

CHAPTER 2

**Home Affairs Bureau
Social Welfare Department
Home Affairs Department
Food and Environmental Hygiene Department
Lands Department**

**Monitoring of charitable
fund-raising activities**

**Audit Commission
Hong Kong
3 April 2017**

This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

Report No. 68 of the Director of Audit contains 8 Chapters which are available on our website at <http://www.aud.gov.hk>

Audit Commission
26th floor, Immigration Tower
7 Gloucester Road
Wan Chai
Hong Kong

Tel : (852) 2829 4210
Fax : (852) 2824 2087
E-mail : enquiry@aud.gov.hk

MONITORING OF CHARITABLE FUND-RAISING ACTIVITIES

Contents

	Paragraph
EXECUTIVE SUMMARY	
PART 1: INTRODUCTION	1.1 – 1.9
Audit review	1.10 – 1.11
General response from the Government	1.12 – 1.13
Acknowledgement	1.14
PART 2: GOVERNMENT’S EFFORTS TO PROMOTE TRANSPARENCY AND ACCOUNTABILITY OF CHARITABLE FUND-RAISING ACTIVITIES	2.1 – 2.6
Voluntary adoption of best practices for organising fund-raising activities by charities	2.7 – 2.15
Usage of the one-stop finder	2.16 – 2.18
Audit recommendations	2.19
Response from the Government	2.20 – 2.23
PART 3: ADMINISTRATION OF PUBLIC SUBSCRIPTION PERMITS FOR CHARITABLE FUND-RAISING ACTIVITIES	3.1 – 3.7
Processing of applications	3.8 – 3.10
Compliance with permit conditions	3.11 – 3.14

	Paragraph
Monitoring of charitable fund-raising activities under public subscription permits	3.15 – 3.24
Audit recommendations	3.25
Response from the Government	3.26 – 3.27
PART 4: ADMINISTRATION OF LOTTERY LICENCES FOR CHARITABLE FUND-RAISING ACTIVITIES	4.1 – 4.3
Monitoring of charitable lottery events	4.4 – 4.13
Audit recommendations	4.14
Response from the Government	4.15
PART 5: ADMINISTRATION OF TEMPORARY HAWKER LICENCES FOR FUND-RAISING ACTIVITIES INVOLVING ON-STREET SELLING	5.1 – 5.5
Monitoring of fund-raising activities involving on-street selling	5.6 – 5.13
Audit recommendations	5.14
Response from the Government	5.15
PART 6: WAY FORWARD	6.1
Law Reform Commission Report on Charities	6.2 – 6.3
Government’s follow-up actions on the Law Reform Commission’s recommendations	6.4 – 6.10
Audit recommendations	6.11
Response from the Government	6.12

Appendices	Page
A : Reference Guide on Best Practices for Charitable Fund-raising Activities (extract)	77 – 78
B : Guidance Note on Internal Financial Controls for Charitable Fund-raising Activities (extract)	79
C : Social Welfare Department: Organisation chart (extract) (31 December 2016)	80
D : Major expenses of 45 public subscription permit activities organised by 8 permittees with percentages of expenses to gross proceeds exceeding 40%	81
E : Sample of the income and expenditure account for a general charitable fund-raising activity covered by a public subscription permit	82
F : Home Affairs Department: Organisation chart (extract) (31 December 2016)	83
G : Food and Environmental Hygiene Department: Organisation chart (extract) (31 December 2016)	84
H : Comparison of key permit/licence conditions and administrative measures imposed by the three licensing departments	85 – 86
I : Recommendations of the Law Reform Commission Report	87 – 90
J : Acronyms and abbreviations	91

MONITORING OF CHARITABLE FUND-RAISING ACTIVITIES

Executive Summary

1. Fund-raising is an activity carried out by many charities and it often takes the charities into direct contact and dealings with members of the public. Currently, there is no legislation enacted specifically to control charitable fund-raising activities. The Government's regulation of certain charitable fund-raising activities is incidental to the legislation that controls nuisances committed in public places, gambling and hawking. Under the legislation, permits or licences are required for conducting charitable fund-raising activities in public places such as flag days and on-street charity sales, or involving sale of raffle tickets (hereinafter collectively referred to as "regulated charitable fund-raising activities"), which are granted by the relevant licensing departments, namely the Social Welfare Department (SWD), the Home Affairs Department (HAD) or the Food and Environmental Hygiene Department (FEHD). Additionally, the Lands Department (Lands D) grants approval for temporary occupation of unleased land for conducting fund-raising activities. However, other forms of fund-raising activities (such as charity auctions, balls, concerts, dinners, or requests for donations by mail or through advertisements) do not require a permit or a licence. Nevertheless, the funds raised by charities are significant and increasing in recent years. Proceeds raised from regulated charitable fund-raising activities approved by the SWD and the HAD totalled \$282 million in 2014-15, whereas charitable donations allowed for tax deduction under the Inland Revenue Ordinance (IRO — Cap. 112) reached \$11.84 billion for the year of assessment 2014-15. While charities are granted access to public areas to raise funds for their charity work, an effective monitoring framework has an important role to play in enhancing the governance standards of charities and ensuring that they uphold accountability and transparency for the donations they received. The Audit Commission (Audit) has recently conducted a review on the Government's monitoring of charitable fund-raising activities with a view to identifying areas for improvement.

Executive Summary

Government's efforts to promote transparency and accountability of charitable fund-raising activities

2. *Voluntary system to enhance transparency and accountability.* In response to the recommendation on implementing a scheme of control over fund-raising activities raised in the Director of Audit's Report of October 1997 and the Report of the Public Accounts Committee of 1998, the Government decided in September 2002 that administrative controls should be strengthened with a view to enhancing transparency and accountability of fund-raising activities to enable donors to make an informed choice when making donations. In 2004, the SWD promulgated a guide on the best practices for charitable fund-raising activities (Reference Guide) and updated the 1998 guidance note on internal financial controls for charitable fund-raising activities for voluntary adoption by charities (paras. 2.4 to 2.6).

3. *Need to further promote the recognition and voluntary adoption of best practices.* Since the promulgation of the Reference Guide in 2004, 400 (94%) of the 426 respondents to surveys of 961 charitable organisations conducted by the SWD indicated that they would adopt the Guide. Audit's sample check of 40 tax-exempt charities suggested that there was a high correlation between those charities which had indicated adoption of the Reference Guide and the publication of their financial information on their websites (paras. 2.7, 2.9 and 2.10). Accordingly, there is a need to further promote the recognition and voluntary adoption of best practices for organising charitable fund-raising activities, particularly in light of the following developments:

- (a) *Rapidly expanding charity sector.* The number of tax-exempt charities under the IRO had doubled from 4,435 in March 2006 to 8,923 in September 2016. The charitable donations allowed for tax deduction had more than doubled during the period for the years of assessment from 2005-06 to 2014-15 (para. 2.11); and
- (b) *Other forms of fund-raising activities not subject to Government's monitoring.* Appeals for donations through the Internet and face-to-face solicitation of regular donations in public places are examples of other fund-raising activities not subject to the Government's monitoring. In 2016, 194 (77%) of 252 multi-district applications to the Lands D for temporary occupation of unleased land were for conducting face-to-face solicitation of regular donations in public places by means of signing

Executive Summary

direct debit authorisation forms. Among the 18 applicants involved in these 194 applications, only 6 (33%) had adopted the Reference Guide. In April 2016, a Legislative Council Member expressed the view that such mode of fund-raising involving a large sum of money had become a trend and the Government should study ways to regulate these activities (paras. 2.12 and 2.13).

4. ***Room for improvement in promoting best practices for organising charitable fund-raising activities.*** From 2004 to September 2016, the SWD reached out to 961 charitable organisations (which were PSP applicants or SWD subvented organisations) in promoting adoption of the Reference Guide. Given that there were 8,923 tax-exempt charities as at September 2016, the SWD may seek the assistance of relevant bureaux/departments (B/Ds) for the purpose of achieving wider promotion and recognition of the best practices for fund-raising. Audit also found that: (a) the SWD had not conducted any review on the effectiveness of the Reference Guide after the last review in September 2006; (b) the Government had not launched any large-scale promotional programmes of the Reference Guide after it was updated in December 2014; and (c) more guidance on other forms of fund-raising activities should be incorporated in the publications of best practices in light of the increased use of on-street face-to-face solicitation of regular donations and social media on the Internet for fund-raising (paras. 2.14 and 2.15).

5. ***Low usage of the one-stop finder.*** In July 2012, a one-stop finder on charitable fund-raising activities approved by the three licensing departments was launched on the government portal “GovHK” to provide easy and convenient access to such information. Audit found that the usage of the one-stop finder (i.e. the average daily hit rates) had decreased by 77% from 275 in 2012-13 (from July 2012) to 62 in 2016-17 (up to October 2016). The three licensing departments need to consider stepping up or renewing their publicity efforts to raise the public awareness of the service (paras. 2.16 to 2.18).

Administration of public subscription permits for charitable fund-raising activities

6. The Summary Offences Ordinance (Cap. 228) consolidates the law relating to summary offences including nuisances committed in public places. To regulate against nuisances committed in public places, the SWD issues public subscription permits (PSPs) for flag days and general charitable fund-raising

Executive Summary

activities in public places under section 4(17)(i) of the Ordinance. In 2015-16, the SWD issued 120 PSPs for flag days and 365 PSPs for general charitable fund-raising activities, and the gross proceeds raised amounted to \$119 million and \$69 million respectively (para. 3.2).

7. ***Need to issue guidelines on the scope of PSP.*** Given the wide varieties of fund-raising activities and the changes in their modes of collection of donations, the SWD has from time to time sought the Department of Justice's advice on whether a particular PSP application based on its individual circumstances is under the scope of the Summary Offences Ordinance. Drawing on this experience, the SWD should explore the feasibility of issuing more guidelines to facilitate charitable organisations in determining the relevance of PSP to their activities before filing their applications (paras. 3.8 and 3.10).

8. ***Compliance with permit conditions.*** Permittees' compliance with the permit conditions is important to ensure the proper conduct and accountability of charitable fund-raising activities (para. 3.11). Audit has found the following areas for improvement:

- (a) ***Delays in submission of audited reports.*** To enhance transparency and accountability of the funds raised, permittees are required to submit audited reports of fund-raising activities within 90 days of the last event day. This enables the public to make an informed choice when making donations. Of the 1,497 audited reports due for submission by 325 permittees from April 2012 to September 2016, 15 (1%) were outstanding as of September 2016, of which 6 were long overdue (ranging from 216 to 429 days, averaging 342 days). For the 1,482 submitted audited reports, 658 (44% of 1,482) were late reports, including 76 (12% of 658) which were late for more than 3 months. Moreover, 13 of the 325 permittees failed to submit the audited reports on time repeatedly, i.e. for two to four times (para. 3.12);
- (b) ***Fund-raising by organisations on the withholding list.*** As part of the SWD's monitoring mechanism, permittees which fail to submit audited reports after the issue of written reminders/warnings will be put on a withholding list so that the processing of their new PSP applications will be withheld. As of September 2016, there were 8 organisations on the withholding list. Audit found that 7 of them had continued to raise funds

Executive Summary

on their websites and through other activities outside the SWD's purview. To enable the public to make an informed choice when making donations, the SWD needs to consider publicising information on serious or repeated non-compliance with PSP conditions after warnings (paras. 3.5 and 3.13); and

- (c) ***Need to take concerted actions on repeated "no-show" cases.*** Use of public places (especially those with high pedestrian flow) for charitable fund-raising activities was in high demand. Audit sample check revealed that in 2016, the Lands D had rejected applications for 1,059 (50%) of 2,109 locations for fund-raising purposes. The SWD's random on-site inspections on general charitable fund-raising activities from June 2015 to September 2016 revealed no fund-raising activities in 30 (50%) of 60 inspections, i.e. the "no-show" cases. Inspections conducted by the FEHD on on-street selling activities for fund-raising purposes also found "no-show" cases in 59% of 2,128 inspections. The high percentage of "no-show" cases indicates an ineffective use of public resources as other charities are deprived of the opportunity to use the places. Among the SWD's inspected cases, 7 organisations had been repeatedly found not carrying out any fund-raising activities during the time of inspections. The SWD needs to liaise with the FEHD and the Lands D on the feasibility of sharing enforcement information and taking concerted actions on repeated "no-show" cases without valid reasons (paras. 3.14 and 5.11).
9. ***Monitoring of charitable fund-raising activities under PSPs.*** Audit has found the following areas for improvement in monitoring fund-raising activities:
- (a) ***High administration costs in some fund-raising activities.*** At present, the SWD imposes a permit condition that the fund-raising expenses of flag days should not exceed 10% of the gross proceeds, but not for general charitable fund-raising activities. Audit found that from 2012-13 to 2015-16, the overall percentages of expenses to gross proceeds of such fund-raising activities ranged from 22% to 30%. According to the SWD, it might not be practical to set an across-the-board ceiling for all general charitable fund-raising activities given the diversity of their nature and mode of operation, and the absence of a commonly agreed definition of "administration costs" of a fund-raising activity. However, the feasibility of defining the term "administration costs" with a view to setting an

Executive Summary

expenses ceiling as a PSP condition for on-street general charitable fund-raising activities which are similar in nature to flag days should be explored (paras. 3.17, 3.19 and 3.21); and

- (b) *Limitations of audited reports of PSP fund-raising activities.* Currently, the SWD does not specify whether accounts for PSP fund-raising activities should be prepared on a cash basis or an accrual basis. As accrued expenses could not be reflected in the accounts prepared on a cash basis, there could be an understatement of expenses, as evidenced by a case noted by Audit. Moreover, as permittees' auditors are not required to verify compliance with the permit condition of depositing the net proceeds into a bank account within 90 days from the last day of the event concerned, there is no assurance on compliance with this permit condition (para. 3.23).

Administration of lottery licences for charitable fund-raising activities

10. The Gambling Ordinance (Cap. 148) is the law relating to gambling, betting, gaming, gambling establishments and lotteries. Under the Ordinance, anyone who wishes to conduct a lottery event has to apply for a lottery licence from the Office of the Licensing Authority of the HAD. Lottery licences for charitable fund-raising are issued to bona-fide organisations to conduct lottery ticket sales for raising funds to meet the organisations' operating expenses and/or for making donations to tax-exempt charities. In 2015-16, the HAD granted 60 lottery licences which raised gross proceeds of \$88 million (para. 4.2).

11. *Inadequate follow-up on late submission of required documents.* Upon completion of a lottery event, the licensee is required under the licence conditions to submit to the HAD documents such as lottery accounts and lottery results within the stipulated time. Audit examined 263 lottery licences granted from 2012-13 to 2015-16 and found that there were delays in submitting the lottery accounts for 120 (46%) licences. The delays were over three months in 17 (14%) cases, up to 746 days in one case. For 10 lottery accounts which had been overdue for over 180 days, reminders/warning letters had not been issued to the licensees concerned within the HAD's stipulated time. While the HAD's computer system had records of the submission due dates, it could not generate exception reports to facilitate

Executive Summary

HAD staff in following up the outstanding cases in a timely manner (paras. 4.4, 4.6, 4.8 and 4.10).

12. *Need to ensure the use of proceeds is accounted for in submitted financial statements.* As a licence condition, if the net proceeds of the lottery are used for meeting the expenditure of the licensee, a copy of the audited annual financial statements of the licensee, which should show the income and expenditure of the lottery and the whereabouts of the net proceeds should be submitted to the HAD within one year. Audit sample checked 30 licences and found that in 6 (20%) cases, the submitted statements did not show separately the income and expenditure of their lottery events nor the use of net proceeds, but HAD staff accepted the licensees' explanation that they had been subsumed under other income and expenditure items in the submitted statements. The HAD needs to provide more guidance to licensees and ensure their compliance with the relevant licence condition on showing separately the income and expenditure of the lottery and the whereabouts of the net proceeds (para. 4.11).

13. *Need to facilitate public access to the lottery accounts.* The HAD publishes on its website a list of lottery accounts submitted by licensees. However, the HAD's requirements for the public to inspect the lottery accounts in the HAD's office physically and not allowing making copies of the accounts do not facilitate access and are not conducive to achieving the Government's objective of enhancing transparency and accountability of fund-raising activities. Moreover, while the HAD encourages lottery organisers to publish lottery accounts on their websites, Audit survey of the websites of 10 lottery organisers revealed that none of them had done so. The HAD needs to take measures to facilitate public access to the lottery accounts (paras. 4.12 and 4.13).

Administration of temporary hawker licences for fund-raising activities involving on-street selling

14. Since the early 1970's, the Government has stopped issuing new hawker licences under normal circumstances. Under the Hawker Regulation (Cap. 132AI), the FEHD issues temporary hawker licences to facilitate charities or other non-profit-making organisations for conducting on-street selling of commodities in raising funds and to regulate such hawking activities in public streets to ensure that they are conducted in a hygienic manner and will not cause nuisances. A

Executive Summary

tax-exempt charity which has obtained a PSP from the SWD for a fund-raising activity may apply for a waiver from obtaining a temporary hawker licence. In 2015-16, the FEHD issued 88 temporary hawker licences and granted 44 waivers. Aiming to enhance transparency and accountability of fund-raising activities, safeguard the proper use of donations, prevent abuse of temporary hawker licences and achieve a fair distribution of public resources among the fund-raising organisations, the FEHD introduced in 2012 a number of new administrative measures (such as limiting the number of licences granted to each fund-raising organisation and requiring organisations issued with more than 12 licences within 12 months to submit an audited account of the fund-raising activities for each and every licence subsequently issued) (paras. 5.2 to 5.5).

15. ***Different administrative/licensing requirements between the FEHD and other licensing departments.*** Comparing the administrative/licensing requirements of the FEHD with those of the other two licensing departments, Audit has found the following differences:

- (a) ***Custody of monies received.*** The FEHD has not required licensees to put in place safeguards to ensure the safe custody of the monies received during fund-raising activities for charitable purposes (para. 5.7(a));
- (b) ***Accounts for fund-raising activities.*** The FEHD has only required organisations granted with more than 12 licences within 12 months to submit audited accounts for the 13th licence onwards. In this connection, Audit noted that in one case, although 16 temporary hawker licences had been issued to an organisation within 12 months, the concerned organisation had not submitted the audited accounts for the last 4 licences issued and the FEHD had not taken any follow-up action (paras. 5.7(b) and 5.8(a)); and
- (c) ***Purpose of fund-raising and use of donations.*** The FEHD has not required licensees to inform donors or prospective donors about the purpose of fund-raising and to properly account for the use of donations (para. 5.7(c)).

