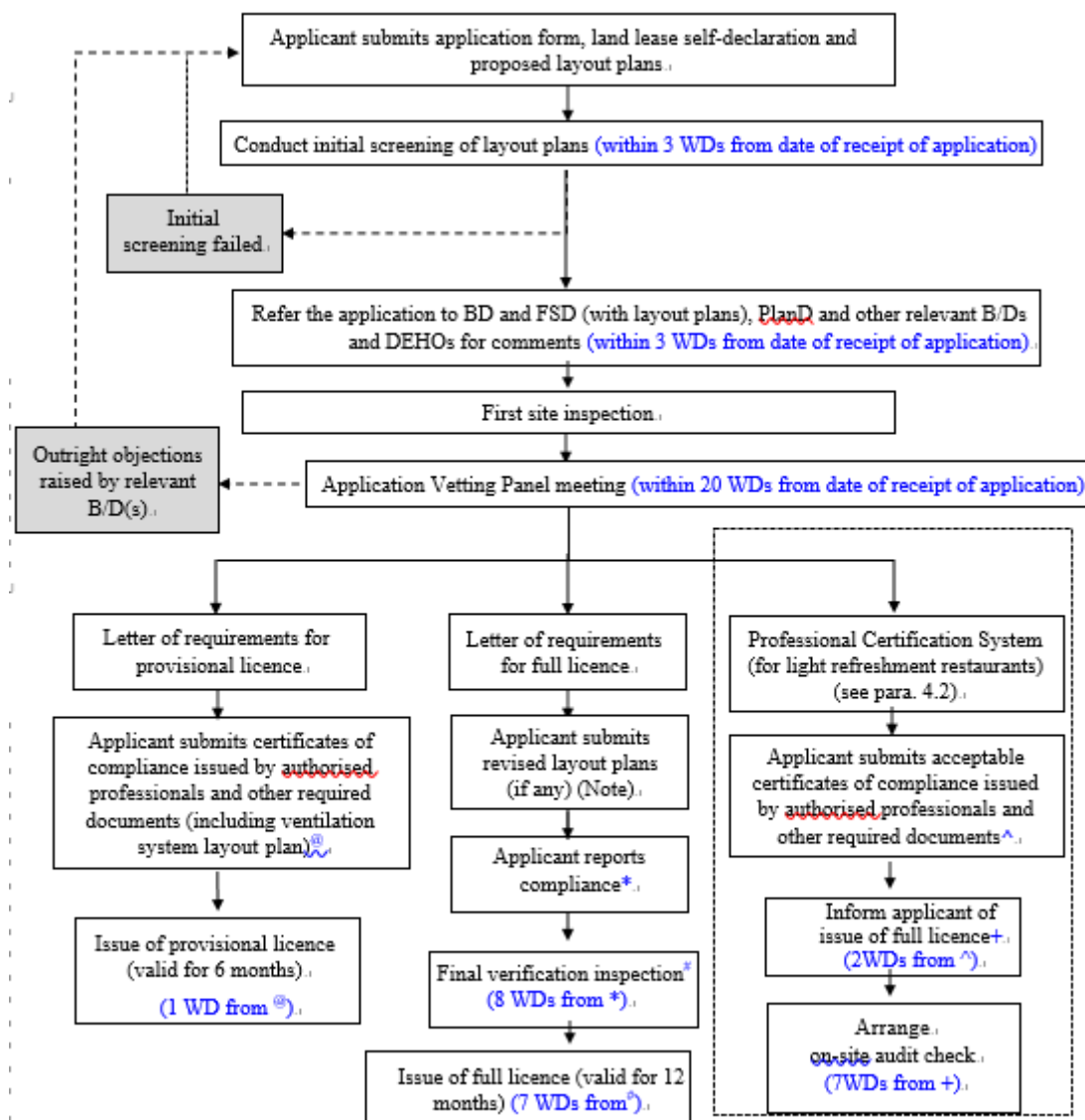
EEB will oversee and supervise FEHD's work to follow up and implement the recommendations of the Audit Report. Specifically, to enhance the collaboration between FEHD and other relevant B/Ds in facilitating the processing of applications for food business licences and permits, EEB would take forward the following measures –

