

**Twenty-seventh Meeting of  
the Business Facilitation Advisory Committee**

***Agenda Item 5(b) : Report on the work of the Food Business  
and Related Services Task Force***

**Purpose**

This paper reports on the work of the Food Business and Related Services Task Force (FRSTF) since the last Business Facilitation Advisory Committee (BFAC) meeting held on 23 July 2014.

**Work progress of FRSTF**

***Proposed simplification of appeal mechanism for suspension and  
cancellation of Food Business Licence***

2. To follow up the Convenor's request for an analysis of the sharp increase in both the number of suspension and cancellation of licences under the Demerit Points System (DPS) in 2012 raised at FRSTF's meeting on 6 June 2014, the Food and Environmental Hygiene Department (FEHD) has briefed members on the latest relevant statistics and its analysis findings. There is a substantial increase of licence suspension and cancellation cases from 157 in 2011 to 259 in 2012 but only a moderate increase from 259 in 2012 to 271 in 2013. All the licence cancellation cases and 85% of the licence suspension cases under DPS are related to illegal extension of food business to public place. Although there is no change in the policy and the sanction mechanism of DPS, the increase in the number of licence suspension and cancellation cases is mainly due to the implementation of targeted measures to tackle the problem of illegal extension of food business such as stepping up inspections and enforcement actions, strengthening prosecutions under the Food Business Regulation, speeding up the prosecution process and conducting blitz prosecutions.

3. In addition, FEHD has also pointed out that (a) the appeal cases lodged to the Licensing Appeals Board (LIAB) are mainly about pleading for leniency; (b) some appellants did not attend the hearings or only appointed licensing contractors to attend the hearings merely for the sake of delaying the execution of the suspension/cancellation decision; (c) the Municipal

Services Appeals Board (MSAB) usually upholds LIAB's decision; and (d) the processing time of the appeal cases by MSAB was much longer than that of LIAB despite a comparatively smaller number of caseload. FEHD considers that when the proposed simplification of appeal mechanism for the suspension and cancellation of food business licence by removing the MSAB tier is viewed as a whole, there will be sufficient protection to licensees' right.

4. FRSTF reiterates its strong objection to FEHD's proposal and considers that –

- (a) as each of the three-tier appeal mechanism is attached to different authorities and operates independently, the current arrangements are very effective to prevent abuse of power and provide a good check and balance;
- (b) the proposal undermines the legal rights of the licensees; and
- (c) to address the problem of long appeal time, the Administration should streamline the existing appeal process instead of removing any tier of the appeal mechanism.

5. As regards the improvement opportunities of shortening the appeal time, FEHD has advised FRSTF that the Administration had reviewed and streamlined the appeal process such as applying either Chinese or English for the statements instead of the bilingual statements and speeding up the arrangement of hearing where practicable. The Convenor suggests the Administration should consider further enhancing the capacity of LIAB and MSAB with a view to increasing the number of hearings and reducing the waiting time for appeals.

***Air change requirement of kitchens/food preparation rooms in food business premises***

6. To facilitate the design and planning of food factories, the trade is interested to understand details of their air change requirements. At the invitation of FRSTF, a trade representative also attended the meeting to express his views.

7. FEHD has briefed FRSTF that for the sake of food safety and personal hygiene, adequate ventilation should be provided to a food preparation area where there is handling of food. In case ventilation is inadequate, the favourable temperature and humidity environment may promote the growth of microorganisms and therefore affect the food

quality/safety during the preparation process therein. With reference to the ventilation rate set out at the Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers ADM-2 issued by the Buildings Department and for the sake of protecting public health, FEHD requires all food business premises under application for licences to comply with the licensing requirement on provision of extraction and propulsion fans for the kitchens or food preparation rooms to attain at least 20 ACH should the natural ventilation be considered inadequate.

8. Both FRSTF and the trade representative express their concern that nowadays some food manufacturing processes are highly automated and there are a limited number of food handlers in food factories, some of which are also air-conditioned. Therefore, 20 ACH for air-conditioned food factories is excessive and incurs unnecessary investment. In response, FEHD has advised that the department is prepared to consider case by case whether a smaller ACH is applicable if the trade can provide adequate justification during the licence application.

9. FRSTF appreciates the flexible approach taken by the department in applying the air change requirement of 20 ACH for food factories. To reduce the uncertainty and associated risks in the design and planning of air-conditioned food factories, the Convenor suggests that FEHD should introduce measures to facilitate the trade to better understand the air change requirement for compliance.

***Implementation progress of the recommendations of the review on application for outside seating accommodation permission of restaurants***

10. In October 2013, the Outside Seating Accommodation (OSA) Working Group<sup>1</sup> completed a review on the application for OSA permission of restaurants and put forward 10 recommendations. As reported at the last BFAC meeting, three recommendations had already been implemented.

11. At the last FRSTF meeting held in October 2014, the OSA Working Group updated members on the implementation progress of the remaining seven recommendations: two recommendations have been implemented and the rest are in good progress.

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<sup>1</sup> The Working Group comprises representatives from the Food and Environmental Hygiene Department, Fire Services Department, Buildings Department, Lands Department, Planning Department, Housing Department, Transport Department, Home Affairs Department and Economic Analysis and Business Facilitation Unit.

12. To avoid the doubt of the trade, FEHD has highlighted in the OSA Application Guide published on its website that separate OSA and restaurant licence applications can be submitted for parallel processing and that the outcome of the two applications are independent of each other. For OSA applications received on or after 1 October 2014, if there are concerns/objections raised by any of the departments concerned, a joint departmental meeting will be convened at which the relevant departments will discuss their concerns/objections with the applicants direct. This measure helps increase the transparency of the OSA applications process.

13. FRSTF appreciates the implementation efforts of the Administration.

***Requirements for operation of boilers and pressure vessels in catering establishments***

14. The Labour Department (LD) has briefed FRSTF on the requirements for use of boilers and pressure vessels (BPVs) and the qualifications required for the operators. BPVs have to be registered with the BPV Division of LD before use. After registration, they must be examined, tested and certified by Appointed Examiners periodically. A Certificate of Fitness is issued to the owner upon satisfactory completion of examination and testing. To be qualified as a Competent Person to directly supervise the operation of BPVs, the candidate must pass the examination held in the BPV Division of LD or complete the relevant accredited training courses for the particular type of BPV, in addition to possessing relevant working experience.

15. FRSTF is mainly concerned that the trade has difficulty in recruiting Competent Persons to operate BPVs, hence there is a high demand for the accredited training courses. LD agrees to liaise with the Occupational Safety and Health Council to explore the possibility of increasing the number of training classes.

**Way forward**

16. Members are invited to note the work progress of FRSTF. FRSTF will continue to monitor the development of the above issues.