16. ***Deficiencies in inspections.*** The FEHD conducts inspections at least twice a day to check licensees' compliance with licence conditions and on a daily basis to detect any irregularities for on-street selling activities covered by waivers.

Executive Summary

Audit examination of inspection records from April 2014 to December 2016 revealed that of the 2,508 required inspections, 139 (6%) inspections had not been conducted and the records of 241 (10%) inspections were either missing or inadequate to show whether inspections had been conducted (paras. 5.9 and 5.10).

17. ***Lack of one-stop service.*** Owing to the lack of one-stop service, an organisation may need to seek approvals from different departments (the FEHD, the SWD and the Lands D) for the same charitable fund-raising activity involving on-street selling, resulting in duplication of regulatory efforts and extra workload and inconvenience to charitable organisations. Some organisations might have breached the relevant legislation for not having sought all the required approvals. For example, of 42 PSPs issued by the SWD from January to September 2016 involving selling activities in public streets, 15 (36%) permittees had not applied to the FEHD for waivers. There is a need for the three departments to consider providing a one-stop service to streamline the processing and approvals of such activities (paras. 5.12 and 5.13).

Law Reform Commission Report on Charities

18. According to the Law Reform Commission (LRC) Report, there are deficiencies in the existing regulatory framework of charities, including inconsistent standards or requirements on governance, accounting and reporting by charities and limited control of charitable fund-raising activities. The LRC made 18 recommendations to improve the transparency and accountability of charities, which included, among others, imposing certain filing requirements in applications for charitable fund-raising licences or permits, setting up centralised telephone hotline for public enquiries and complaints in relation to charitable fund-raising activities, requiring charitable organisations to display their registration numbers during charitable fund-raising activities, and engaging in more public education on matters relating to charitable fund-raising activities (paras. 6.2 and 6.3).

19. ***Slow progress in responding to the LRC's recommendations.*** According to the Government's guidelines, a detailed public response to the LRC's recommendations should be provided within 12 months of its publication. However, for three years since the issue of the LRC Report in December 2013, the Home Affairs Bureau (HAB) had reported that it was still coordinating comments from relevant B/Ds for consideration of the way forward. Audit found that there were inadequacies in the internal consultation, e.g. while B/Ds' feedback had been

Executive Summary

received in April 2014, the HAB only consolidated the views into a preliminary assessment paper in June 2015 and convened two inter-departmental meetings in mid-August 2015 and October 2016. The HAB needs to: (a) expedite the consultation with relevant B/Ds with a view to formulating a response to all the recommendations of the LRC Report; and (b) take into account areas for improvement identified in this Audit Report which are complementary to the LRC's recommendations in considering the way forward in formulating a response (paras. 6.4 and 6.6 to 6.10).

Audit recommendations

20. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that:**

- (a) **the Director of Social Welfare, the Director of Home Affairs and the Director of Food and Environmental Hygiene should:**
 - (i) **step up promotion efforts to encourage more charitable organisations in adopting the best practices for organising charitable fund-raising activities (para. 2.19(a)(ii)); and**
 - (ii) **incorporate more guidance on other forms of fund-raising activities in the publications of best practices for organising charitable fund-raising activities (para. 2.19(a)(iii));**

- (b) **the Director of Social Welfare should:**
 - (i) **explore the feasibility of issuing more guidelines on the scope of the PSP for reference by applicants (para. 3.25(a));**
 - (ii) **step up enforcement actions on cases of repeated non-compliance with the permit conditions on submission of audited reports (para. 3.25(b));**
 - (iii) **in collaboration with the Director of Food and Environmental Hygiene and the Director of Lands, explore the feasibility of**

Executive Summary

sharing enforcement information on charitable fund-raising activities held in public places and taking concerted actions on repeated “no-show” cases without valid reasons (para. 3.25(c)); and

(iv) explore the feasibility of defining the term “administration costs” with a view to setting an expenses ceiling for on-street general charitable fund-raising activities which are similar in nature to flag days (para. 3.25(e));

(c) the Director of Home Affairs should:

(i) step up monitoring of licensees’ compliance with the lottery licence conditions, and consider taking suitable measures to deter cases of repeated late submission of documents (para. 4.14(a));

(ii) provide more guidance to licensees and ensure their compliance with the condition that the use of net proceeds is accounted for in the financial statements (para. 4.14(c)); and

(iii) take measures to facilitate public access to the lottery accounts (para. 4.14(d));

(d) the Director of Food and Environmental Hygiene should:

(i) consider improving the administrative measures for monitoring on-street selling activities for charitable fund-raising purposes (para. 5.14(a));

(ii) take measures to ensure that inspections on compliance with the licence conditions are carried out in accordance with laid-down guidelines (para. 5.14(d)(i)); and

(iii) work in collaboration with the Director of Social Welfare and the Director of Lands to consider providing a one-stop service to streamline the processing and approvals of fund-raising activities involving on-street selling (para. 5.14(e)(ii)); and

Executive Summary

- (e) **the Secretary for Home Affairs should expedite the consultation with relevant B/Ds with a view to formulating a response to all the recommendations of the LRC Report for the Government's consideration (para. 6.11(a)).**

Response from the Government

- 21. The Government generally agrees with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Charities in Hong Kong

1.2 Charities make an important contribution to Hong Kong, such as bringing communities together and providing transformational changes as well as caring services and support to meet the needs of some of the most vulnerable members of the community. Over the years, the Government has supported charities by providing them with tax-exemption status, land grants at nominal rent/premium, subventions, and allowing tax deduction for donors making donations to recognised tax-exempt charities (Note 1).

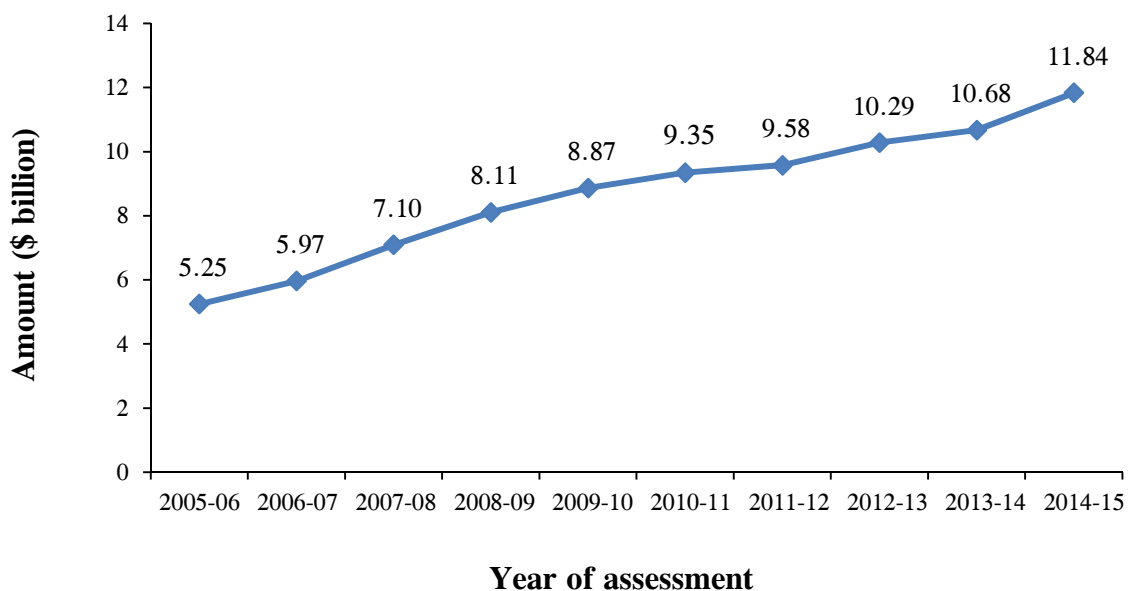
1.3 Funds raised by charities are significant and increasing in recent years. Figure 1 shows that the charitable donations allowed for tax deduction by the Inland Revenue Department (IRD) had increased from \$5.25 billion for the year of assessment 2005-06 to \$11.84 billion for 2014-15, or an increase of 126% in these ten years. Tax revenue foregone is estimated to be over \$1.5 billion in the year of assessment of 2014-15 (Note 2). There are no readily available statistics on the revenue foregone by the Government by providing tax exemption to charities.

Note 1: *Tax deduction for charitable donations has been provided since 1970 under the Inland Revenue Ordinance (Cap. 112 — first enacted in 1947). Sections 16D and 26C of the Ordinance allow a deduction for approved charitable donations made by a person during the year of assessment under profits tax and salaries tax/personal assessment respectively. The aggregate amount of donations deductible for the year should not be less than \$100 and should not exceed 35% of the total assessable profits/income (since the year of assessment 2008-09).*

Note 2: *The estimation is based on a standard tax rate of 15%.*

Figure 1

**Increasing amount of charitable donations allowed for tax deduction
(Years of assessment 2005-06 to 2014-15)**



Source: IRD records

Existing monitoring framework for charitable fund-raising activities

1.4 Fund-raising is an activity carried out by many charities and it often takes the charities into direct contact and dealings with members of the public. Charities are granted access to public areas to raise funds for their charity work. Currently, there is no legislation enacted specifically to control charitable fund-raising activities. The Government's regulation of certain charitable fund-raising activities is incidental to the legislation that controls nuisances committed in public places, gambling and hawking. Under the legislation, permits or licences are required for conducting charitable fund-raising activities in public places such as flag days and on-street charity sales, or involving sale of raffle tickets (hereinafter collectively referred to as "regulated charitable fund-raising activities"). However, other forms of fund-raising activities (such as charity auctions, balls, concerts, dinners, or requests for donations by mail or through advertisements) do not require a permit or a licence. The following departments are responsible for the monitoring of charitable fund-raising activities, depending on their nature:

- (a) ***Social Welfare Department (SWD).*** Under section 4(17)(i) of the Summary Offences Ordinance (Cap. 228), public subscription permits (PSPs) are required for any collection of money or sale or exchange for donations of badges, tokens or similar articles in public places (Note 3). The SWD issues PSPs for charitable fund-raising activities (Note 4). The PSPs issued by the SWD cover two types of charitable fund-raising activities in public places, namely flag days (Note 5) and general charitable fund-raising activities (Note 6);
- (b) ***Home Affairs Department (HAD).*** Under section 22 of the Gambling Ordinance (Cap. 148), the Office of the Licensing Authority of the HAD issues lottery licences (Note 7) to bona-fide organisations for the conduct and sale of fund-raising lottery tickets;

Note 3: *The term “public place” is defined in the Summary Offences Ordinance as “all piers, thoroughfares, streets, roads, lanes, alleys, courts, squares, archways, waterways, passages, paths, ways and places to which the public have access either continuously or periodically, whether the same are the property of the Government or of private persons”.*

Note 4: *The responsibility for issuing PSPs for non-charitable fund-raising activities in public places (e.g. raising funds for election expenses by political organisations) under section 4(17)(ii) of the Summary Offences Ordinance rests with the Home Affairs Bureau.*

Note 5: *Through an annual exercise, the SWD allocates some Wednesdays which fall on school or public holidays and Saturdays (except special festive days such as Hong Kong Special Administrative Region Establishment Day, in view of the difficulty in recruiting volunteers and/or possible inconvenience to the Hong Kong Police Force in keeping order in public places) to eligible charitable organisations for holding flag days, either on a territory-wide or regional basis. For a regional-based flag day, three permittees will each conduct flag sale activities in one of the three regions, viz. the Hong Kong Island region, the Kowloon region and the New Territories region. For a territory-wide flag day, one permittee will conduct flag sale activities in all three regions. The flag selling hours are from 7:00 am to 12:30 pm.*

Note 6: *General charitable fund-raising activities include charity sale of badges, tokens or similar articles, setting up of donation boxes at stationed counters, moving around solicitation with money-collection boxes/bags and door-to-door donation in public housing estates.*

Note 7: *In April 2012, the HAD took over the responsibility for issuing lottery licences from the former Television and Entertainment Licensing Authority which was merged with the former Office of the Telecommunications Authority to form the Office of the Communications Authority.*

Introduction

- (c) ***Food and Environmental Hygiene Department (FEHD)***. Under the Hawker Regulation (Cap. 132AI) of the Public Health and Municipal Services Ordinance (Cap. 132), the FEHD issues temporary hawker licences to persons authorised by:
- (i) charitable institutions or trusts of a public character exempt from tax under section 88 of the Inland Revenue Ordinance (IRO — Cap. 112) (hereinafter referred to as tax-exempt charities) for charitable fund-raising activities involving on-street selling of commodities; or
 - (ii) other non-profit-making organisations incorporated or registered under the laws of Hong Kong for fund-raising activities involving on-street selling of commodities for non-charitable or non-commercial purposes; and
- (d) ***Lands Department (Lands D)***. The Lands D grants approval for temporary occupation of unleased land to non-profit-making organisations wishing to set up booths or counters for conducting fund-raising activities.

1.5 Table 1 shows the numbers of permits and licences issued for charitable fund-raising activities for the period from April 2012 to September 2016.

Table 1

**Permits and licences issued for charitable fund-raising activities
(April 2012 to September 2016)**

Year	Type			
	PSP for		Lottery licence	Temporary hawker licence (Note 1)
	flag days	general charitable fund-raising activities		
	(Number)			
2012-13	117	400	66	222
2013-14	117	447	69	60
2014-15	117	376	68	41
2015-16	120	365	60	41
2016-17 (Up to September 2016)	116 (Note 2)	154 (Note 3)	23	10

Source: SWD, HAD and FEHD records

Note 1: The figures only included the temporary hawker licences issued to persons authorised by tax-exempt charities for charitable fund-raising activities. According to the FEHD, the number of all temporary hawker licences issued in 2011 was about 1,200 (of which over 90% were issued to tax-exempt charities). After the introduction of a limit on the number of licences issued for each fund-raising organisation within 12 months in July 2012 (see para. 5.5), there was a decrease in the number of licences issued.

Note 2: PSPs for flag days are issued to all successful organisations around December each year (see para. 3.2(a)). Up to September 2016, 65 flag-day fund-raising activities had been conducted.

Note 3: Up to March 2017, about 370 PSPs for general charitable fund-raising activities had been issued.

Introduction

Previous audit review on monitoring of charities

1.6 In 1997, the Audit Commission (Audit) conducted a review of “Monitoring of charities: fund-raising and tax allowances” covering the Government’s procedures on monitoring of charitable fund-raising activities and those on administering tax exemptions. The results were reported in Chapter 4 of the Director of Audit’s Report No. 29 of October 1997. The Government accepted the audit recommendations for implementation.

Government’s efforts to enhance the transparency and accountability of charitable fund-raising activities

1.7 In the past years, the Government implemented various measures to enhance the transparency and accountability of charitable fund-raising activities, as follows:

- (a) ***Publication of best practices.*** In November 2004, the SWD promulgated the “Reference Guide on Best Practices for Charitable Fund-raising Activities” (Reference Guide) suggesting best practices in the areas of donors’ rights, fund-raising practices and financial accountability. It also updated the “Guidance Note on Internal Financial Controls for Charitable Fund-raising Activities” (Guidance Note — first issued in 1998) for voluntary adoption by charities. The Guidance Note sets out advice in respect of the safe custody of cash, and proper documentation of income and expenditure generated from charitable fund-raising activities (Note 8). In December 2014, the Reference Guide was updated to incorporate new guidance on donors’ rights and fund-raising practices (see para. 2.6 and Appendix A); and
- (b) ***One-stop finder for fund-raising activities.*** In July 2012, the Office of the Government Chief Information Officer (OGCIO) launched a one-stop finder on charitable fund-raising activities approved by the three licensing departments listed in paragraph 1.4(a) to (c) on the Government Portal

Note 8: *In October 2009, the Independent Commission Against Corruption also published the “Best Practice Checklist for the Management of Charities and Fundraising Activities” to help charities enhance internal governance, and transparency and accountability in fund-raising activities.*

“GovHK” to provide easy and convenient public access to such information on one single website.

1.8 The rapid rise in philanthropy (see para. 1.3) has highlighted the need to ensure that charitable organisations exercise good governance, stewardship, and ethical practices, and the monies collected are applied to their professed charitable purposes. From time to time, there have been public concerns over the adequacy of the Government’s monitoring of charitable organisations and their activities. The following are some examples:

- (a) at a meeting of the Legislative Council (LegCo) Panel on Welfare Services in April 2016, Members expressed concerns on various aspects of on-street fund-raising activities:
 - (i) it had become a trend to request donors to set up standing donation instructions (i.e. signing direct debit authorisation forms) and such mode of fund-raising could involve a large sum of money. The Government should study ways to regulate these activities;
 - (ii) some organisations would engage intermediaries to solicit donations and might be charged an unreasonable administrative fee. The Government should make public the names of the organisations which incurred an unreasonable administrative fee for their fund-raising activities and remind members of the public to stay vigilant when making donations; and
 - (iii) there was a need for the Government to implement the recommendations put forward by the Law Reform Commission (LRC — Note 9 and see para. 1.9), including the setting up of a platform of coordination in dealing with applications for charitable fund-raising licences among the relevant departments, and making

Note 9: *The LRC, established in January 1980, considers for reform those aspects of the laws of Hong Kong which are referred to it by the Secretary for Justice or the Chief Justice. Members of the LRC are appointed by the Chief Executive of the Hong Kong Special Administrative Region and include academics, practising lawyers, and prominent members of the community.*

Introduction

improvements to the existing mechanism for overseeing fund-raising activities;

- (b) there was a media report in January 2017 alleging that some organisations incurred high administration and fund-raising costs. In this connection, a LegCo Member expressed concern on the lack of government control on charities; and
- (c) over the years, the SWD has been receiving enquiries/complaints from the public on fund-raising activities. According to the SWD, from April 2012 to September 2016, 46 (5%) of 891 such enquiries/complaints received were suspected cases of illegal fund-raising activities and were referred to the Hong Kong Police Force (HKPF) for further investigation.

An effective monitoring framework has an important role to play in enhancing the governance standards of charities and ensuring that they uphold accountability and transparency for the donations they received.

Law Reform Commission Report on Charities

1.9 In view of the wide discussion by the community on the need for greater monitoring of charitable organisations, in June 2007, the Chief Justice and the Secretary for Justice asked the LRC to review the subject. In December 2013, after completing a public consultation in 2011, the LRC published a Report on Charities (LRC Report) with a number of recommendations, including the definition and registration of charities, facilitation of good practice, financial reporting by charities and filing requirements (and requirement of display of registration number) for charitable fund-raising activities. In particular, the LRC Report recommended that all charitable organisations should be subject to the requirement of registration and a platform of coordination in dealing with applications for licences of charitable fund-raising activities among the relevant departments should be set up. Given that the recommendations touched on areas which fell within the policy responsibilities of several bureaux, the Home Affairs Bureau (HAB) has been tasked to coordinate inputs from relevant bureaux/departments (B/Ds) for formulating a response to the LRC's recommendations for the Government's consideration.