- (i) tasking FEHD to set up a working group with relevant B/Ds to explore room for streamlining the procedures for handling the applications and enhancing communication, including better defining each other's functions and the time required in providing comments and processing the applications;
- (ii) ensuring that the working group would complete its work by the first half of 2024, with an agreed implementation plan listing tasks to be accomplished with effective dates;
- (iii) overseeing FEHD's review of its operational guidelines and overall performance pledges as appropriate;
- (iv) providing policy support for FEHD to make good use of technology to enhance communication with B/Ds as well as the applicants, including exploring the feasibility of expanding the scope of and advancing the timeframe for the second and third stage enhancements to existing Licensing Management Information System to meet service needs; and
- (v) seeking funding support for new or enhanced initiatives to put in place all necessary IT infrastructure for service improvements.

Part 2: Processing of applications for new food business licences and permits

- (g) **referring to Figure 3 in paragraph 2.5 of the Audit Report about the workflow of processing new restaurant licence applications by FEHD, please provide the timeframe for each procedure;**

Figure 3



Source: FEHD website.

WD denotes Working days

- (h) according to paragraphs 2.8(b) and 2.10(b) of the Audit Report, it is not uncommon that applicants submit revised layout plans after passing the initial screening despite that FEHD has strongly advised applicants not to revise the proposed layout which will lengthen the processing time for the issue of licences. Please provide FEHD's views on the root causes for and measures to tackle the problem; whether the possible causes may include insufficient guidance to applicants on their submission of layout plans and lenient approach adopted by FEHD in granting of provisional food business licences;

The requirements for food business have been set out in the legislation or publicly available materials so the applicant may refer to them when drawing up the layout plan. That said, an applicant may revise layout plans during the application process out of business considerations or in response to comments made by B/Ds. FEHD believes that it is in the applicant's own interest to avoid repeated or unnecessary revisions to layout plans as it would inevitably prolong the processing time of the application. FEHD will continue to convey the message to the trade and individual applicants through different means.

(i) with reference to Note 17 and Note 4 for Table 5 in paragraph 2.9 of the Audit Report, please explain/provide:

(i) the adverse implications that may have on the delivery of FEHD's services if the timeframes for referrals of applications to B/Ds and providing comments to FEHD by B/Ds are disclosed;

Unlike the performance pledges that FEHD has published for members of the public to monitor its performance in different areas, there are a number of timeframes that FEHD sets in its internal guidelines and documents which are intended for staff reference and management supervision. These timeframes may change from time to time taking into account manpower and workload situation as well as departmental priorities. Given their different nature and the flexibility needed, FEHD is of the view that these internal timeframes should not be made public as in the case of performance pledges, otherwise there may be unnecessary misunderstanding in cases where these internal timeframes have to be adjusted on justifiable grounds.

(ii) details of such timeframes; and

(iii) whether FEHD has set any performance pledges in this regard for monitoring purpose; if yes, the details; if not, why not;

For items (ii) and (iii), the timeframes are indicated below:

Type	Referring applications to		Comments provided by	
	DEHOs	other relevant B/Ds	DEHOs	other relevant B/Ds
<i>First referral</i>				
Restaurant licences, factory canteen licences and cold store licences	Within 3 working days from receipt of application (Note 1)	Within 3 working days from receipt of application (Note 3)	Within 5 working days from date of referral	Before date of Application Vetting Panel meeting (within 20 working days from date of receipt application)
Non-restaurant licences (other than factory canteen licences and cold store licences)		Before first site inspection (within 7 working days from receipt of application (Note 3))		Within 24 working days from date of referral
<i>Subsequent referral</i>				
All licences	N.A. (Note 2)	Within a specified timeframe from receipt of revised layout plans (within 14 working days from date of receipt of revised plan)	N.A. (Note 2)	Within specified timeframes from date of referral (within 14 working days from date of referral)

The performance pledges set by FEHD are for members of the public to monitor the its performance. These pledges naturally focus on work or processes which FEHD has full control. For processes involving external parties (e.g. the applicant) or other B/Ds, FEHD considers that they may not be suitable for the purpose of making performance pledges.

- (j) referring to paragraphs 2.10 and 2.12 of the Audit Report about the delays in making referrals of the 50 applications for new food business licences to and receiving comments from other relevant B/Ds, FEHD has agreed, according to paragraph 2.32, to take measures to address the problem. Please explain/advise:
- (i) why there was no formal guidelines on the issuance of reminders to B/Ds with delays in providing comments to FEHD, and whether FEHD will draw up such guidelines; if yes, the details; if not, why not; and

It is believed that formal guidelines were not promulgated in the first place to allow flexibility for staff in handling different cases based on the actual circumstances. Taking into account the Audit recommendation, FEHD issued guidelines in November 2023 to respective Licensing Offices, advising them to issue reminder to B/Ds every two weeks as long as the response is outstanding. We understand that, in the light of the recommendation of this Audit report, relevant departments have also stepped up their internal monitoring mechanisms to ensure that responses to FEHD's consultations would be given in a timely manner.

- (ii) the progress and details of the follow-up actions taken by FEHD and the collaborative efforts made/to be made by FEHD, the Buildings Department ("BD") and the Fire Services Department ("FSD") to expedite the processing of applications;**

Taking into account the Audit recommendations, FEHD issued guidelines in November 2023 to respective Licensing Offices advising them to issue reminder to B/Ds every two weeks as long as the response is outstanding. Further, FEHD has already established with BD and Independent Checking Unit of Housing Bureau an electronic referral system that enables efficient two-way information transmission by electronic means. FEHD and FSD have agreed to pursue a gradual migration to the electronic referral system in line with the schedule of FSD's internal system upgrade. As to other B/Ds, FEHD has already approached them to explore the adoption of the electronic referral system. In the meantime, except those documents with size constraints, transmission of application documents between FEHD and B/Ds is already conducted by electronic means (e.g. email).

- (k) with reference to paragraphs 2.13(a)(i) to (iii) of the Audit Report, please explain in detail the causes for time lags in the written communication between FEHD and other relevant B/Ds, in particular those cases with time lags of 10 working days or more; whether FEHD has investigated such irregularities; if yes, the details; if not, why not; and the remedial measures taken/to be taken by FEHD to address the issue;**

FEHD has looked into the cases and noted that the time lags were mainly attributable to the use of fax or ordinary dispatch for the transmission of documents. The time lags could be avoided if the transmission of documents were done through electronic means. Please refer to the response under (j)(ii) on the progress of the adoption of the electronic referral system.

- (l) according to paragraph 2.13(a)(iv), while FEHD has set a timeframe for FSD to provide comments, it has not taken into account the time required by FSD to handle its referrals. Does FEHD agree that it is necessary to liaise with FSD and other relevant B/Ds on the timeframe required for handling its referrals with a view to achieving better collaboration in processing food business licence applications; if yes, the actions that have been taken by FEHD in this respect;**

According to FEHD's performance pledge, an Application Vetting Panel (AVP) meeting will be scheduled within 20 working days after the licence application has been accepted for further processing. If FEHD could refer the applications to other B/Ds within its internal timeframe of three working days, other B/Ds should have sufficient time to respond before the scheduled AVP date. FEHD will take steps to ensure that referrals are made in a timely manner.

- (m) according to paragraphs 2.17 and 2.19 of the Audit Report, for the period from 2018 to 2022, only 75 (0.8%) of 8 945 scheduled meetings of the Application Vetting Panel ("AVP") were convened. Audit's examination of 30 applications for restaurant licences also revealed that all the 30 scheduled AVP meetings were not convened and not rescheduled. Please advise:**

- (i) the arrangements for AVP meetings (including the number of attending public officers and applicants in each meeting);**

FEHD schedules AVP meeting with the applicant within 20 working days after the licence application has been accepted for further processing. AVP meetings are scheduled on a particular day of a week. Before the scheduled AVP meeting, FEHD will contact the applicant to confirm his or her attendance. If the applicant is not attending, the AVP will not be convened.

Usually four public officers attend an AVP meeting, with two from FEHD (one acting as Chairman), one from BD and one from FSD. On the applicant's side, usually one or two persons would attend.

- (ii) the progress of the review on such arrangements by FEHD as mentioned in paragraph 2.32; and whether FEHD will consider discontinuing the current practice and instead only holding AVP meetings on need basis in view of the low attendance rate; and**

As AVP meetings may be useful for some applicants (e.g. first-time applicants handling their application direct or food premises with complicated building issues), FEHD is inclined to continue to offer an opportunity for the applicant to attend. Before the scheduled meeting date, FEHD will contact the applicant to confirm his or her attendance. If the applicant is not attending, the AVP will not be convened. If necessary, an AVP meeting may be rescheduled at the request of the applicant.