Audit review

1.10 Against the above background, in October 2016, Audit commenced a review on the Government's support and monitoring of the rapidly expanding charity sector and their charitable fund-raising activities. The audit findings are contained in two Audit Reports, namely the monitoring of charitable fund-raising activities (the subject matter of this Audit Report) and the Government's support and monitoring of charities (in Chapter 1 of the Director of Audit's Report No. 68).

1.11 This Audit Report focuses on the following areas:

- (a) Government's efforts to promote transparency and accountability of charitable fund-raising activities (PART 2);
- (b) administration of public subscription permits for charitable fund-raising activities (PART 3);
- (c) administration of lottery licences for charitable fund-raising activities (PART 4);
- (d) administration of temporary hawkker licences for fund-raising activities involving on-street selling (PART 5); and
- (e) way forward (PART 6).

General response from the Government

1.12 The Secretary for Home Affairs, the Director of Home Affairs and the Director of Food and Environmental Hygiene generally agree with the audit recommendations.

1.13 The Director of Social Welfare welcomes Audit's review on the SWD's monitoring of charitable fund-raising activities in public places and generally agrees with the recommendations on enhancing the transparency and accountability of charitable fund-raising activities and strengthening the administrative measures in regulating these activities.

Acknowledgement

1.14 Audit would like to acknowledge with gratitude the assistance and full cooperation of the staff of the HAB, the SWD, the HAD, the FEHD, the Lands D and the OGCIIO during the course of the audit review.

PART 2: GOVERNMENT’S EFFORTS TO PROMOTE TRANSPARENCY AND ACCOUNTABILITY OF CHARITABLE FUND-RAISING ACTIVITIES

2.1 This PART examines the Government’s efforts in promoting transparency and accountability of charitable fund-raising activities, focusing on:

- (a) voluntary adoption of best practices for organising fund-raising activities by charities (paras. 2.7 to 2.15); and
- (b) usage of the one-stop finder (paras. 2.16 to 2.18).

Voluntary system to enhance transparency and accountability

2.2 To promote Hong Kong as a caring society and a community supportive of charitable causes, the Government keeps regulatory procedures to a minimum to facilitate charitable organisations to attract community resources to fund their charitable causes. However, from time to time, there were some concerns over fund-raising practices and the proper use of funds raised.

2.3 Under existing legislation, the Government’s monitoring of charitable fund-raising activities is only confined to those carried out in public places or involving lotteries where permits or licences are required and administered by the SWD, the HAD or the FEHD (i.e. regulated charitable fund-raising activities). Other forms of fund-raising activities (such as on-street face-to-face solicitation of regular donations (by means of signing direct debit authorisation forms), charity auctions, balls, concerts, dinners, sales, walks, film premieres, and appeals for donations by mail, phone advertisements, mass media and the Internet) do not require a permit or a licence (see para. 1.4).

2.4 In Chapter 4 of the Director of Audit’s Report No. 29 of October 1997 on the audit review of “Monitoring of charities: fund-raising and tax allowances” (see para. 1.6), Audit expressed concern over the inadequacy of government control over charitable fund-raising activities and recommended that the Government should expedite action on implementing a scheme of control over fund-raising activities.

Government's efforts to promote transparency and accountability of charitable fund-raising activities

The Public Accounts Committee of LegCo in its 1998 Report also expressed concern on the issue. To take the recommendation forward, the Government decided in September 2002 that:

- (a) administrative controls should be strengthened with a view to enhancing transparency and accountability of fund-raising activities, instead of formulating legislative proposals as legislation would entail onerous bureaucracy and resource implications given the small number of problematic cases;
- (b) the administrative measures should enable donors to make an informed choice when making donations; and
- (c) the SWD would revisit the Guidance Note issued in 1998 (see para. 1.7(a)) and encourage voluntary compliance by charities and consider setting up a Public Register of charitable fund-raising organisations which had pledged and demonstrated compliance with a guide on the best fund-raising practices. This would include disclosing the intended purposes and beneficiaries of the donations and the percentage of donations used for administration costs (i.e. the Reference Guide subsequently promulgated by the SWD in 2004 — see para. 2.6).

2.5 In February 2003, the Ombudsman published a report of a direct investigation into the monitoring of charitable fund-raising activities, which also recommended the Government drawing up a Reference Guide for charities and setting up the proposed Public Register, as a voluntary system to enhance transparency and accountability of charitable fund-raising activities. The Report also recommended that the Government should in the longer term, review the adequacy and appropriateness of government control in monitoring charities in general and their fund-raising activities in particular. After a public consultation exercise from August to September 2003, the Government informed the LegCo Panel on Welfare Services in July 2004 that:

- (a) the SWD would draw up a Reference Guide covering best practices on areas of donors' rights, fund-raising practices and accounting/auditing requirements for voluntary adoption by charities. The Reference Guide would encourage charities to disclose more of their financial information and to minimise the fund-raising costs. Charities which voluntarily adopted the Reference Guide might choose to adhere to all or part of the

Government's efforts to promote transparency and accountability of charitable fund-raising activities

Guide. The Guide could also serve as a reference for the public in gauging the performance of a charity in fund-raising;

- (b) the proposed Public Register would not be considered at that stage as a voluntary registration system would not be able to help the public identify the so-called “dubious” charities. If a compulsory registration system was introduced, stringent vetting and review procedures had to be put in place which would have considerable resource implications. Furthermore, the procedures and the need to ensure cost recovery for such a system might inadvertently stifle the fund-raising activities, in particular small-scale charities; and
- (c) the SWD would proceed to issue the updated Guidance Note (which included advice on safe custody of cash, and proper documentation of income and expenditure generated from charitable fund-raising activities) in conjunction with the launch of the Reference Guide.

2.6 **Reference Guide and Guidance Note.** The Reference Guide which contained 21 best practices on donors’ rights, fund-raising practices and accounting/auditing requirements was promulgated by the SWD in November 2004, together with the updated Guidance Note. In September 2006, the SWD conducted a review on the effectiveness of the Reference Guide by means of a survey of the charities. Based on the survey results, the SWD concluded that the voluntary adoption of the Reference Guide was effective in enhancing transparency and accountability of the fund-raising activities. In December 2014, the Reference Guide was updated with new guidance on donors’ rights and fund-raising practices, such as providing donors with charitable service records and providing due care to fund-raisers with specific needs (e.g. elderly and children). Some of the major best practices and internal financial controls specified in the Reference Guide and the Guidance Note are shown at Appendices A and B respectively.

Voluntary adoption of best practices for organising fund-raising activities by charities

2.7 Since the promulgation of the Reference Guide in November 2004, the SWD has taken actions to promote the voluntary adoption of the Guide by charities. In early years, the SWD issued the Guide to all charities which had obtained subvention from the SWD or those which had applied for PSPs. The SWD also

Government's efforts to promote transparency and accountability of charitable fund-raising activities

prepared printed copies of the Guide for distribution by other B/Ds, such as the Education Bureau for schools and the Leisure and Cultural Services Department for the general public visiting public libraries, museums and cultural centres (Note 10). Furthermore, the SWD has uploaded the Guide onto its website and solicited charitable organisations' support for the voluntary adoption of the Reference Guide.

2.8 To understand the extent of voluntary adoption of the Reference Guide, the SWD has collected information from charitable organisations through various channels:

- (a) in November 2004, the SWD issued letters to charities under its purview appealing for their adoption of the Guide and requesting them to indicate their choices. Similar letters to charitable organisations appealing for adopting the Guide were also uploaded onto the SWD's website shortly after the promulgation of the Guide in 2004;
- (b) the SWD has also made use of the acknowledgement letters of PSP applications to request applicant organisations to indicate whether they would adopt the Reference Guide; and
- (c) the SWD has since 2010 issued letters annually to invite charities (which have not responded to its requests in (a) and/or (b)) to provide information on whether they would adopt the Reference Guide. Up to September 2016, 116 organisations had replied to these annual invitations.

2.9 Up to September 2016, the SWD had invited 961 charitable organisations to provide information on adopting the Reference Guide and received responses from 426 organisations. Among these 426 responding organisations, 400 had indicated that they would adopt the Guide. As shown in Table 2, the number of

Note 10: *In connection with the public consultation on the Reference Guide (see para. 2.5), in August 2003, the SWD sought the IRD's assistance in issuing a circular letter to the tax-exempt charities for soliciting their views. However, owing to the official secrecy provision of the IRO, the IRD, based on the advice of the Department of Justice, considered it inappropriate to distribute the circular letter on the SWD's behalf. Thereafter, the SWD had not approached the IRD for assistance in distributing the Reference Guide to the tax-exempt charities.*

**Government's efforts to promote transparency and
accountability of charitable fund-raising activities**

organisations fully or partially adopting the Reference Guide had increased by 56% from 256 in April 2006 to 400 in September 2016.

Table 2

**Number of charitable organisations adopting the Reference Guide
(April 2006 and September 2016)**

Charitable organisations	April 2006 (Note)	September 2016
	(No.)	
Informing the SWD of their extent of adoption	279	426
Fully adopting the Reference Guide	225 (81%)	360 (85%)
Partially adopting the Reference Guide	31 (11%)	40 (9%)
Total	256 (92%)	400 (94%)
Not adopting the Reference Guide	23 (8%)	26 (6%)

Source: SWD records

Note: The SWD has maintained statistics on the adoption of the Reference Guide since January 2005.

2.10 Audit selected 40 tax-exempt charities which solicited public donations to examine whether they had published their financial information (e.g. annual reports or annual audited financial statements) on their websites for reference by members of the public. Audit found that as at February 2017:

- (a) 23 (58% of 40) tax-exempt charities had indicated to the SWD that they would adopt the Reference Guide. Of the 23 tax-exempt charities, 21 (91%) had published their financial information on their websites; and

Government's efforts to promote transparency and accountability of charitable fund-raising activities

- (b) the other 17 (42% of 40) tax-exempt charities either had indicated to the SWD that they would not adopt the Reference Guide, had not replied to or had not been contacted by the SWD. Of these 17 tax-exempt charities, only 4 (24%) had published their financial information on their websites.

There was a high correlation between those charities which had indicated adoption of the Reference Guide and the publication of their financial information on their websites.

Need to further promote the recognition and voluntary adoption of best practices

2.11 ***Rapidly expanding charity sector.*** Over the past 10.5 years, the number of tax-exempt charities had doubled from 4,435 in March 2006 to 8,923 in September 2016. The charitable donations allowed for tax deduction had also increased by 126% from \$5.25 billion for the year of assessment 2005-06 to \$11.84 billion for 2014-15 (see para. 1.3). Most of the tax-deductible charitable donations were raised by fund-raising activities that did not require a permit or a licence (see para. 1.4). By comparison, in 2014-15, proceeds raised from regulated charitable fund-raising activities approved by the SWD and the HAD totalled \$282 million only (Note 11). Most of the charitable donations collected through these regulated fund-raising activities do not meet the criteria for claiming tax deduction under the IRO. For example, purchases of lottery tickets and commodities on sale at public places for charitable purposes under the lottery licences and the temporary hawker licences respectively are not tax deductible because they are not pure donations without benefits in return. For flag days, receipts are not given for donations raised through street collections generally because of their small amounts and therefore, such donation claims will not be recognised for tax deduction purpose.

Note 11: *The FEHD has not maintained records of funds raised by charities issued with temporary hawker licences for selling activities in public places.*

Government's efforts to promote transparency and accountability of charitable fund-raising activities

2.12 *Other forms of fund-raising activities not subject to Government's monitoring.* In recent years, the mode of fund-raising has been evolving rapidly and it is no longer limited to traditional means such as setting up of cash donation boxes. Appeals for donations through the Internet and face-to-face solicitation of regular donations in public places by means of signing direct debit authorisation forms (see Photograph 1) are examples of other fund-raising activities not subject to the Government's monitoring (Note 12).

Photograph 1

Face-to-face solicitation of regular donations in public places by means of signing direct debit authorisation forms



Source: Photograph taken by Audit on 9 December 2016

Note 12: According to the SWD, based on the legal interpretation of the wording of "collection of money" used in the Summary Offences Ordinance, face-to-face solicitation of regular donations in public places by means of signing direct debit authorisation forms does not require a PSP as it does not involve collection of money on the spot (see Note 19 to para. 3.9(c)).

Government's efforts to promote transparency and accountability of charitable fund-raising activities

2.13 The Lands D grants approval for temporary occupation of unleased land to non-profit-making organisations for conducting fund-raising activities (see para. 1.4(d)). Audit analysed the number of multi-district applications for temporary occupation of unleased land made to the Lands D for setting up booths or counters for charitable fund-raising activities from January to December 2016. Audit noted that 194 (77%) of 252 multi-district applications were for conducting face-to-face solicitation of regular donations in public places by means of signing direct debit authorisation forms. Among the 18 applicants involved in these 194 applications, only 6 (33%) had adopted the Reference Guide. At a meeting of the LegCo Panel on Welfare Services in April 2016, a Member expressed the view that solicitation of regular donations in public places by means of signing direct debit authorisation forms had become a trend and could involve a large sum of money, and hence the Government should study ways to regulate these activities (see para. 1.8(a)(i)).

2.14 ***Room for improvement in promoting best practices for organising charitable fund-raising activities.*** Audit examination of the Government's efforts on promotion of the Reference Guide has revealed the following areas for improvement:

- (a) although the Reference Guide was updated in December 2014, the Government has not launched any large-scale promotional programmes to enhance the awareness and recognition of the Reference Guide among the charitable organisations and the general public;
- (b) from 2004 to September 2016, the SWD reached out to 961 charitable organisations (which were PSP applicants or SWD subvented organisations) in promoting the adoption of the Reference Guide. Given that there were 8,923 tax-exempt charities (see para. 2.11), the SWD may consider seeking the assistance of relevant B/Ds for the purpose of achieving wider promotion and recognition of the best practices for fund-raising. For example, as 83% of the tax-exempt charities were registered as companies or societies, the SWD may make use of contact information available from the Companies Registry and the HKPF in this regard; and
- (c) after the SWD's review of the effectiveness of the Reference Guide through a survey of the charities conducted in September 2006 (see para. 2.6), similar review has not been conducted for over ten years.

Government's efforts to promote transparency and accountability of charitable fund-raising activities

With the lapse of time, the SWD needs to consider conducting another review to evaluate the effectiveness of the Reference Guide in achieving the Government's objective of enhancing the transparency and accountability of charitable fund-raising activities in public places (see para. 2.4(a)).

In Audit's view, there should be concerted efforts among the three licensing departments to promote the public awareness and the charitable organisations' adoption and recognition of the best practices for organising charitable fund-raising activities.

2.15 *Need to incorporate more guidance on other forms of charitable fund-raising activities.* While the Reference Guide was last updated in December 2014, there had not been any revision of the Guidance Note after its promulgation in November 2004. The SWD needs to review and update the Guidance Note and the Reference Guide in light of the changed circumstances. Given the increased use of on-street face-to-face solicitation of regular donations and social media on the Internet for fund-raising, there is a need to incorporate more guidance on other forms of fund-raising activities in the publications of best practices for organising charitable fund-raising activities as far as practicable. In this connection, Audit has noted that:

- (a) the Face-to-Face Monthly Giving Alliance, set up under the Hong Kong Council of Social Service, has issued the "Code of Practice on Face-to-Face Monthly Donors' Recruitment", with some requirements tailor-made for new forms of donations. For example, when soliciting regular donations, the charitable organisations must inform potential donors of the procedures to amend their donation instructions (such as cancelling or changing the frequency of donations). Currently, the Reference Guide only advises charitable organisations to respond promptly to a donor's request to amend the donor's standing donation instruction and take all reasonable steps to facilitate such amendment upon request by the donor; and
- (b) in respect of financial controls on donations made online which involve electronic payment service providers, the guidelines issued by the Fundraising Institute Australia state that charitable organisations need to ensure that the service provider maintains a separate bank account into which all donations are to be deposited and puts in place policies for data

Government's efforts to promote transparency and accountability of charitable fund-raising activities

protection (including financial information security). Currently, the Guidance Note does not have any similar provision in this regard.

According to the SWD, there have been ongoing inter-departmental discussions on possible enhancement of the Reference Guide for general application to fund-raising activities in the context of the HAB's coordination of B/D's inputs for formulating the Government's response to the LRC's recommendations (see para. 1.9). In this connection, Audit considers that there is a need to incorporate more guidance on other forms of fund-raising activities in the publications of best practices for organising charitable fund-raising activities as far as practicable.

Usage of the one-stop finder

2.16 In July 2012, a one-stop finder (www.gov.hk/fundraising) on charitable fund-raising activities approved by the SWD, the HAD and the FEHD was launched on the government portal "GovHK" to provide easy and convenient access to such information. The finder puts together information on the regulated charitable fund-raising activities managed by the three licensing departments to enhance public awareness and facilitate monitoring of these activities. The public can browse the list of approved activities of the day or search the activity details by date, location and organisation. The finder is also optimised for display on mobile devices. The general public can check whether the on-street charitable fund-raising activities they chance upon have been approved by the relevant departments.

Low usage of the one-stop finder

2.17 Audit analysed the hit rates of the web pages of the one-stop finder. As shown in Table 3, the usage of the one-stop finder had been on the low side and on a decreasing trend, i.e. the average daily hit rates had decreased by 77% from 275 in 2012-13 (from July 2012) to 62 in 2016-17 (up to October 2016).