(iii) the rationales behind the practice of counting those scheduled AVP meetings which were not convened as meeting the target in reporting the achievement of the performance measures in relation to AVP meetings;

FEHD considers that its performance pledge should focus on FEHD's performance, and in this case it is about whether AVP meetings have been scheduled in a timely manner. Whether an AVP meeting is actually convened depends on the preference of the applicant, which may not reflect FEHD's performance. FEHD will adjust the wordings in relation to that performance pledge in public documents to avoid misunderstanding.

(n) with reference to paragraph 2.28 of the Audit Report, please provide/advise:

(i) the details of the follow-up/enforcement actions taken by FEHD regarding the two suspected cases of food businesses which were operating prior to the grant of provisional licences; please advise whether such cases are common; if yes, the regulatory measures against these non-compliant cases; and

For new applications of food business licence, the Licensing Office would refer them to the respective DEHO. DEHO would inspect the premises regularly and in case any food business is detected prior to the issue of licence, DEHO would collect evidence and take enforcement action accordingly. For the two cases mentioned in paragraph 2.28 of the Audit Report, they were located in Tuen Mun and Tsuen Wan respectively. For the Tuen Mun case, the Tuen Mun DEHO prosecuted the operator for unlicensed food business on 21 April and 6 June 2023. The premises were issued a provisional general restaurant licence on 28 June 2023. For the Tsuen Wan case, the Tsuen Wan DEHO prosecuted the operator for unlicensed food business on 6 June and 14 July 2023. The premises were issued a provisional food factory licence on 26 July 2023.

In 2022, FEHD carried out 2 130 prosecutions against unlicensed food premises which were under application for licence. As there could be multiple prosecutions for individual premises, the figure does not reflect the number of premises involved. FEHD will remind its DEHOs to continue to inspect premises under application of food licence regularly and take prosecution actions against unlicensed business.

- (ii) the numbers of cases of unlicensed food premises without enforcement actions taken by FEHD in the past three years, with the lead time between detection of cases and the grant of provisional licences; and**

As long as DEHOs have collected sufficient evidence that there is an unlicensed food business, prosecution action will be taken. FEHD would not knowingly refrain from taking enforcement actions against unlicensed food businesses. Currently, such prosecution action would not affect the processing of provisional licence and FEHD has not maintained statistics on the length of time between prosecution action (if any) and the grant of provisional licence.

In response to the concerns of the PAC, FEHD is actively exploring options to enhance the deterrent effect against the carrying on of unlicensed food business before the issue of provisional licence. One possible option is to reject the licence application and debar the same applicant from applying for the same type of licence for the same premises for a certain period of time.

- (iii) whether there is a referral mechanism for cases of unlicensed food premises between FEHD and other relevant B/Ds, in particular BD and FSD, in view of the potential risks to public life and property; if yes, the details; if not, how the public safety can be fully protected;**

FEHD refers all cases of new application for food business licence to relevant B/Ds, which may carry out inspection and take enforcement action against irregularities as necessary. As a general principle, if FEHD officers detect any irregularities during their inspection that are under the purview of other B/Ds, the officers should refer the case to other B/Ds for follow-up. Taking into account PAC's concern, FEHD will liaise with BD and FSD to establish a mechanism to refer all unlicensed food business cases to them for their necessary action.

- (o) **with reference to paragraphs 2.31 and 2.33 of the Audit Report, please advise whether FEHD has liaised with other relevant B/Ds in promoting its electronic-referral system; if yes, the latest progress and the responses from the relevant B/Ds;**

Please refer to the response under (j)(ii) on the progress of the adoption of the electronic referral system.

- (p) **referring to Table 9 in paragraph 2.36 of the Audit Report about the discrepancies in the calculation of average processing times for restaurant licence applications between FEHD and the Audit Commission for the period from 2018 to 2022, please explain the rationales behind the calculation method adopted by FEHD, which was based on applications received and approved in the same year. Does FEHD consider such calculation practice inappropriate; if yes, the follow-up actions taken/to be taken by FEHD to rectify the issue; if not, why not;**

With a view to measuring the performance in a given year, FEHD has been adopting a calculation method based on the applications received and approved in that given year. FEHD accepts the Audit recommendation and would review the calculation method. Other than including all licences issued in the year in the calculation, FEHD will also consider if using median instead of mean would better reflect the situation.

- (q) **with reference to paragraphs 2.44 to 2.47 of the Audit Report, please explain/advise:**

- (i) **in processing the applications for permissions for outside seating accommodation (“OSA”) during the period from 2018 to 2022, why FEHD took longer time on average to handle the cases involving inclusion of OSA into existing licensed premises (ranging from 15 to 23 months) than those cases submitted concurrently with new restaurant licences (9 to 19 months) given that both types of applications should go through similar procedures; and whether the time taken by the Home Affairs Department to conduct local consultations is one of the contributing factors for the long processing time required;**

FEHD handled OSA applications for existing licensed premises and those concurrent with new licence applications in a similar manner. According to FEHD’s observation, the key determining factor for the processing time of an application is often the time taken by the applicant

in complying with B/Ds' licensing requirements and in addressing the concerns raised by local residents. For example, the applicant may revise the layout plan to adjust the size of the OSA.

- (ii) whether the format of the standard proforma which has been used since 2009 will be reviewed to better facilitate the conducting of local consultations; if yes, the details; if not, why not;**

FEHD has adopted the standard proforma with a view to providing HAD with sufficient relevant information for the conduct of location consultation and stood ready to provide further information as requested. FEHD and HAD have agreed to conduct a joint review on the relevant procedure and standard proforma to further improve the workflow.

- (iii) how the opposing views collected from local consultations are handled; whether there were unsuccessful/withdrawal applications due to objections received or long processing time; if yes, the numbers of such cases from 2018 to 2022; and whether there is an appeal mechanism for applicants to address opposing views received;**

On receipt of public objection from local consultations, depending on the nature of objection (such as obstruction, noise nuisance and environmental hygiene problem), FEHD would seek comments from relevant B/Ds (the Police, Environmental Protection Department, etc.) and/or the concerned DEHO as to whether the objection is substantiated. In parallel, the OSA applicant would be informed of the public objection and should propose measures to address the concern. An application would only be approved if relevant B/Ds raise no objection and the applicant could adequately address all the substantiated concerns. There is no established appeal mechanism for OSA application.

The number of OSA applications not approved, withdrawn or abandoned from 2018 to 2022 are set out below -

Year	2018	2019	2020	2021	2022
No of cases being not approved ¹	3	3	2	1	1
No. of cases deemed withdrawn / abandoned ²	75	55	53	52	44

¹ The main reasons why the applications were not approved include:

- B/Ds raise objections.
- The applicant fails to submit an acceptable layout plan.

² An applicant may choose to withdraw an application for different reasons. An application may also be deemed withdrawn/abandoned if the applicant fails to comply with the licensing requirements within 6 months after the issue of the letter of requirements.

- (iv) measures taken/to be taken by FEHD (e.g. enhancements to computer systems and provision of checklist/guidance notes to applicants to facilitate their applications) to expedite the processing of OSA permission applications; and**

FEHD will continue with the enhancement work in the LMIS 2, including the introduction of a function to notify case officers in accordance with relevant timeframes. Regarding guidance to OSA applicants, there is already a detailed guide which could be accessed via the following link:

https://www.fehd.gov.hk/english/howtoseries/forms/new/OSA_Guide.pdf

FEHD will review the guide from time to time to provide guidance to applicants.

- (v) measures taken/to be taken by FEHD to improve the coordination with other relevant B/Ds in processing OSA permission applications in response to Audit recommendation in paragraph 2.51(e);**

FEHD and relevant B/Ds have agreed to make referral, send and receive comments through electronic means so as to enhance efficiency. FEHD will also continue to explore with relevant B/Ds on possible ways to expedite the processing of applications.