**Government's efforts to promote transparency and
accountability of charitable fund-raising activities**

Table 3

**Hit rates of the web pages of the one-stop finder
(July 2012 to October 2016)**

Web page	Average number of daily hit rates					
	2012-13 (from July 2012)	2013-14	2014-15	2015-16	2016-17 (up to October 2016)	Percentage decrease from July 2012 to October 2016
Flag days	34	14	14	11	9	74%
General charitable fund-raising activities	38	15	12	9	8	79%
Lottery events	34	12	10	9	7	79%
On-street selling activities	148	38	32	25	24	84%
Searching fund-raising activities	21	15	15	10	14	33%
Overall	275	94	83	64	62	77%

Source: Audit analysis of one-stop finder log records

2.18 Since the launch of the one-stop finder in July 2012, various departments have made publicity efforts to promote the service, as follows:

- (a) the Information Services Department published a press release and the HKPF published one article in Police Magazine (which was also broadcast via television programme “Police Report”) on the launch of the one-stop finder in July 2012;

Government's efforts to promote transparency and accountability of charitable fund-raising activities

- (b) since 2013-14, the SWD has produced publicity materials (e.g. posters) to promote the website link of the one-stop finder;
- (c) since 2014-15, the SWD has required printing the Quick Response Code (commonly known as the QR code) to the one-stop finder on all PSPs and publicity items;
- (d) in 2013, the OGCIO launched a mobile application, namely "EventHK", to provide information including the fund-raising activities approved by the licensing departments; and
- (e) the SWD has taken opportunities to promote the one-stop finder in its verbal/written replies to enquiries and/or complaints from members of the public, mass media as well as LegCo Members and District Councillors.

In view of the decreasing usage of the one-stop finder (see para. 2.17), the relevant departments responsible for uploading charitable fund-raising information (i.e. the SWD, the HAD and the FEHD) onto the one-stop finder need to consider stepping up or renewing their publicity efforts to raise the public awareness of the service.

Audit recommendations

2.19 **Audit has recommended that:**

- (a) **the Director of Social Welfare, the Director of Home Affairs and the Director of Food and Environmental Hygiene should:**
 - (i) **launch large-scale promotional programmes to enhance the awareness and recognition among the charitable organisations and the general public on the best practices for organising charitable fund-raising activities;**
 - (ii) **step up promotion efforts to encourage more charitable organisations in adopting the best practices for organising charitable fund-raising activities and endeavour to reach out to more organisations by seeking assistance from relevant B/Ds to provide their contact information;**

Government's efforts to promote transparency and accountability of charitable fund-raising activities

- (iii) **incorporate more guidance on other forms of fund-raising activities in the publications of best practices for organising charitable fund-raising activities as far as practicable; and**
 - (iv) **consider stepping up or renewing the publicity efforts to raise public awareness of the one-stop finder service on charitable fund-raising activities on the government portal “GovHK”;**
- (b) **the Director of Social Welfare should:**
 - (i) **conduct a review of the effectiveness of the Reference Guide to evaluate the extent of achieving the Government's objective of enhancing transparency and accountability of charitable fund-raising activities in public places; and**
 - (ii) **review and update the Reference Guide and the Guidance Note in light of the changed circumstances; and**
- (c) **the Secretary for Home Affairs should take into consideration the recommendations in (a) and (b) in coordinating inputs from relevant B/Ds for the Government's consideration of the response to the LRC's recommendations.**

Response from the Government

2.20 The Director of Social Welfare agrees with the audit recommendations in paragraph 2.19(a) and (b). She has said that the SWD will conduct a survey to collate views for reviewing and updating the Reference Guide and the Guidance Note.

2.21 The Director of Home Affairs agrees with the audit recommendations in paragraph 2.19(a). She has said that the HAD is prepared to work with the SWD and the FEHD on the feasibility of the proposed measures.

Government's efforts to promote transparency and accountability of charitable fund-raising activities

2.22 The Director of Food and Environmental Hygiene generally agrees with the audit recommendations in paragraph 2.19(a). She has said that the FEHD will continue to work in collaboration with the SWD and the HAD in this regard and continue to take part in the inter-departmental discussions mentioned in paragraph 2.15 concerning on-street hawking activities.

2.23 The Secretary for Home Affairs accepts the audit recommendation in paragraph 2.19(c).

PART 3: ADMINISTRATION OF PUBLIC SUBSCRIPTION PERMITS FOR CHARITABLE FUND-RAISING ACTIVITIES

3.1 This PART examines the work of the SWD in administering PSPs issued for charitable fund-raising activities, focusing on:

- (a) processing of applications (paras. 3.8 to 3.10);
- (b) compliance with permit conditions (paras. 3.11 to 3.14); and
- (c) monitoring of charitable fund-raising activities under PSPs (paras. 3.15 to 3.24).

Public subscription permits

3.2 The Summary Offences Ordinance consolidates the law relating to summary offences including nuisances committed in public places. According to section 4(17)(i) of the Ordinance, any person who organises, provides equipment for, or participates in any collection of money or sale or exchange for donations of badges, tokens or similar articles in public places for charitable purposes is required to apply for a permit (i.e. PSP) issued by the Director of Social Welfare. Headed by a Chief Executive Officer, the Lotteries Fund Projects Section (Note 13) under the Subventions Branch of the SWD (see Appendix C for an extract of the SWD's organisation chart) is responsible for issuing PSPs in respect of two types of charitable fund-raising activities:

- (a) ***Flag days.*** The SWD conducts an annual exercise to invite and approve charities to hold flag days to raise funds for their charitable projects (see Note 5 to para. 1.4(a)). Invitation for applications is advertised on newspapers and via the SWD's website in April or May each year. An applicant organisation must be a bona-fide non-profit-making organisation

Note 13: *The Lotteries Fund Projects Section is mainly responsible for administering the Lotteries Fund grants to meet the capital costs of welfare projects. About 10 staff are allocated to the processing and monitoring of PSPs.*

Administration of public subscription permits for charitable fund-raising activities

exempted from tax under the IRO. Applications with details of the projects/services to be funded by the flag sale and breakdown of the usage of target net proceeds from flag-day fund-raising are considered and endorsed by the Lotteries Fund Advisory Committee (LFAC — Note 14) around September. When the number of applications received exceeds the number of flag days available for allocation, there will be a drawing of lots to decide on the successful organisations. Eligible applicant organisations will be invited to witness the lots drawing which determines the order of priority for their selection of flag days. The SWD issues PSPs to successful organisations around December each year. Table 4 shows the number of PSPs issued and proceeds raised for flag days from April 2012 to September 2016; and

- (b) ***General charitable fund-raising activities.*** These activities cover charity sale of badges, tokens or similar articles, door to door donation in public housing estates, setting up of donation boxes in stationed counters, charity ride, and passing of offering bags. Applications for PSPs for holding general charitable fund-raising activities in public places can be submitted throughout the year. An applicant organisation must possess a valid registration under the Companies Ordinance (Cap. 622), or the Societies Ordinance (Cap. 151), or be a tax-exempt charity. In submitting an application to the SWD, the applicant organisation should provide relevant supporting documents together with information on the time, duration, locations, products for sale and purposes of the fund-raising activities at least three weeks before the commencement of the activities. The validity period of the PSP issued by the SWD depends on the nature of the activities (Note 15). Table 5 shows the number of PSPs issued and proceeds raised for general charitable fund-raising activities from April 2012 to September 2016.

Note 14: *The LFAC is chaired by the Director of Social Welfare, and comprises representatives from the Labour and Welfare Bureau and members from the social welfare, academic, professional and business sectors as appointed by the Secretary for Labour and Welfare. It is the advisory body to the SWD in advising the Director of Social Welfare on applications for allocations from the Lotteries Fund and on charitable fund-raising activities. The LFAC holds meetings once every two months.*

Note 15: *For example, the validity period of PSPs for setting up fixed donation boxes at locations (such as hospitals) can be up to one year, while that of PSPs for moving around solicitation with donation boxes/bags varies depending on various factors including the consent of the management authority of the venue for the fund-raising activities.*

**Administration of public subscription permits
for charitable fund-raising activities**

Table 4

**Number of PSPs issued and proceeds raised for flag days
(April 2012 to September 2016)**

Flag days		Year				
		2012-13	2013-14	2014-15	2015-16	2016-17 (Up to September 2016) (Note)
Territory- wide	Eligible applications (No.)	60	60	65	61	63
	PSPs issued (No.)	30	30	30	30	29
	Gross proceeds (\$ million)	63	59	60	64	13
	Net proceeds (\$ million)	59	55	56	60	12
Regional	Eligible applications (No.)	142	143	135	133	135
	PSPs issued (No.)	87	87	87	90	87
	Gross proceeds (\$ million)	54	54	54	55	19
	Net proceeds (\$ million)	51	51	50	52	17
Total	Eligible applications (No.)	202	203	200	194	198
	PSPs issued (No.)	117	117	117	120	116
	Gross proceeds (\$ million)	117	113	114	119	32
	Net proceeds (\$ million)	110	106	106	112	29

Source: Audit analysis of SWD records

Note: Among the 116 PSPs issued, 65 flag-day fund-raising activities had been conducted up to 30 September 2016, and information on gross and net proceeds of 43 activities had been submitted to the SWD (see para. 3.4(a)).

**Administration of public subscription permits
for charitable fund-raising activities**

Table 5

**Number of PSPs issued and proceeds raised for
general charitable fund-raising activities
(April 2012 to September 2016)**

Year	General charitable fund-raising activities		
	PSPs	Gross proceeds	Net proceeds (Note 1)
	(No.)	(\$ million)	(\$ million)
2012-13	400	115	82
2013-14	447	90	74
2014-15	376	78	62
2015-16	365	69	53
2016-17 (Up to September 2016)	154 (Note 2)	8	4

Source: Audit analysis of SWD records

Note 1: For the deficit cases where expenses exceeded gross proceeds (see Note 1 to Table 6 in para. 3.18), the deficits were not counted towards the total net proceeds for each year.

Note 2: Up to 30 September 2016, among the 154 PSPs issued, fund-raising activities approved under 108 PSPs had been completed and information on gross and net proceeds of 54 activities had been submitted to the SWD (see para. 3.4(a)).

3.3 Based on the figures for 2012-13 to 2015-16 in Tables 4 and 5, for flag days, the number of PSPs issued averaged 118 each year, and the gross proceeds raised averaged \$2 million for each territory-wide flag day and \$0.6 million for each regional flag day. For general charitable fund-raising activities, the number of PSPs issued and the gross proceeds raised averaged 397 each year and \$0.22 million for each PSP respectively.

Administration of public subscription permits for charitable fund-raising activities

3.4 *Permit conditions.* To ensure the proper conduct and financial accountability of charitable fund-raising activities, various conditions governing the operation and accountability are stipulated in the PSPs for both flag days and general charitable fund-raising activities. For example, regarding the operation of general charitable fund-raising activities, permittees should display the permits prominently at approved locations to inform the public of the SWD's approval. Regarding accountability, the salient permit conditions stipulate that:

- (a) the permittee shall be accountable for the funds raised and disbursement made in relation to the PSP. It is required to prepare an income and expenditure account, including all the income from public donation and a detailed breakdown of each disbursement item for audit by a Certified Public Accountant (CPA). The report prepared in accordance with Practice Note 850 issued by the Hong Kong Institute of Certified Public Accountants (HKICPA) is deemed acceptable for compliance with the relevant permit conditions by the SWD. The income and expenditure account together with the auditor's report (collectively referred to as the audited report by the SWD) should be submitted to the SWD within 90 days of the last event day;
- (b) within 90 days of the last event day, the permittee shall cause the balance of the donations (after deducting any expenses incurred) to be (i) used for the purposes specified in the permit; or (ii) credited to a bank account; and
- (c) within 90 days of the last event day, the permittee shall publish the audited report either on its website, in its annual report, newsletter or special circular to its members.

3.5 PSP permittees are required to comply with the permit conditions. Whenever non-compliance is substantiated, the SWD will issue written reminders/warnings to the permittees concerned. For permittees which fail to submit the audited report according to permit conditions, the SWD will suspend their new PSP applications until all the required documents are received and checked in order. If the audited report is still outstanding after the issue of written reminders/warnings by the SWD, the non-compliant permittee will be put on a withholding list, i.e. the processing of its new PSP applications, if any, will be

Administration of public subscription permits for charitable fund-raising activities

withheld. For serious violation, the SWD will revoke its ongoing PSPs. For cases that are suspected to have contravened the law (Note 16), the SWD will refer them to the HKPF for investigation (see para. 1.8(c)). For flag-day applications, the eligibility of applicant organisations with outstanding audited reports or record of delay in submission of audited reports will be considered by a vetting panel set up by the LFAC during the annual allocation exercise.

3.6 ***SWD's monitoring mechanism.*** The SWD has developed a monitoring mechanism to ensure that flag days and general charitable fund-raising activities in public places are conducted in a proper manner. The monitoring measures include:

- (a) setting conditions in the PSPs for compliance by permittees (see para. 3.4). The purposes of these permit conditions are mainly to maintain order and discipline in public places during the fund-raising events and to improve the transparency and accountability of their activities;
- (b) putting in place a complaint mechanism to address non-compliance with permit conditions and unauthorised fund-raising activities. As mentioned in paragraph 3.5, the SWD will either issue written reminders/warnings to permittees, revoke the PSPs issued or suspend issuing new PSPs to non-compliant permittees (Note 17). Since 2015, to step up monitoring of general charitable fund-raising activities, the SWD has also been conducting random on-site inspections (see para. 3.14) and sample checking of annual audited financial statements of selected permittees to ensure their proper use of proceeds upon completion of fund-raising activities; and
- (c) encouraging charitable organisations to adopt the Reference Guide and the Guidance Note in organising flag days and general charitable fund-raising activities (see para. 2.6).

Note 16: *According to section 4 of the Summary Offences Ordinance, any person who without lawful authority or excuse carries out fund-raising activities in public places except under and in accordance with the PSPs shall be liable to a fine of \$2,000 or to imprisonment for 3 months.*

Note 17: *Of the 103 complaints received from April 2015 to September 2016, written reminders/alert letters/warning letters were issued for 33 (32%) cases.*

Administration of public subscription permits for charitable fund-raising activities

3.7 *Measures to enhance transparency and accountability of fund-raising activities.* With the increasing public concern and expectation of the transparency and accountability of charitable fund-raising activities, the SWD, on the advice of the LFAC, has regularly reviewed the monitoring mechanism. Improvement measures to step up controls and monitoring of fund-raising activities arising from these reviews included the following:

- (a) in August 2011, “six administrative measures” were implemented requiring, among other things, permittees to publish audited reports of the approved fund-raising activities on their websites or through other means (see para. 3.4(c)), and to make available these documents for public inspection upon request;
- (b) in April 2014, another “five new initiatives” came into effect. For establishing a structured vetting mechanism with reference to the track record of PSP applicants, applicant organisations should submit in their applications a three-year track record of their charitable activities together with their annual audited financial statements for vetting by the SWD; and
- (c) in January 2017, the LFAC endorsed further measures to promote easy identification of approved activities and enhance financial transparency. In particular, fund-raisers need to wear identity badges during the fund-raising activities, and charitable organisations need to report donation income received in respect of the approved PSP activities in their annual audited financial statements. Charitable organisations are encouraged to upload their annual audited financial statements onto their websites for public inspection. These measures are expected to be implemented within the second quarter of 2017.

Processing of applications

Need to issue guidelines on the scope of PSP

3.8 Under the Summary Offences Ordinance, a PSP is required only if the activities involve collection of money or sale or exchange for donations of badges, tokens or similar articles in public places (see para. 3.2). In processing PSP applications, the SWD needs to ensure that the charitable fund-raising activities to be organised fall within the scope of such statutory requirement. According to the SWD, given the wide varieties of fund-raising activities and the changes in their

Administration of public subscription permits for charitable fund-raising activities

modes of collection of donations, the SWD has from time to time sought the Department of Justice (DoJ)'s advice on whether a particular PSP application based on its individual circumstances is under the scope of the Ordinance. In this connection, the Lotteries Fund Projects Section of the SWD has since 1988 maintained a database of legal advice obtained on fund-raising activities to provide useful reference for its staff in processing PSP applications.

3.9 According to the database, up to September 2016, the SWD had obtained the DoJ's advice for about 300 times mainly on the interpretation of the following legal terms of the Summary Offences Ordinance as applicable to individual PSP applications:

- (a) whether the venue under application fell within the definition of a "public place" under the Ordinance (Note 18);
- (b) whether the charity sale items under application constituted "badges, tokens, or similar articles"; and
- (c) whether the transaction under application involved "collection of money" (Note 19).

3.10 Audit noted that the number of requests for the DoJ's clarification had decreased in recent years, totalling 21 from 2012-13 to 2015-16, indicating that the SWD had built up the experience in processing PSP applications based on the database of past legal advice obtained. Drawing on this experience, the SWD should explore the feasibility of issuing more guidelines for reference by applicants, and in this connection seek further legal advice from the DoJ where appropriate. This would facilitate charitable organisations in determining the relevance of PSP to

Note 18: *According to the SWD, based on the DoJ's advice, whether a place is a "public place" may be subject to interpretations. For example, it may depend on accessibility to the public to determine if it can be classified as a "passage" in the Ordinance.*

Note 19: *The meaning of "collection of money" is not defined in the Summary Offences Ordinance. The DoJ had advised the SWD that only effecting of payment (including cash and electronic payment) on the spot was under the scope of PSPs.*

their activities before filing their applications which in turn would help the SWD reduce its workload on processing unwarranted applications.

Compliance with permit conditions

3.11 Permittees' compliance with the permit conditions is important to ensure the proper conduct and accountability of charitable fund-raising activities. Audit's examination of the general charitable fund-raising activities with PSPs issued from April 2012 to September 2016 has revealed cases of non-compliance, as elaborated in paragraphs 3.12 to 3.14.

3.12 *Delays in submission of audited reports.* The requirement on filing audited reports on time is intended to enhance the transparency and accountability of the charitable organisations in relation to the funds they raised from the public. Permittees are required to submit audited reports within 90 days of the last event day (see para. 3.4(a)). From April 2012 to September 2016, audited reports for 1,497 cases were due for submission by 325 permittees. Audit's analysis has revealed that:

- (a) audited reports of 15 (1%) cases were outstanding as at 30 September 2016, of which 6 were long overdue, ranging from 216 to 429 days (averaging 342 days);
- (b) for the remaining 1,482 cases (99%) with audited reports submitted on or before 30 September 2016:
 - (i) there were delays in submission of 658 (44%) reports, averaging 43 days; and
 - (ii) of the 658 late reports, 76 (12%) were late for more than 3 months. In one case, the permittee submitted the audited report 4 years after the last event day; and
- (c) the 82 (6+76) longer delay cases mentioned in (a) and (b)(ii) above involved 64 (20%) of the 325 permittees, and 13 (4%) of them failed to submit the audited reports within 90 days of the last event day repeatedly, i.e. for two to four times.

Administration of public subscription permits for charitable fund-raising activities

Notwithstanding the SWD's follow-up mechanism (see para. 3.5), the cases of delay in submission of audited reports noted above indicate the need to step up enforcement actions, especially for those permittees with repeated cases of non-compliance.