Part 3: Management of food business licences and permits

- (r) with reference to paragraph 3.10 of the Audit Report, please explain the reasons for the different understanding between FEHD and FSD on the referral mechanism agreed by the two departments for processing food business licence/permit transfer applications involving petrol filling stations;**

According to the agreement, the new arrangement should apply to “all licence applications” received on or after 5 June 2017, which FEHD took to mean new licence/permit applications while FSD considered that the arrangement should also apply to alteration, transfer and renewal. Noting FSD’s views, FEHD has revised the guidelines and informed all staff concerned to follow FSD’s interpretation.

- (s) **according to paragraph 3.14 of the Audit Report, a full food business licence is valid for 12 months and renewable, subject to no cancellation or revocation as a result of accumulation of demerit points or breaches of licensing requirements and/or conditions. Please advise whether FEHD will consider renewing the licence with a longer validity period for those operators with good track records;**

A full food business licence is valid for 12 months as stipulated in s. 31(4) of the Food Business Regulation, Cap. 132X. FEHD understands from trade practitioners that a licence with longer validity period (and a higher licence fee) may not be preferable as the business may close before the end of the validity period and the licence fee for the remaining period could not be refunded.

- (t) **with reference to paragraph 3.22 of the Audit Report, please advise whether there are loopholes for abuse of provisional licences if an applicant whose provisional licence was lapsed without obtaining a related full licence repeatedly applies for provisional licences to operate food businesses at other food premises;**

To prevent abuse of the provisional licensing system, FEHD has introduced the measure since 2006 to refuse any application for a provisional licence submitted by a person who has been a holder of a provisional food business licence for the same nature of food business on the same premises within 3 years from the date of expiry of that provisional food business licence.

- (u) **with reference to paragraph 3.27 of the Audit Report, please explain under what circumstances FEHD will extend the grace period for conversion from provisional food business licences to full licences;**

The purpose of granting a provisional licence is to facilitate the food business operators to legally run their food businesses when they have complied with the basic building safety, fire safety and health requirements and while they are taking steps to comply with all the licensing requirements for a full licence. FEHD will issue reminders at different stages to the applicants to urge them to comply with all the licensing requirements as soon as possible. If the applicant has made significant investment to comply with the licensing requirements but is not able to comply with all of them before the expiry date of the provisional licence, FEHD in general would not cancel the application in the first instance. Instead, FEHD would continue to process the application within a grace period (i.e. 3 months for applications received after 1 March 2023 and 6 months for applications received before that). In special cases where the applicant can demonstrate that the delay in meeting the

licensing requirements is due to factors beyond his reasonable control, FEHD may consider extending the grace period. FEHD accepts the Audit recommendation that the applicant has to provide sufficient justifications and supporting evidence if the grace period has to be further extended, and FEHD would duly record the justifications.

Part 4: Other related issues

(v) with reference to paragraph 4.15 of the Audit Report, please advise/provide:

(i) the measures to be taken by FEHD to further promote the use of electronic application service for food business licences/permits (e.g. delivery of service over self-service electronic terminals or devices); and

FEHD notes that the adoption rate for electronic application is on the low side. FEHD will consult the trade on the reasons behind and explore possible ways to boost its usage.

(ii) the proportion of licence/permit applications submitted online by applicants and agents/representatives engaged by applicants in the past three years; whether electronic identity authentication is an impeding factor for agents/representatives to make online applications; and measures to facilitate them to use electronic application service; and

Figures on licence/permit applications submitted online in the past three years are set out below. FEHD has no information as to whether an application is submitted by the applicant or his or her agent or representative. At the moment there is no electronic identity authentication requirement for food business licence application which would hinder an agent or representative from submitting an application on behalf of the applicant.

Licence / permit	2021	2022	2023 (as at 30 Nov)
No. of new applications (a)	14 129	10 227	9 789
No. of new applications submitted online (b)	3 166	2 638	2 614
Percentage (b) / (a)	22%	25%	26%

- (w) with reference to paragraph 4.23(d) of the Audit Report, please advise whether the implementation schedule for the electronic-referral system has been formulated; if yes, the details; if not, when it will be available; whether FEHD can expedite the implementation progress.**

Please refer to the response under (j)(ii) on the progress of the adoption of the electronic referral system. As it involves a number of B/Ds which may have to adjust their own systems, at the moment FEHD is not able to formulate a concrete implementation schedule. FEHD will set up a working group so as to work closely with relevant B/Ds with a view to speeding up the process. The target is to draw up an implementation schedule in the first half of 2024.