3.13 *Fund-raising by organisations on the withholding list.* As of September 2016, there were 8 organisations on the withholding list because of their non-compliance with the permit conditions of 14 PSPs after repeated reminders and warnings (see para. 3.5). Audit's examination revealed that all 8 organisations had not been issued any PSPs since being placed on the withholding list, but 7 of them had continued to raise funds on their websites and through other activities which were outside the purview of the SWD (Note 20). Case 1 is an example.

Case 1

Fund-raising by organisations on the withholding list

1. Organisation A was granted 27 PSPs for conducting general charitable fund-raising activities from April 2012 to August 2015, including three PSPs granted in February, April and June 2015 respectively. After the approval of the June 2015 PSP, the SWD noted an expense without full justifications in the audited report of a previous PSP (granted in 2014), and that the audited report for the February 2015 PSP was overdue. As the June 2015 PSP had already been approved, the fund-raising activities were conducted as scheduled.

(to be continued)

Note 20: *The remaining organisation did not have a website and no information was available on whether it had continued to raise donations through other means after being put on the SWD's withholding list.*

Administration of public subscription permits for charitable fund-raising activities

Case 1 (Cont'd)

2. In the event, Organisation A also did not submit the audited reports for the April and June 2015 PSPs, i.e. a total of three audited reports (including the one for February 2015 PSP) were outstanding. As a result, the SWD put Organisation A onto its withholding list in February 2016 after the issue of four reminders. In May 2016, Organisation A replied to the SWD that because of poor donation income, it could not afford the audit fee and therefore no audited reports for the three PSPs would be prepared.

3. *Audit findings.* Audit found that:

- (a) the Chairman of Organisation A had also set up another charity (Organisation B). It was also granted 22 PSPs from April 2012 to July 2015 for conducting fund-raising activities similar to those of Organisation A. In January 2016, Organisation B was put on the SWD's withholding list as it also had not submitted audited reports which were due for submission in August 2015; and
- (b) both Organisations A and B were on the IRD's list of tax-exempt charities as at September 2016 and had continued to appeal for donations through their websites and other fund-raising activities (e.g. organising a fund-raising music concert).

4. *Audit comments.* While Organisations A and B had been suspended from conducting general charitable fund-raising activities in public places by the SWD, they continued to raise donations through other means not regulated by the Government. In this connection, Audit noted that the SWD had obtained the DoJ's advice that publication of information on breach of permit conditions rested with the SWD's consideration of the seriousness of the case, the harm or prejudice that could result to the organisation and the public interest involved. To enable the public to make an informed choice when making donations (see para. 2.4(b)), the SWD needs to consider publicising information on serious or repeated non-compliance with PSP conditions after warnings.

Source: Audit analysis of SWD and IRD records

Administration of public subscription permits for charitable fund-raising activities

3.14 *Inspection of fund-raising activities.* Since June 2015, the SWD has been conducting random on-site inspections on general charitable fund-raising activities. Up to September 2016, 60 activities had been inspected. Based on the SWD's inspection records, Audit noted the following issues:

- (a) *Need to take concerted actions on repeated "no-show" cases.* Use of public places (especially those with high pedestrian flow) for charitable fund-raising activities was in high demand. Based on a sample check of 65 applications for temporary occupation of unleased land for setting up counters or booths in 2,109 locations for fund-raising purposes received by the Lands D in 2016, Audit found that the applications for 1,059 (50%) locations had been rejected and one of the common reasons was that the locations applied for had already been allocated to another organisation. During the SWD's inspections of 30 (50%) of the 60 activities, no fund-raising activities were found at the approved locations. The high percentage of "no-show" cases indicates an ineffective use of public resources as other charities are deprived of the opportunity to use the places for organising their activities. Audit noted that while the SWD had taken follow-up actions on "no-show" cases, such as making enquiry with the permittees concerned (Note 21) and giving verbal warnings or issuing alert letters in some of the cases, there was still recurrence of such situation. Among the inspected cases, 7 organisations had been repeatedly found not carrying out any fund-raising activities during the time of inspections. In this connection, Audit noted that the FEHD also conducted inspections of the licensed fund-raising activities (see paras. 5.9 to 5.11). The SWD needs to liaise with the FEHD and the Lands D on the feasibility of sharing enforcement information and taking concerted actions on repeated "no-show" cases without valid reasons; and

- (b) *No display of PSPs.* Permittees are required to display the permits prominently at the approved locations of the fund-raising activities so as to inform the public of the SWD's approval in accordance with the permit

Note 21: *According to the SWD, most of the permittees in question attributed their absence at the inspected locations to unanticipated bad weather forecast and unforeseeable manpower shortage (e.g. unanticipated absence of fund-raisers which rendered only one fund-raiser available that eventually led to the call-off of event due to security concern), whilst a few permittees explained that the fund-raising activities had ended before the SWD's officers' arrival at the locations or started after the officers' departure.*

Administration of public subscription permits for charitable fund-raising activities

condition (see para. 3.4). Of the remaining 30 activities inspected by the SWD, the permittees of 11 activities (37%) failed to display the permits prominently at the approved locations. According to the SWD, most if not all of the permittees concerned had in fact brought along the permits (e.g. kept inside a file jacket) during the inspections. The SWD should continue its efforts in reminding the permittees of the requirement.

Monitoring of charitable fund-raising activities under public subscription permits

3.15 *Reference Guide.* In December 2014, the SWD updated the Reference Guide (first promulgated in November 2004) to enhance governance, transparency and accountability, covering donors' rights, fund-raising practices and financial reporting for the voluntary adoption by charitable organisations (see para. 2.6 and Appendix A). On financial accountability, the updated Reference Guide includes the following major clauses:

- (a) annual financial reports should be factual and accurate in all material respects and externally audited, disclosing information such as the total revenue and total expense of fund-raising events;
- (b) it is a good practice to make the financial statements of individual projects available to the public. The statements shall be factual and accurate in all material respects, disclosing information which includes the total revenue and total expenses of fund-raising events, and the uses of the net proceeds, and be prepared in accordance with the generally accepted accounting principles and standards established by the HKICPA; and
- (c) no more should be spent on administration and fund-raising than is required to ensure effective management and resource development. Permittees are recommended to ensure that fund-raising costs and administration costs should be reasonable, and that the greatest amount should be devoted to charitable programmes. A charitable organisation should as far as practicable disclose the ratio of costs to total revenue for donors' reference.

Administration of public subscription permits for charitable fund-raising activities

3.16 **Guidance Note.** Updated in November 2004, the Guidance Note (see Appendix B) proposes some basic controls to charitable organisations with a view to ensuring that the income generated from charitable fund-raising activities is spent for the professed or stated purpose, and that such income and expenses are properly documented. For example, organisations should make regular checks and surprise inspections to ensure that records are being accurately maintained. For charity sale of commodities, the sale proceeds should be regularly counted and recorded in the presence of at least two authorised persons.

High administration costs in some fund-raising activities

3.17 **No ceiling on fund-raising expenses for general charitable fund-raising activities.** For PSPs for flag days, the SWD imposes a permit condition that the fund-raising expenses should not exceed 10% of the gross proceeds. However, the SWD does not set similar requirement for PSPs for general charitable fund-raising activities. In a review in 2010, some members of the LFAC proposed to limit fund-raising expenses to 20% of gross proceeds and to suspend new applications for PSP from organisations that had previously conducted loss-making events for a certain period of time. As there were comments that an across-the-board ceiling was not practical for the wide-ranging activities, the proposal had not been implemented. The current Reference Guide only recommends that fund-raising costs and administration costs should be reasonable, and that the greatest amount should be devoted to charitable programmes (see para. 3.15(c)).

3.18 **High expenses in some fund-raising activities.** According to the audited reports received by the SWD, the percentage of fund-raising expenses to gross proceeds of general charitable fund-raising activities varied significantly. Table 6 shows the percentages of expenses to gross proceeds of general charitable fund-raising activities under PSPs for the past four years from 2012-13 to 2015-16.

**Administration of public subscription permits
for charitable fund-raising activities**

Table 6

**Percentages of expenses to gross proceeds
of general charitable fund-raising activities under PSPs
(2012-13 to 2015-16)**

Percentage of expenses to gross proceeds	Number of general charitable fund-raising activities under PSPs			
	2012-13	2013-14	2014-15	2015-16
0% – 20%	231 (64%)	286 (70%)	230 (66%)	209 (67%)
> 20% – 40%	50 (14%)	40 (10%)	41 (12%)	42 (14%)
> 40% – 60%	39 (11%)	38 (9%)	31 (9%)	24 (8%)
> 60% – 80%	16 (4%)	21 (5%)	15 (4%)	10 (3%)
> 80% – 100%	11 (3%)	6 (1%)	14 (4%)	13 (4%)
Deficit (Note 1)	14 (4%)	19 (5%)	17 (5%)	13 (4%)
Total (Note 2)	361 (100%)	410 (100%)	348 (100%)	311 (100%)
Total gross proceeds (\$ million)	115	90	78	69
Total expenses (\$ million)	34	20	21	20
Overall percentage of expenses to gross proceeds (Note 3)	30%	22%	27%	29%

Source: Audit analysis of SWD records

Note 1: According to the SWD, the majority of the 63 deficit cases (i.e. expenses exceeding gross proceeds) were large-scale events (such as ceremonies/concerts) which involved a higher level of production/marketing costs.

Note 2: The total number of PSPs is smaller than that in Table 5 in paragraph 3.2 because some permittees had not submitted audited reports, or they had extended their PSPs by applying for additional PSPs (e.g. longer duration of events or more venues). In the latter case, the SWD had allowed them to submit one audited report for the same event under two or more PSPs.

Note 3: According to the SWD, the increase in the overall percentage from 2013-14 to 2015-16 was partly attributable to the drop in the total gross proceeds while the total expenses remained comparatively stable.

Administration of public subscription permits for charitable fund-raising activities

3.19 Over the years, some LegCo Members and the public have raised concerns about the high proportion of administrative fee charged as fund-raising expenses, the low transparency of the donation money and also the use of the donation income for other than the stated purposes. As shown in Table 6, the overall percentages of expenses to gross proceeds for general charitable fund-raising activities ranged from 22% to 30% during 2012-13 to 2015-16.

3.20 Audit selected 60 deficit cases (see Note 1 to Table 6 in para. 3.18) and 45 high expenses cases (i.e. percentages of expenses to gross proceeds exceeding 40%) relating to the fund-raising activities held from April 2012 to March 2016 for examining their audited reports. Audit found that:

- (a) of the 60 selected deficit cases, 50 were activities primarily for public education or religious purposes (e.g. ceremonies/concerts for religious purposes and carnivals for public education), and fund-raising only formed a small part of the events. Therefore, most of the expenses were related to the publicity/production of the events. However, for the remaining 10 deficit cases, the activities of which were primarily organised for raising funds for the organisations' operation and programme. The funds raised (ranging from \$400 to \$28,000) could not cover the administration costs (including salary/allowance to fund-raisers, transportation and audit fee), resulting in deficits ranging from \$15 to some \$20,000; and
- (b) the 45 high expenses cases were organised by 8 permittees. Audit's further analysis of the nature of expenses of these fund-raising activities (see Appendix D) revealed that:
 - (i) for activities involving charity sale (see Permittees G and H at Appendix D), about one-fourth of the proceeds were spent on the cost of items sold; and
 - (ii) 4 of the 8 permittees (Permittees B, C, E and F at Appendix D) had spent more than 30% of their donation proceeds on hiring fund-raisers or paying allowance to volunteers for the on-street fund-raising activities.

Administration of public subscription permits for charitable fund-raising activities

3.21 High administration costs of fund-raising activities reduce the amount of donations that can reach the final beneficiaries for the designated purposes. At present, the SWD imposes a permit condition that the fund-raising expenses of a flag day should not exceed 10% of the gross proceeds, but not for general charitable fund-raising activities. According to the SWD, it might not be practical to set an across-the-board ceiling for all general charitable fund-raising activities given the diversity of their nature and mode of operation (see para. 3.17), and the absence of a commonly agreed definition of “administration costs” of a fund-raising activity. However, to address the public concerns over high administration costs, the feasibility of defining the term “administration costs” with a view to setting an expenses ceiling as a PSP condition for on-street general charitable fund-raising activities which are similar in nature to flag days should be explored.

Limitations of audited reports of PSP fund-raising activities

3.22 ***Practice Note issued by the HKICPA.*** The HKICPA has issued Practice Note 850 for CPAs on the review of accounts for flag days and general charitable fund-raising activities (Note 22). The SWD has also uploaded onto its website a sample of the income and expenditure accounts for approved fund-raising activities (see Appendix E). The permittees should draw reference to this sample to report all monies and all sorts of expenses in relation to the activities covered by the PSPs. According to Practice Note 850, the CPA will give an assurance on whether anything has come to the CPA’s attention that the income and expenditure account does not reflect, in all material respects, the gross subscription raised and the expenses incurred by the permittee in respect of an event that has been recorded in its books and records made available to the CPA in accordance with the basis of preparation.

3.23 ***Limitations of audited reports.*** The SWD does not specify the use of cash-based or accrual-based accounts for PSP fund-raising activities. Of the accounts for 105 fund-raising activities (i.e. the 60 deficit cases and 45 high expenses cases mentioned in paragraph 3.20), 29 (28%) were prepared on a cash basis. Also, the SWD does not require the audited reports to provide an assurance on the compliance with the permit condition of depositing the net proceeds into a

Note 22: *The HKICPA first issued in 1999 Practice Note 850 for CPAs on the review of accounts for flag days. It also issued a circular in 2007 on reporting on general charitable fund-raising activities. These were consolidated to form the current Practice Note 850 in 2014.*

Administration of public subscription permits for charitable fund-raising activities

bank account within 90 days from the last event day (see para. 3.4(b)). Audit noted a case (Case 2) which raised concern over the limitations of audited reports in these two aspects.

Case 2

Limitations of audited reports

1. Based on the audited reports received in December 2010 and March 2011, the SWD noted that cash receipts of some \$256,000 were retained by the founder of the charity (Organisation C), instead of being banked in within 90 days from the last event day in accordance with the permit condition (see para. 3.4(b)). Upon the SWD's enquiry, the founder claimed that some \$82,000 in cash was retained for paying consultancy fee for the related fund-raising activities, and the rest would be used for daily operation expenses. According to Organisation C, the consultancy fee was an accrued expense not recorded in the accounts prepared on a cash basis and was only paid in March 2011.

Audit comments

2. Organisation C did not comply with the permit condition of depositing the net proceeds into a bank account within 90 days from the last event day. Moreover, due to the use of cash-based accounting, the audited reports of the events could not reflect the accrued expense, thus resulting in an overstatement of the net proceeds.

3. ***Need to check compliance with bank-in requirement.*** The HKICPA's Practice Note 850 has not specifically required CPAs to verify compliance with the permit condition of depositing the net proceeds into a bank account within 90 days from the last event day. Therefore, there is no assurance on compliance with the permit condition. In Audit's view, the SWD needs to take measures to monitor permittees' compliance with the condition, such as strengthening its compliance checking on such requirement, or requiring the permittees to engage CPAs to provide assurance on the compliance with such condition in the audited reports.

4. ***Need to prepare accounts on an accrual basis.*** The SWD has not specified whether the accounts of fund-raising activities should be prepared on an accrual basis. In the event, the accrued expense of \$82,000 in this case was not included in the cash-based accounts as it was disbursed after the report had been prepared. As a result, the expenses were understated. The SWD needs to consider requiring permittees to prepare their accounts on an accrual basis.

Source: Audit analysis of SWD records

***Need to facilitate public access to
financial information of fund-raising activities***

3.24 Currently, under the PSP conditions, a charitable organisation is required to publish the audited report for a fund-raising activity within 90 days from the last event day for 6 months. This could be done either on its website or in its annual report/newsletter/special circular to its members (see para. 3.4(c)). Audit found that most permittees had chosen to publish the audited reports on their own websites. However, as the layout of their websites varies, the audited reports may not be easily located by the general public. In view of the concerns of LegCo Members and the public over the high administration costs of fund-raising activities (see para. 3.19) and the difficulties for members of the public to obtain such information, the SWD needs to consider publicising such information on its website or the one-stop finder on “GovHK”, such as providing key financial information (e.g. amount of funds raised, use of donation proceeds and percentages of expenses to gross proceeds) or providing website links to the audited reports, to enhance transparency of such activities.

Audit recommendations

3.25 **Audit has *recommended* that the Director of Social Welfare should:**

Processing of applications

- (a) **explore the feasibility of issuing more guidelines on the scope of the PSP under section 4(17)(i) of the Summary Offences Ordinance for reference by applicants, and in this connection seek further legal advice from the DoJ where appropriate;**

Compliance with permit conditions

- (b) **step up enforcement actions on cases of repeated non-compliance with the permit conditions on submission of audited reports, such as considering publicising information on serious or repeated cases of non-compliance with permit conditions after warnings;**

Administration of public subscription permits for charitable fund-raising activities

- (c) in collaboration with the Director of Food and Environmental Hygiene and the Director of Lands, explore the feasibility of sharing enforcement information on charitable fund-raising activities held in public places and taking concerted actions on repeated “no-show” cases without valid reasons;**
- (d) continue the SWD’s efforts to remind permittees of the permit condition on displaying the permits prominently at the approved locations of the fund-raising activities;**

Monitoring of charitable fund-raising activities under PSPs

- (e) explore the feasibility of defining the term “administration costs” with a view to setting an expenses ceiling for on-street general charitable fund-raising activities which are similar in nature to flag days;**
- (f) take measures to monitor permittees’ compliance with the permit condition that net proceeds should be deposited into a bank account within 90 days from the last event day;**
- (g) consider requiring permittees to prepare their income and expenditure accounts of fund-raising activities on an accrual basis to ensure that all relevant income and expenditure are properly accounted for; and**
- (h) consider publicising on the SWD’s website or the one-stop finder on “GovHK” key financial information (e.g. amount of funds raised, use of donation proceeds and percentages of expenses to gross proceeds) or providing website links to the audited reports of fund-raising activities to enhance transparency of such activities.**

Response from the Government

3.26 The Director of Social Welfare generally agrees with the audit recommendations. She has said that the SWD will:

- (a) sustain the efforts to remind permittees of the permit condition on displaying the permits prominently at the approved locations of the fund-raising activities;
- (b) examine the feasibility of issuing general guidelines on the scope of the PSP;
- (c) consider publicising information on non-compliance with permit conditions on submission of audited reports; and
- (d) examine the existing accounting requirements for charitable fund-raising activities in public places.

3.27 The Director of Food and Environmental Hygiene generally agrees with the audit recommendation in paragraph 3.25(c).

PART 4: ADMINISTRATION OF LOTTERY LICENCES FOR CHARITABLE FUND-RAISING ACTIVITIES

4.1 This PART examines the work of the HAD in administering lottery licences for charitable fund-raising activities.

Lottery licences

4.2 The Gambling Ordinance is the law relating to gambling, betting, gaming, gambling establishments and lotteries. Five types of licences are issued under the Ordinance, namely the amusements with prizes licence, lottery licence, mahjong/tin kau licence, tombola licence and trade promotion competition licence. Under the Ordinance, anyone who wishes to conduct a lottery event (Note 23) has to apply for a lottery licence from the Entertainment Licensing Team (Note 24) under the Office of the Licensing Authority of the HAD (see Appendix F for an extract of the HAD's organisation chart). Applicants are advised to apply for a lottery licence at least three calendar weeks in advance. Lottery licences are issued to bona-fide organisations (Note 25) to conduct lottery ticket sales for raising funds to meet the organisations' operating expenses and/or for making donations to tax-exempt charities. A lottery organiser is required to seek prior approval from the HAD if it

Note 23: *The term "lottery" as defined in section 2 of the Gambling Ordinance includes: a raffle; a sweepstake; any competition for money or other property success in which: (a) involves guessing or estimating the results of future events, or of past events the results of which are not generally known; or (b) does not depend to a substantial degree upon the exercise of skill by the competitors; and any game, method, device or scheme for distributing or allotting prizes by lot or chance.*

Note 24: *The Entertainment Licensing Team, which is led by a Chief Executive Officer, is responsible for issuing various entertainment licences, including lottery licences under the Gambling Ordinance. One Licensing Officer, assisted by two clerical staff and supervised by one Senior Licensing Officer, is responsible for processing and monitoring lottery licences.*

Note 25: *If an applicant organisation is a tax-exempt charity, it may apply for a waiver of the licence fee of \$3,165. Alternatively, an applicant organisation may apply for a refund of the licence fee if at least 75% of the net proceeds have been appropriated to another tax-exempt charity.*

Administration of lottery licences for charitable fund-raising activities

plans to sell lottery tickets on public streets. The number of lottery licences granted for charitable fund-raising purposes and the proceeds received from April 2012 to September 2016 are shown in Table 7. Based on the figures for 2012-13 to 2015-16, the number of lottery licences issued averaged 66 each year and the gross proceeds averaged \$86 million each year.

Table 7

**Number of lottery licences granted and proceeds received
(April 2012 to September 2016)**

Year	Number of licences granted (with prior approval for sale on public streets)	Gross proceeds	Net proceeds	
		(\$ million)		
2012-13 (Note 1)	263 {	66 (13)	82	79
2013-14		69 (17)	85	82
2014-15		68 (16)	90	87
2015-16		60 (16)	88	85
2016-17 (Up to September 2016)		23 (8) (Note 2)	7	7

Source: HAD records

Note 1: In April 2012, the HAD took over the responsibility for issuing lottery licences from the former Television and Entertainment Licensing Authority (see Note 7 to para. 1.4(b)).

Note 2: Up to September 2016, while 23 lottery licences had been granted, only 11 lottery accounts with information on gross and net proceeds had been submitted to the HAD (see Item (b) in Table 8 in para. 4.4).

4.3 Licensees are required to comply with a number of licence conditions, which are legal requirements under the Gambling Ordinance. A breach of the

Administration of lottery licences for charitable fund-raising activities

licence condition is an offence which may result in the licence being revoked and prosecution (Note 26). Such licence conditions can be classified into four types:

- (a) conditions to be complied with upon application for a lottery licence (e.g. no cash prize shall be offered or distributed and every lottery ticket should be numbered serially);
- (b) conditions to be complied with when conducting a lottery event (e.g. providing collection bags or boxes with security safeguards and printed name of the organisation for use by collectors);
- (c) conditions to which a lottery licence is subject upon the completion of the lottery event (e.g. submission of required documents — see Table 8 in para. 4.4); and
- (d) conditions to be complied with upon approval of the sale of lottery tickets on public streets (e.g. prominently displaying the name of the organiser at each sale location).

In addition to licence conditions, the licensee should ensure that other administrative requirements stipulated by the HAD are fully met. Among others, the licensee is required to keep the administration costs of the lottery event as low as possible, which should not be more than 20% of the total proceeds received from the sale of lottery tickets.

Monitoring of charitable lottery events

4.4 Upon completion of a lottery event, the licensee is required under the licence conditions to submit to the HAD certain documents (such as the lottery accounts — see Table 8) within the due dates stipulated in the licence.

Note 26: *According to the Gambling Ordinance, where a licence condition is contravened, unless the licensee proves that the contravention occurred without his consent or connivance and that he has exercised all due diligence to prevent it, the licensee commits an offence and is liable on conviction to a fine of \$50,000 and to imprisonment for 2 years.*

**Administration of lottery licences for
charitable fund-raising activities**

Table 8

Documents required to be submitted upon completion of a lottery event

Required documents	Due date (from the date of the draw of the lottery)
(a) A copy of the newspaper cuttings showing the details of the result of the lottery	Within 10 days
(b) A copy of the income and expenditure account of the lottery event and the review report (Note) made by a CPA on the income and expenditure account of the lottery event (hereinafter referred to as the lottery account)	Within 90 days
(c) A copy of the cash count record jointly signed by the counting staff/volunteers and the witness persons	
(d) Official receipt(s) in respect of the net proceeds of the lottery from the organisation(s) receiving the donation (hereinafter referred to as the donation receipt)	
(e) If the net proceeds of the lottery are used for meeting the expenditure of the licensee, a copy of the audited annual financial statement of the licensee, which should show the income and expenditure of the lottery and the whereabouts of the net proceeds (in the form of “note to account” if appropriate)	Within 1 year

Source: HAD records

Note: According to the licence condition, the CPA should state in the review report that in the opinion of the CPA, the income and expenditure account of the lottery event is properly prepared from the books and records of the licensee made available to the CPA, and no matter has come to the attention of the CPA which indicates that the income and expenditure account of the lottery event does not accurately reflect all the moneys collected or received from the sale of lottery tickets and all the disbursements made from the moneys so collected or received.

Administration of lottery licences for charitable fund-raising activities

4.5 The HAD shall make available each lottery account received for public inspection for a period of one year. The HAD publishes a list of lottery accounts received on its website and a member of the public can make a request for inspecting a lottery account in the HAD's office by submitting a standard request form via post or by fax. The purpose is to enhance the transparency and accountability of the lottery events.

Late submission of documents

4.6 The HAD uses a computer system, namely the Licensing Information System (LIS) for recording information relating to licence applications, including the due dates and actual dates of receipt of all required documents, with the exception of the cash count records (see Item (c) in Table 8 in para. 4.4). Audit analysed the information in the LIS as of October 2016 for the 263 lottery licences granted from 2012-13 to 2015-16 (see Table 7 in para. 4.2) and found that there were delays in submission of required documents by the licensees, as follows:

- (a) for 197 (75% of 263) licences, the newspaper cuttings of the lottery results were submitted late, for over three months in 51 (26% of 197) cases (the longest delay was 512 days);
- (b) for 120 (46% of 263) licences, the lottery accounts were submitted late, for over three months in 17 (14% of 120) cases (the longest delay was 746 days);
- (c) of the 263 lottery licences granted, 153 licences required the submission of audited annual financial statements (see item (e) in Table 8 in para. 4.4). There were delays in submitting audited annual financial statements for 106 (69%) licences including 71 (46%) for over three months (the longest delay was 645 days). In addition, the audited annual financial statements for 6 (4%) licences had been overdue for more than three months up to October 2016; and
- (d) of the 263 lottery licences granted, 100 licences required the submission of donation receipts (see item (d) in Table 8 in para. 4.4). There were delays in submitting the donation receipts for 65 (65%) licences, including 32 (32%) for over three months (the longest delay was 540 days).

For cash count records, as no information on the due dates and actual dates of receipt is recorded in the LIS, Audit selected 30 licences granted from 2012-13 to 2015-16 for examination and found that in 25 (83%) cases, the licensees submitted the cash count records late, including 21 (70%) for over three months (the longest delay was 547 days).

Inadequate follow-up actions on outstanding documents

4.7 According to the HAD's internal guidelines (set by the former Television and Entertainment Licensing Authority before the licensing work was taken over by the HAD in April 2012), if a licensee does not submit the required documents (see Table 8 in para. 4.4) on or before the due dates as stipulated in the licence, two reminders and a warning letter will be issued in the following manner:

- (a) for Items (a) to (d) in Table 8, the first reminder, second reminder and a warning letter will be issued 14 days, 21 days and 28 days respectively after the due dates; and
- (b) for Item (e) in Table 8, the first reminder, second reminder and a warning letter will be issued 14 days, 28 days and 35 days respectively after the due dates.

4.8 Audit analysed the information in the LIS relating to the issue of reminders and warning letters for the lottery licences from 2012-13 to 2015-16 and found that HAD staff had not followed the internal guidelines in issuing reminders and warning letters. For example, Audit's analysis of the issue of reminders and warning letters (see para. 4.7(a)) for 10 lottery accounts which had been overdue for over 180 days before submission to the HAD revealed that:

- (a) in one case, no reminders or warning letter had been issued to the licensee;
- (b) in two cases, there were delays in issuing reminders/warning letters. The first reminder, second reminder and the warning letter were issued 125 days, 287 days and 374 days respectively after the due date in the first case. In the second case, the first and second reminders were issued 110 days and 293 days respectively after the due date and no warning letter was issued; and

Administration of lottery licences for charitable fund-raising activities

- (c) for the remaining 7 cases, the first reminders were issued to the licensees 18 to 196 days (averaging 107 days) after the due dates. No second reminders or warning letters had been issued to the licensees.

4.9 In Audit's view, timely submission of the required documents, especially the lottery accounts, is important for making available the results and financial information of lottery events for inspection by members of the public, including donors. There is a need for the HAD to step up its monitoring of licensees' compliance with the licence conditions, and consider taking suitable measures to deter cases of repeated late submission of documents.

Need to enhance the computer system to facilitate monitoring work

4.10 The HAD has been using the LIS to record useful information relating to the lottery licence applications, including the due dates and actual dates of receipt of all required documents (with the exception of cash count records) under the licence conditions, as well as the dates of issue of the first and second reminders and the warning letters. However, the LIS could not generate exception reports to facilitate HAD staff in following up the outstanding cases in a timely manner. As a result, HAD staff currently use a separate spreadsheet to record and bring up the outstanding cases for follow-up actions. In view of the observed delays in submission of required documents and issuing of reminders and warning letters (see paras. 4.6 and 4.8), the HAD should enhance the LIS to facilitate its monitoring and follow-up work.

Need to ensure the use of proceeds is accounted for in submitted financial statements

4.11 Under the licence conditions, apart from the submission of the lottery accounts within 90 days after the lottery event, if the net proceeds of the lottery are used for meeting the expenditure of the licensee, a copy of the audited annual financial statements of the licensee, which should show the income and expenditure of the lottery and the whereabouts of the net proceeds should be submitted to the HAD within one year (see Item (e) in Table 8 in para. 4.4). Audit examined the audited annual financial statements submitted by licensees of 30 licences granted from 2012-13 to 2015-16 and found that in 6 (20%) cases, the submitted statements did not show separately the income and expenditure of their lottery events nor the use of net proceeds. Audit found that in such cases, HAD staff accepted the

licensees' explanation that the income and expenditure of the lottery events and the use of net proceeds had been subsumed under other income and expenditure items in the audited annual financial statements. The HAD needs to provide more guidance to licensees and ensure their compliance with the relevant licence condition.

Need to facilitate public access to the lottery accounts

4.12 It is a licence condition that a licensee should submit a copy of the lottery account. As mentioned in paragraph 4.5, the HAD publishes on its website a list of lottery accounts received and a member of the public can make a request for inspecting a lottery account in the HAD's office by submitting a standard request form via post or by fax. It is also stated on the request form that reproduction of the whole or any part of the lottery account is not allowed. According to the HAD, it has not received any request for inspecting the lottery accounts since taking over the licensing responsibility in April 2012 (see Note 7 to para. 1.4(b)). In Audit's view, the HAD's requirements for the public to inspect the lottery accounts in the HAD's office physically and not allowing making copies of the accounts do not facilitate access and are not conducive to achieving the Government's objective of enhancing transparency and accountability of fund-raising activities (see para. 2.4(a)).

4.13 According to the application guide issued by the HAD, lottery organisers are encouraged to publicise their lottery accounts in their own publications or on their own websites and/or make available copies of these documents at their offices for public inspection. However, the HAD has not collected information to gauge the extent of the lottery organisers' publication of their lottery accounts. Audit conducted a survey of the websites of 10 lottery organisers and found that none of them had published the lottery accounts on their websites. With a view to enhancing the transparency and accountability of lottery events, the HAD should take measures to facilitate public access to the lottery accounts (e.g. providing direct access to the lottery accounts on the HAD's website or the one-stop finder on "GovHK").

Audit recommendations

- 4.14 **Audit has recommended that the Director of Home Affairs should:**
- (a) **step up monitoring of licensees' compliance with the lottery licence conditions, including the timely submission of required documents upon completion of a lottery event, and consider taking suitable measures to deter cases of repeated late submission of documents;**
 - (b) **enhance the LIS to facilitate the monitoring of licensees' compliance with the lottery licence conditions;**
 - (c) **provide more guidance to licensees and ensure their compliance with the condition that the use of net proceeds is accounted for in the financial statements; and**
 - (d) **take measures to facilitate public access to the lottery accounts.**

Response from the Government

4.15 The Director of Home Affairs agrees with the audit recommendations. She has said that:

- (a) the HAD will review the monitoring mechanism and consider suitable measures to deter cases of repeated late submission of documents;
- (b) the enhancement of the LIS will facilitate the monitoring of outstanding documents from the licensees, thus relieving the stringent manpower resources; and
- (c) the HAD will consider providing more guidance to licensees for preparing the annual financial statements.

PART 5: ADMINISTRATION OF TEMPORARY HAWKER LICENCES FOR FUND-RAISING ACTIVITIES INVOLVING ON-STREET SELLING

5.1 This PART examines the work of the FEHD in administering temporary hawker licences for fund-raising activities involving on-street selling.

Temporary hawker licences

5.2 The FEHD is tasked to regulate public health and municipal services under the Public Health and Municipal Services Ordinance. According to the FEHD, it does not have a role to play in regulating fund-raising activities, unless such activities involve hawking on the streets. The FEHD has stopped issuing hawker licences under normal circumstances (Note 27) in a bid to gradually reduce street trading and to minimise obstructions and nuisances created by hawking. If charities or other non-profit-making organisations need to raise funds by way of hawking of commodities (Note 28) in public streets, consideration would be given to issuing temporary hawker licences. The main purpose of issuing temporary hawker licences is to facilitate such organisations in raising funds and regulate such hawking activities in public streets to ensure that they are conducted in a hygienic manner and will not cause nuisances such as obstruction to public places. Under the Hawker Regulation, the Director of Food and Environmental Hygiene may issue a temporary hawker licence to a person who is authorised by the following

Note 27: *Since the early 1970's, the former Urban Council had stopped issuing new hawker licences under normal circumstances. Following the hawker licensing policy review concluded in early 2009, the Director of Food and Environmental Hygiene had, during the period from July 2009 to April 2012, completed the issuing of 218 new fixed-pitch (other classes) hawker licences and 61 new itinerant (frozen confectionery) hawker licences (see Note 29 to para. 5.2).*

Note 28: *According to the Hawker Regulation, commodities means any goods, wares, or merchandise; and includes any samples and patterns of goods, wares, and merchandise. Examples of commodities sold under temporary hawker licences are stationery, accessories and books.*

Administration of temporary hawker licences for fund-raising activities involving on-street selling

organisations to conduct fund-raising activities involving on-street selling of commodities (Note 29):

- (a) tax-exempt charities; or
- (b) other non-profit-making organisations which are incorporated or registered under the laws of Hong Kong (e.g. a company incorporated under the Companies Ordinance, a society registered under the Societies Ordinance, or a trade union registered under the Trade Unions Ordinance (Cap. 332)).

Applications for temporary hawker licence should be made to the FEHD at least 12 working days before the start of the fund-raising activities. Licensees are required to comply with the licence conditions (Note 30). Any non-compliance with the licence conditions is an offence under the Hawker Regulation (Note 31) and the FEHD may cancel the relevant licence. According to the FEHD, temporary hawker licence applications for fund-raising for commercial or profit-making purposes will not be considered.

Note 29: *Under the Hawker Regulation, a temporary hawker licence may be issued to an applicant as the Director of Food and Environmental Hygiene thinks fit and it permits the licensee to hawk for such period (not exceeding one month) and for such purpose as the Director specifies in the licence, subject to any conditions that the Director thinks fits to specify in the licence. In addition to temporary hawker licences, fixed-pitch hawker licences (covering cooked food or light refreshment) and itinerant hawker licences (covering frozen confectionery and mobile van) may also be issued by the Director of Food and Environmental Hygiene under the Hawker Regulation.*

Note 30: *Examples of licence conditions are: (a) the stall shall only be used for selling commodities specified on the relevant licence; and (b) the licence shall be displayed conspicuously at the stall at all times when any fund-raising sale activity is carried on.*

Note 31: *For non-compliance with any licence conditions, the licensee is liable on conviction to a fine at level 2 (i.e. \$5,000) and, in the case of a continuing offence, is liable to a further fine of \$100 for each day during which the offence has continued.*

Administration of temporary hawker licences for fund-raising activities involving on-street selling

5.3 An organisation may apply for a waiver from obtaining a temporary hawker licence for carrying on-street selling activities in public places if the following three conditions are satisfied:

- (a) the organisation is a tax-exempt charity;
- (b) the proposed activity should be of charity nature and written submission is required to set out what specific charitable purposes the monies generated from the activity will be spent; and
- (c) necessary approvals have been obtained from the SWD for the required PSP and from the Lands D for the land use (see para. 1.4(a) and (d)).

5.4 While applications for temporary hawker licences are processed by the respective Hawkers Section of the 19 District Environmental Hygiene Offices (Note 32), applications for waivers are processed by the Hawker and Market Section of the Headquarters Division under the Environmental Hygiene Branch of the FEHD (see Appendix G for an extract of the FEHD's organisation chart). Table 9 shows the number of temporary hawker licences issued and waivers granted in the period from April 2012 to September 2016.

Note 32: *According to the FEHD's internal guidelines, if an organisation submits an application of temporary hawker licence for the first time, policy support should be sought from the Hawker and Market Section of the Headquarters Division.*

**Administration of temporary hawker licences
for fund-raising activities involving on-street selling**

Table 9

**Number of temporary hawker licences issued and waivers granted
(April 2012 to September 2016)**

Year	Number of temporary hawker licences issued			Number of waivers granted
	Tax-exempt charities	Other non-profit-making organisations	Total (Note)	
2012-13	222	45	267	47
2013-14	60	97	157	42
2014-15	41	79	120	37
2015-16	41	47	88	44
2016-17 (Up to September 2016)	10	38	48	20

Source: FEHD records

Note: According to the FEHD, the number of temporary hawker licences issued in 2011 was about 1,200 (of which over 90% were issued to tax-exempt charities). After the introduction of a limit on the number of licences issued for each fund-raising organisation within 12 months in July 2012 (see para. 5.5), there was a significant decrease in the number of licences issued.

Remarks: Unlike PSPs issued by the SWD and lottery licences issued by the HAD, the FEHD does not maintain records of financial information (e.g. the gross receipt, fund-raising expenditure and net proceeds) of the fund-raising activities involving on-street selling covered by temporary hawker licences.

5.5 New administrative measures introduced in 2012. According to the FEHD's application guidelines for temporary hawker licences for fund-raising purposes, in light of media reports on some suspicious on-street fund-raising activities in 2012 (Note 33), the FEHD conducted a review of the arrangements for

Note 33: *In February 2012, a media report revealed that a tax-exempt charity had been issued with more than 120 temporary hawker licences in a year for conducting on-street selling activities and monies received were not put into any donation boxes. Also, the organisation was not required to submit any financial statements for the fund-raising activities involving on-street selling to the FEHD.*

Administration of temporary hawker licences for fund-raising activities involving on-street selling

issuing temporary hawker licences for the sale of goods in public places for fund-raising purposes. Aiming to enhance transparency and accountability of fund-raising activities, safeguard the proper use of donations, prevent abuse of temporary hawker licences and achieve a fair distribution of public resources among the fund-raising organisations, the FEHD has laid down the following new administrative measures in its application guidelines for applications received on or after 31 July 2012:

- (a) except with the approval of the Director of Food and Environmental Hygiene (Note 34), the total number of temporary hawker licences granted to each fund-raising organisation in 12 months shall not exceed 20. Among them, no more than 2 licences shall be granted for selling goods in the same district and no more than 4 licences shall be granted for selling goods at hawker black spots (Note 35);
- (b) the maximum licence period is five days in any two consecutive weeks; and
- (c) an organisation issued with more than 12 licences within 12 months shall be subject to the following additional conditions for each and every licence subsequently issued:
 - (i) the organisation shall prepare an income and expenditure account relating to the fund-raising activities covered by the licence for audit by a CPA; and

Note 34: *In April 2013, the FEHD issued a set of internal guidelines on processing applications for temporary hawker licences for fund-raising purposes exceeding the stated limits. According to the guidelines, if an applicant can provide justifications to the satisfaction of the FEHD (e.g. the licence being applied for is for short duration on special occasions or events), the case will be considered on its merits to see if any of the application limits can be exceeded.*

Note 35: *Hawker black spots refer to locations at which no prior warning would be given by the FEHD inspectors before taking prosecution action against hawking and related offences. The FEHD maintains a list of hawker black spots on its website.*

Administration of temporary hawker licences for fund-raising activities involving on-street selling

- (ii) the original copy of the auditor's report shall be forwarded to the Director of Food and Environmental Hygiene within 90 days from the last day of the licence period, and the Director may publicise the auditor's report in any form or manner for public inspection.

Monitoring of fund-raising activities involving on-street selling

5.6 As stated in the FEHD's application guidelines for temporary hawker licences for fund-raising purposes:

- (a) the Government strives to provide a friendly environment with administrative procedures kept to a minimum to facilitate charitable organisations to mobilise community resources for their fund-raising activities; and
- (b) nevertheless, fund-raising activities involve public interest because the community is concerned whether these activities are properly conducted and the donations are properly used. Therefore, there is an expectation that the Government should exercise adequate control over fund-raising activities.

Different administrative/licensing requirements between the FEHD and other licensing departments

5.7 To ascertain the adequacies of controls over different charitable fund-raising activities regulated by the three departments (i.e. the SWD, the HAD and the FEHD), Audit has compared the relevant requirements in the permit or licence conditions and/or administrative measures imposed by the three licensing departments (see Appendix H for detailed comparison) and found the following differences:

- (a) ***Custody of monies received.*** Both the SWD and the HAD have imposed conditions relating to the custody of the monies received during the fund-raising activities. For example, the SWD requires a permittee to take sufficient security measures for safe keeping of the funds raised, and ensure that all the donation boxes are secure and properly sealed to

Administration of temporary hawker licences for fund-raising activities involving on-street selling

prevent pilfering. However, no similar licence condition or administrative measure has been imposed by the FEHD. In fact, the media report in 2012 (see Note 33 to para. 5.5) had raised similar concern but it had not been addressed in the FEHD review conducted in 2012 (see para. 5.5);

- (b) ***Accounts for fund-raising activities.*** While both the SWD and the HAD have imposed conditions relating to the preparation, audit and submission of the income and expenditure accounts for the fund-raising activities covered by each and every permit or licence issued, the FEHD has only imposed similar requirement (see para. 5.5(c)) on organisations granted with more than 12 licences within 12 months as an administrative measure (Note 36). Since the introduction of the new administrative measure in 2012, only one organisation has been issued with more than 12 temporary hawker licences within 12 months (see para. 5.8(a)). Also, the FEHD has not maintained records of the actual amount of funds raised in on-street selling activities covered by temporary hawker licences. Audit understands that there may be concern over disproportionate administration costs if an organisation is required to submit an audited account for each and every temporary hawker licence given that the amount of funds so raised is likely to be less than that of a PSP activity or a lottery event (Note 37). Nevertheless, Audit considers that there is room for improvement in the following areas:

Note 36: *According to the FEHD, about 60% of the temporary hawker licences in 2013-14 to 2015-16 were issued to other non-profit-making organisations such as trade unions and political groups for conducting fund-raising activities which lasted for at most a few hours. If an organisation is required to submit an audited account for each and every temporary hawker licence, given that the amount of funds so raised is likely to be less than that of a PSP activity or a lottery event, there will be concern over disproportionate administration costs on the part of the organisation. The FEHD considers it not unreasonable to continue with the existing requirement on audited accounts (see para. 5.5(c)) for fund-raising activities conducted by non-profit-making organisations. If it is considered that the current regime needs to be tightened up, wide recognition from the community is required and consultation with relevant stakeholders is necessary.*

Note 37: *It is because a fund-raising activity involving on-street selling covered by a temporary hawker licence is restricted to five days and one sale location only, while there are no such restrictions imposed on PSPs or lottery licences (i.e. charitable fund-raising activities covered by a PSP or a lottery licence can take place in multiple locations and for a much longer period).*

Administration of temporary hawker licences for fund-raising activities involving on-street selling

- (i) organisations should be required to keep proper records for the income and expenditure of on-street selling activity for each and every licence issued and submit such records to the FEHD upon request; and
 - (ii) for organisations granted with more than 12 licences within 12 months, they should be required to prepare and submit audited accounts for the on-street selling activities covered by all temporary hawker licences issued during the year (not only for the 13th licence onwards); and
- (c) ***Purpose of fund-raising and use of donations.*** Both the SWD and the HAD have imposed conditions requiring a permittee/licensee to inform donors or prospective donors about the purpose of fund-raising (e.g. displaying information about the purpose of fund-raising at the approved locations or stating the purpose of fund-raising on lottery tickets) and to properly account for the use of donations (e.g. submitting copies of donation receipt if the funds raised have been donated to another charity). However, no similar licence condition or administrative measure has been imposed by the FEHD.

Deficiencies in implementing the new administrative measures introduced in 2012

5.8 The FEHD uses a computer system, namely the Hawker Licensing and Hawker Conviction System (HLCS) for processing applications of temporary hawker licences. To implement the new application guidelines introduced in 2012, the FEHD has enhanced the HLCS to include a function to automatically alert its staff processing an application if: (a) the application limit has been exceeded (see para. 5.5(a) and (b)); or (b) there is a need to impose an additional administrative measure on the submission of audited accounts in the temporary hawker licence (see para. 5.5(c)). Audit analysed the HLCS records relating to applications submitted on or after 31 July 2012 and approved up to 30 September 2016 (involving 496 applications submitted by 104 organisations) and found that:

- (a) although 16 temporary hawker licences had been issued to an organisation in the 12-month period from mid-December 2012 to mid-December 2013, the concerned organisation had not submitted the audited accounts for the

Administration of temporary hawker licences for fund-raising activities involving on-street selling

last 4 licences issued and the FEHD had not taken any follow-up action;
and

- (b) the FEHD had granted more than 2 licences in the same district within 12 months to 14 organisations without documenting the justifications for approving the exceptional cases (see Note 34 to para. 5.5(a)).

In Audit's view, the FEHD needs to take measures to ensure compliance with the administrative measure on submission of audited accounts. The FEHD also needs to remind its staff to document the justifications for issuing temporary hawker licences in exceptional cases.

Deficiencies in inspections

5.9 According to the FEHD's internal guidelines, the inspectors of the District Environmental Hygiene Offices conduct inspections at the approved sale locations covered by temporary hawker licences at least twice a day to check licensees' compliance with licence conditions (e.g. only selling commodities specified in the licences). They are also responsible for carrying out daily inspections on on-street selling activities covered by waivers to detect any irregularities.

5.10 Audit examined the inspection records of three District Environmental Hygiene Offices (which had the highest number of approved on-street selling activities under temporary hawker licences in each of the three regions, i.e. Hong Kong Island, Kowloon and the New Territories) from April 2014 to December 2016. Of the 2,508 required inspections (including 242 inspections for 50 temporary hawker licences issued to 30 organisations and 2,266 inspections for 72 waivers granted to 16 organisations):

- (a) 139 (6%) inspections had not been conducted mainly due to delays in notifying the FEHD's inspectors. According to the FEHD, one of the reasons for the delays was that the organisations had submitted the applications for waivers at a very short notice. Sometimes, the FEHD was given less than one working day to process the application. Given the limited time to process the application, the FEHD had genuine difficulty in timely notifying frontline staff to conduct inspection; and

Administration of temporary hawker licences for fund-raising activities involving on-street selling

- (b) for 241 (10%) inspections, the inspection records were either missing or inadequate to show whether inspections had been conducted.

The FEHD needs to take measures to ensure that inspections on compliance with the licence conditions are carried out in accordance with laid-down guidelines (such as setting a timeline for submission of applications for waiver) and inspection records are properly maintained.

5.11 For the remaining 2,128 (84%) inspections conducted, Audit found that:

- (a) in 1,251 (59%) inspections, the records revealed that no approved on-street selling activities had been carried out in the approved locations (i.e. “no-show” cases), which was similar to the results of the random on-site inspections on PSP fund-raising activities conducted by the SWD (see para. 3.14(a)); and
- (b) in 14 (1%) inspections, selling activities outside the approved time period were found, contrary to the licence condition. However, no record was available to show that any regulatory actions had been taken in respect of the non-compliance identified.

Regarding (a) above, the FEHD currently does not take any follow-up actions on the “no-show” cases (e.g. sharing of enforcement information with the SWD as a large number of “no-show” cases (Note 38) were related to on-street selling activities covered by waivers issued by the FEHD to PSP permittees). In Audit’s view, the high percentage of “no-show” cases indicates an ineffective use of public resources because use of public places (especially those with high pedestrian flow) for charitable fund-raising activities was in high demand. Based on the sample check of 65 applications received by the Lands D for temporary occupation of unleased land for setting up counters or booths in 2,109 locations for fund-raising purposes in 2016, Audit found that the applications for 1,059 (50%) locations had been rejected

Note 38: *Of the 1,251 inspections mentioned in paragraph 5.11(a), 1,190 (95%) were related to on-street selling activities covered by waivers issued to 15 PSP permittees. Among the inspected cases, 14 (93%) permittees had been repeatedly found not carrying out any fund-raising activities during the time of inspection, e.g. no approved selling activities were found in 19 (76%) of 25 inspections in one case.*

Administration of temporary hawker licences for fund-raising activities involving on-street selling

and one of the common reasons was that the locations applied for had already been allocated to another organisation. The FEHD needs to liaise with relevant departments (i.e. the SWD and the Lands D) on the feasibility of sharing of enforcement information and taking concerted actions on repeated “no-show” cases (see relevant audit recommendation in para. 3.25(c)). Regarding (b), the FEHD needs to take regulatory actions on any cases of non-compliance.

Lack of one-stop service for fund-raising activities involving on-street selling

5.12 According to the LRC Report (see para. 1.9), the different licensing authorities (e.g. the SWD and the FEHD for processing permits/licences and the Lands D for approving temporary occupation of unleased land to set up counters or booths) currently appear to be lacking coordination in dealing with applications for charitable fund-raising licences and permits (see para. 1.4). As a result, sometimes an organisation needs to seek approvals from different departments for the same charitable fund-raising activity. For example, the organisation needs to seek approvals from:

- (a) the FEHD for the issue of a temporary hawker licence or a waiver from obtaining the licence for sale of commodities on streets;
- (b) the SWD for the issue of a PSP if the items sold are badges, tokens or similar articles as defined in the Summary Offences Ordinance; and
- (c) the Lands D for the approval of temporary occupation of unleased land for the setting up of a counter or booth.

Owing to the lack of one-stop service, the need to seek multiple approvals for a fund-raising activity involving the same on-street selling event duplicates regulatory efforts, and creates extra workload and inconvenience to charitable organisations.

5.13 Audit has also noted that in some cases, the organisations might have breached the relevant legislation for not having sought all the required approvals for fund-raising activities involving on-street selling, as follows:

Administration of temporary hawker licences for fund-raising activities involving on-street selling

- (a) of 42 PSPs issued by the SWD from January to September 2016 involving selling activities in public streets, 15 (36%) permittees had not applied to the FEHD for waivers from obtaining the temporary hawker licences, which might have constituted a breach of the Hawker Regulation. In this connection, Audit has noted that the requirement to apply for a waiver of temporary hawker licence by a permittee is not mentioned in the FEHD's guidelines provided to the public (Note 39). Besides, there is also no established mechanism for the SWD to notify the FEHD on the approvals of PSPs involving on-street selling activities which may require the issue of a waiver of temporary hawker licence; and
- (b) of 50 temporary hawker licences issued from April 2014 to December 2016 selected for Audit's examination, 32 (64%) licensees had not sought the Lands D's approval for temporary occupation of unleased land for setting up counters or booths for the fund-raising activities. Similar to (a) above, the requirement to apply for the Lands D's approval of temporary occupation of unleased land is also not mentioned in the FEHD's guidelines provided to the public. Audit notes that, in processing an application for a temporary hawker licence, the FEHD will seek comments from various departments, including the Lands D, and issue a licence to the applicant if no objections are received from the departments. In response to Audit's enquiry, the Lands D in February 2017 said that upon the FEHD's requests for comments on temporary hawker licence applications, the Lands D would first check and confirm the land status of the concerned locations. If the sites situated on unleased and unallocated land and were available for the concerned selling activities, the Lands D would return a "no objection" reply to the FEHD for its further processing of the applications, i.e. separate approval for temporary occupation was not required from the Lands D.

Note 39: *The current guidelines only inform the applicants to seek advice from other B/Ds including the SWD and the HAB as to whether a permit under section 4(17) of the Summary Offences Ordinance is required for the concerned fund-raising activities.*

Administration of temporary hawker licences for fund-raising activities involving on-street selling

In Audit's view, the FEHD should work in collaboration with the SWD and the Lands D to facilitate applicants in meeting related licensing requirements for fund-raising activities involving on-street selling in public places (e.g. providing information about locations available for fund-raising activities, publicising the waiver arrangement and formalising the practice of exempting applicants of temporary hawker licences from obtaining separate approvals from the Lands D). In addition, there is a need for the three departments to consider providing a one-stop service to streamline the processing and approvals of such activities.

Audit recommendations

5.14 **Audit has *recommended* that the Director of Food and Environmental Hygiene should:**

- (a) **consider improving administrative measures for monitoring on-street selling activities for charitable fund-raising purposes covered by temporary hawker licences (see para. 5.7);**
- (b) **take measures to ensure licensees' compliance with the administrative measure on submission of audited accounts upon issue of more than 12 temporary hawker licences within 12 months;**
- (c) **remind FEHD staff to document the justifications for issuing temporary hawker licences in exceptional cases;**
- (d) **take measures to ensure that:**
 - (i) **inspections on compliance with the licence conditions are carried out in accordance with laid-down guidelines;**
 - (ii) **inspection records are properly maintained; and**
 - (iii) **regulatory actions are taken on cases of non-compliance; and**
- (e) **work in collaboration with the Director of Social Welfare and the Director of Lands to:**
 - (i) **facilitate applicants in meeting related licensing requirements for fund-raising activities involving on-street selling in public places; and**
 - (ii) **consider providing a one-stop service to streamline the processing and approvals of fund-raising activities involving on-street selling.**

Response from the Government

5.15 The Director of Food and Environmental Hygiene generally agrees with the audit recommendations. She has said that:

- (a) consistent with the object of the Public Health and Municipal Services Ordinance, the main purpose of issuing temporary hawker licences is to regulate the sale of commodities in public places in a hygienic manner as well as to ensure that the hawking activities will not cause nuisances such as obstruction to public places. The licence conditions stipulate that the licence is issued to the licensee to raise funds through the sale of commodities where a customer is paying the seller money in exchange for an actual commodity, i.e. a business transaction actually takes place. The FEHD opines that the sale of commodities is normal business transaction which should be distinguished from charitable fund-raising activities which do not involve a commercial transaction;
- (b) the FEHD acknowledges the public's views for better transparency and accountability for fund-raising activities for charitable purpose, including those involving on-street selling of commodities. In this connection, with reference to the best practices specified in the Reference Guide, the FEHD will consider incorporating as far as practicable further administrative measures comparable to those conditions currently imposed by the SWD and the HAD into temporary hawker licences issued to charitable organisations, having due regard to factors such as the nature, scale and duration of the fund-raising activities, proportionality of the requirements, cost of compliance, etc.;
- (c) for the audit recommendation in paragraph 5.14(a), the FEHD is actively looking into incorporating additional measures (such as ensuring the safe custody of the monies received) into the licence conditions and/or administrative measures with a view to enhancing transparency and accountability of charitable fund-raising activities involving on-street selling of commodities by tax-exempt charities. The FEHD will also explore how best to enhance the financial accountability of charitable fund-raising activities covered by temporary hawker licences, with due regard to the factors mentioned in (b). In the process, the FEHD will seek to strike a reasonable balance between the need for controlling on-street hawking activities and the need for addressing public concerns on fund-raising activities;

Administration of temporary hawker licences for fund-raising activities involving on-street selling

- (d) for the audit recommendation in paragraph 5.14(b), the FEHD will actively consider introducing a new administrative measure, i.e. not processing any subsequent application from any organisation until the audited accounts for the previous fund-raising activities are submitted as required. The FEHD believes that this new measure will provide incentive for licensees to comply with the requirement on submission of audited accounts;
- (e) for the audit recommendation in paragraph 5.14(c), the FEHD has reminded staff to properly document the justifications for approving the exceptional cases;
- (f) for the audit recommendation in paragraph 5.14(d), the FEHD has reminded staff to conduct inspections according to the operating time as specified on the licences and to keep proper inspection records. They have been reminded to take appropriate follow-up actions including enforcement actions against illegal hawking activities in accordance with the established departmental guidelines;
- (g) regarding the “no-show” cases mentioned in paragraph 5.11(a), she generally agrees with the related audit recommendation in paragraph 3.25(c) (see para. 3.27). As most of the “no-show” cases were related to fund-raising activities covered by waivers issued to organisations that had obtained PSPs from the SWD, the FEHD will explore with the SWD the feasibility of imposing sanction to forestall frivolous applications for PSP, tackling the problem at source; and
- (h) for the audit recommendation in paragraph 5.14(e), the FEHD stands ready to explore with the SWD and the Lands D means to enhance communication among the departments to streamline application processing, referrals and approvals. The FEHD will update its guidelines:
 - (i) to require PSP permittees involving on-street selling activities to apply for a waiver of temporary hawker licence; and
 - (ii) to specify the requirement to apply for the Lands D’s approval for occupation of unleased land in connection with the processing applications for temporary hawker licence.

PART 6: WAY FORWARD

6.1 This PART examines the way forward on the monitoring of charitable fund-raising activities, focusing on the Government’s follow-up actions on the LRC Report on Charities.

Law Reform Commission Report on Charities

6.2 According to the 2013 LRC Report, the existing regulatory framework of charities has the following deficiencies:

- (a) ***Out-dated definition of charity.*** The definition of “charitable purpose” in Hong Kong is not based upon a clear statutory definition, but upon the common law interpretation of English legislation dating back hundreds of years. The leading case authority of 1891 on the definition of charity which enunciated the four principal divisions of charitable purpose (namely the relief of poverty, the advancement of education, the advancement of religion and any other purposes beneficial to the community not falling under any of these three heads) is still applied today. Many of the more recently developed charitable purposes necessarily fall within the vague “*any other purpose*” classification. This has resulted in evolving case law on charitable purposes which is confusing and unclear;
- (b) ***Lack of a coherent system for the registration of charities.*** While the IRD’s list of tax-exempt charities does not constitute a formal “register” of charitable organisations, there may be a danger that the public (and hence potential charity donors) may perceive that the recognition of tax exemption status and inclusion on the list of tax-exempt charities confers on those charities “*a cloak of respectability and the semblance of official sanction not intended by the Inland Revenue Ordinance*”;
- (c) ***Inconsistent standards or requirements on governance, accounting and reporting by charities.*** Charities of different legal forms established under different ordinances can be subject to different statutory controls. For example, charitable organisations established under the Companies Ordinance are required to prepare audited accounts in order to fulfil

Way forward

requirements under that Ordinance. However, this is not the case for charitable organisations established as societies registered under the Societies Ordinance. As for charities which are neither statutory nor subvented, they may operate autonomously under their own governing bodies and according to their own rules and regulations; and

- (d) *Limited control of charitable fund-raising activities.* Government oversight of the fund-raising activities of charities is confined specifically to those activities requiring the permission of the SWD, the HAD and the FEHD, such as flag days, lotteries and on-street selling. For other forms of fund-raising activity such as charity auctions, balls, concerts, dinners, or requests for donations by mail or through advertisements, no government oversight applies.

Recommendations of the LRC Report

6.3 After conducting a detailed study, including analysing the charities' regimes in a number of overseas jurisdictions and seeking views and comments from the public in 2011, the LRC issued a Report on Charities in December 2013. The LRC Report concluded that:

- (a) it should be a long-term goal that a charity commission or a centralised regulatory authority for charities should be established for Hong Kong. Given the lack of general consensus among the public on this issue (Note 40), the LRC believed that the community needed more time to discuss the concept of a charity commission; and
- (b) in the interim period, expedient administrative measures should be implemented to improve the transparency and accountability of charities and thus provide better safeguards to the public. In this connection, the LRC made a total of 18 recommendations, which included, among others, imposing certain filing requirements in applications for charitable

Note 40: *According to the LRC Report, the number of respondents not in support of the recommendation to set up a charity commission greatly out-numbered those in support of the recommendation. However, the majority of the respondents agreed that it was important for charities to be more transparent and accountable to the community and there was also consensus on the need to safeguard the rights of donors.*

fund-raising licences or permits, setting up centralised telephone hotline for public enquiries and complaints in relation to charitable fund-raising activities, requiring charitable organisations to display their registration numbers during charitable fund-raising activities, and engaging in more public education on matters relating to charitable fund-raising activities (see Appendix I for details).

Government's follow-up actions on the Law Reform Commission's recommendations

Government's guidelines

6.4 In October 2011, the Director of Administration issued a General Circular setting out the guidelines for B/Ds when considering the LRC proposals. According to the guidelines (which are still in force in accordance with the reissued General Circular in 2016), it is in the interests of all concerned that a decision on whether or not to implement the LRC's proposals for reform should be taken within a reasonable timeframe. Delay may lead to problems such as flaws in the legal system identified by the objective and high-powered LRC study remain not corrected and the validity of the detailed research and consultation carried out by the LRC diminishes, as it becomes out of date. The Government has therefore agreed, among others, that:

- (a) when a consultation paper is issued by the LRC, the Government should at that stage decide (and resolve should there be any disagreement) which bureau (or bureaux) will take up the primary responsibility for consideration/implementation of the final report and should notify the LRC; and
- (b) B/Ds having policy responsibility in respect of any LRC Report should:
 - (i) give full consideration to its recommendations and provide a detailed public response (setting out which recommendations they accept, reject or intend to implement in modified form) to the Secretary for Justice (as Chairman of the LRC) as soon as practicable;
 - (ii) in any event, provide at least an interim response within six months of publication of the report which sets out a clear

Way forward

timetable for completion of the detailed responses and the steps taken so far; and

- (iii) provide a detailed public response to the Secretary for Justice within 12 months of its publication, unless otherwise agreed by him as Chairman of the LRC.

6.5 In December 2011, during the consultation stage of the LRC's proposals, the Secretary for Justice as Chairman of the LRC invited the Chief Secretary for Administration to designate a bureau to take primary responsibility for LRC's proposals given that the proposals touched on areas which fell within the policy responsibilities of several bureaux. In May 2012, the Chief Secretary designated the HAB as the responsible bureau for coordinating inputs from relevant B/Ds for formulating a response to the LRC's recommendations for the Government's consideration.

Slow progress in responding to the LRC's recommendations

6.6 For three years since the issue of the LRC Report on Charities in December 2013, the HAB had provided similar responses to the Secretary for Justice for incorporation in his annual report on implementation of LRC Reports to the LegCo Panel on the Administration of Justice and Legal Services. The 2016 response stated that:

“The recommendations of the LRC Report on Charities are relevant to the purviews of various Government bureaux and departments. Given that the recommendations will have significant implications on the operation of the charities in Hong Kong, the Government needs to study in detail and carefully consider the recommendations. The Bureau (HAB) is coordinating comments from relevant bureaux and departments for consideration of the way forward.”

6.7 In May 2016, the Secretary for Justice wrote to the HAB conveying the strong concerns of some members of the former LRC Charities Sub-committee about the lack of progress in implementing the LRC's recommendations. At the meeting of the LegCo Panel on Welfare Services of April 2016, the Chairman also

expressed similar view that since the release of the LRC Report, the Government had not made any progress in taking forward the LRC's recommendations.

6.8 Audit reviewed the HAB's records to examine how it had performed its coordinating role and found the following issues:

- (a) ***Inadequacies in internal consultation.*** Following the publication of the LRC Report in December 2013, the HAB commenced the internal consultation process in January 2014 by writing to nine B/Ds and received their feedback from February to April 2014. However, it only consolidated the views into a preliminary assessment paper in June 2015. Since then, the HAB convened two inter-departmental meetings in mid-August 2015 and October 2016 respectively; and
- (b) ***Belated consideration of a recommendation.*** One of the recommendations of the LRC Report is the introduction of legislation along the lines of the English model to solve the problems which arise when a charitable gift fails because the original purposes of such gift, in whole or in part, cannot be carried out. The HAB had not made reference to this recommendation in its correspondence with the B/Ds when it first solicited their views in January 2014. The HAB only invited views of the DoJ on the recommendation in September 2016.

6.9 In line with the 2016 General Circular requirements, the HAB needs to expedite the consultation with relevant B/Ds with a view to formulating a response to all the recommendations of the LRC Report.

6.10 In considering the way forward in formulating a response to the LRC's recommendations, there is a need to take into account the areas for improvement identified by Audit in earlier PARTs of this Audit Report which are complementary to the LRC's recommendations, as follows:

- (a) ***LRC recommendation: facilitation of good practice.*** In PART 2, Audit has found that there is a need to step up promotion efforts to encourage and recognise more charitable organisations to adopt the best practices for organising charitable fund-raising activities to enhance their transparency and accountability;

Way forward

- (b) *LRC recommendation: information available to the public.* In PARTs 3 and 4, Audit has found that there is room for the SWD and the HAD to facilitate public access to the financial information of the fund-raising activities under their purview. In PART 5, Audit has found that the FEHD needs to step up the administrative requirements on licensees to more fully account for their charitable fund-raising activities; and
- (c) *LRC recommendation: setting up a platform of coordination.* In PARTs 3 and 5, Audit has found that the SWD, the FEHD and the Lands D need to improve their coordination (e.g. exploring the feasibility of sharing of enforcement information and taking concerted actions on repeated “no-show” cases, and facilitating applicants in meeting related licensing requirements for fund-raising activities involving on-street selling).

Audit recommendations

- 6.11 **Audit has recommended that the Secretary for Home Affairs should:**
- (a) **expedite the consultation with relevant B/Ds with a view to formulating a response to all the recommendations of the LRC Report; and**
 - (b) **take into account the areas for improvement identified in this Audit Report (such as enhancing the transparency and accountability of charitable fund-raising activities, and improving the coordination of the licensing departments in their licensing and monitoring of these activities), in coordinating inputs from relevant B/Ds for formulating a response to the LRC’s recommendations for the Government’s consideration.**

Response from the Government

6.12 The Secretary for Home Affairs accepts the audit recommendations. He has said that the HAB will take into consideration the areas for improvement as identified by Audit and continue to work with relevant B/Ds in coordinating their inputs for formulating a response to the recommendations of the LRC on charities for the Government’s consideration.

**Reference Guide on Best Practices
for Charitable Fund-raising Activities (extract)**

The major clauses of the Reference Guide relating to transparency and accountability of fund-raising activities are shown below:

Donors' rights

- (a) all donors are entitled to receive official receipts for the money donated;
- (b) all fund-raising activities shall disclose the organisation's name and the purpose for which funds are requested. Printed materials seeking donations shall also include its address, website or other contact information;
- (c) donors/prospective donors are entitled to examine the following documents promptly upon request: organisation's constitutional documents, recent annual report and audited financial statements, document confirming its status as a tax-exempt charity and a list of names of the members of the governing board;

Fund-raising practices

- (d) when conducting fund-raising activities, the organisation should accurately describe its background, activities, service details and the intended use of the donated funds;
- (e) the organisation should ensure that the volunteers, employees and hired solicitors will act with fairness, integrity, and in accordance with all applicable laws and regulations;
- (f) paid fund-raisers should be compensated by a salary, and not be paid commissions or other payments based on the number of donors secured or amount received;

Financial accountability

- (g) the organisation's financial affairs shall be conducted in a responsible manner;
- (h) annual financial reports shall disclose information which includes the total revenue and total expenses of fund-raising events, and total expenditure of the charitable activities, and separately identify the revenue generated from individual project/event involving an appeal to the public;
- (i) it is a good practice to make financial statements of individual projects available to the public, disclosing information which includes the total revenue and total expenses of fund-raising events, and the uses of net proceeds; and
- (j) no more should be spent on administration and fund-raising than is required to ensure effective management and resource development. A charitable organisation should disclose the ratio of costs to total revenue for donors' reference, and disclose the return and expenses figures for high value and well-defined projects.

Source: SWD records

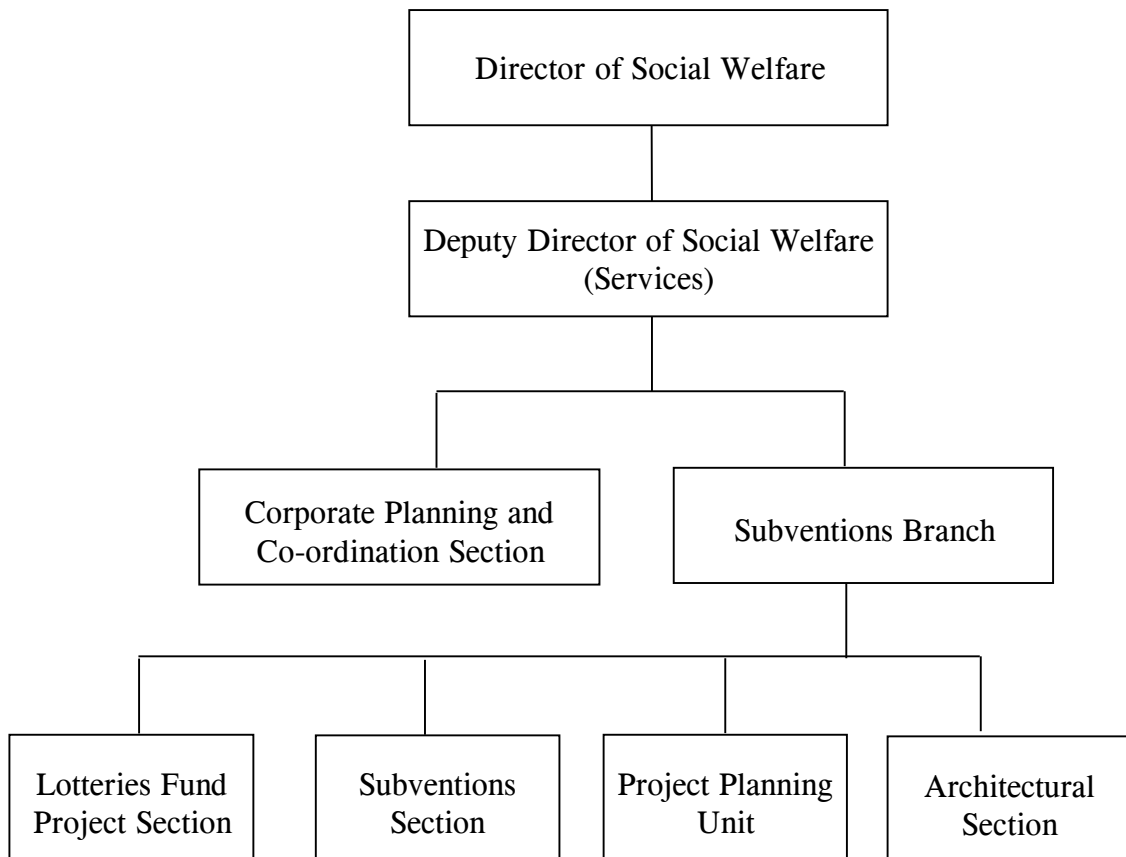
**Guidance Note on Internal Financial Controls
for Charitable Fund-raising Activities (extract)**

The Guidance Note proposes some basic controls to be considered by charitable fund-raising organisations with a view to ensuring that income generated from charitable fund-raising activities is spent for the designated purpose and that such income and expenditure are properly documented. The more important ones are shown below:

- (a) charitable fund-raising organisations should make regular checks and surprise inspections to ensure that records are being accurately maintained, and that there are no discrepancies in the accounting records;
- (b) for flag days, collection bags/boxes should be properly numbered and sealed, and collectors should make signature upon receipt and return of collection bag/boxes;
- (c) for collection boxes placed in stationed counters, boxes should be regularly opened and contents should be counted and recorded in the presence of at least two people authorised by the agency management;
- (d) for charity sale of commodities, the sale proceeds should be regularly counted and recorded in the presence of at least two people authorised by the charitable fund-raising organisation;
- (e) for charity walk receiving donations after the event, appeal for donations through advertisements, telephone calls, letters and leaflets, all incoming cheques and cash should be recorded immediately and entries verified by someone other than the person who has made the entry;
- (f) for charity ball, concert and film premiere, issue of official receipt signed by collectors should be made for each transaction of ticket sale; and
- (g) for charity show through the mass media, the pledged donation made by donors should be properly recorded. Should cancellation of the pledged donation be required afterwards, it has to be verified by someone other than the person who has made the entry.

Source: SWD records

**Social Welfare Department:
Organisation chart (extract)
(31 December 2016)**



Source: SWD records

**Major expenses of 45 public subscription permit activities
organised by 8 permittees with percentages of
expenses to gross proceeds exceeding 40%**

Permittee	Gross proceeds involved (\$)	Expenses to gross proceeds percentage					
		Fund-raiser cost	Transport cost	Venue cost	Cost of items sold	Others	Total
A	2,367,000	1%	1%	65%	–	9%	76%
B	97,000	38%	28%	–	–	4%	70%
C	1,130,000	44%	15%	–	–	8%	67%
D	845,000	8%	2%	51%	–	4%	65%
E	106,000	34%	23%	–	–	3%	60%
F	310,000	57%	–	1%	–	1%	59%
G	2,981,000	16%	8%	–	26%	1%	51%
H	52,000	0%	7%	–	27%	7%	41%

Source: Audit analysis of SWD records

**Sample of the income and expenditure account for a
general charitable fund-raising activity
covered by a public subscription permit**

[Registered Name of the Permittee]

Income and Expenditure Account

[Name of Activity] - [Approved Date / Period of Activity]

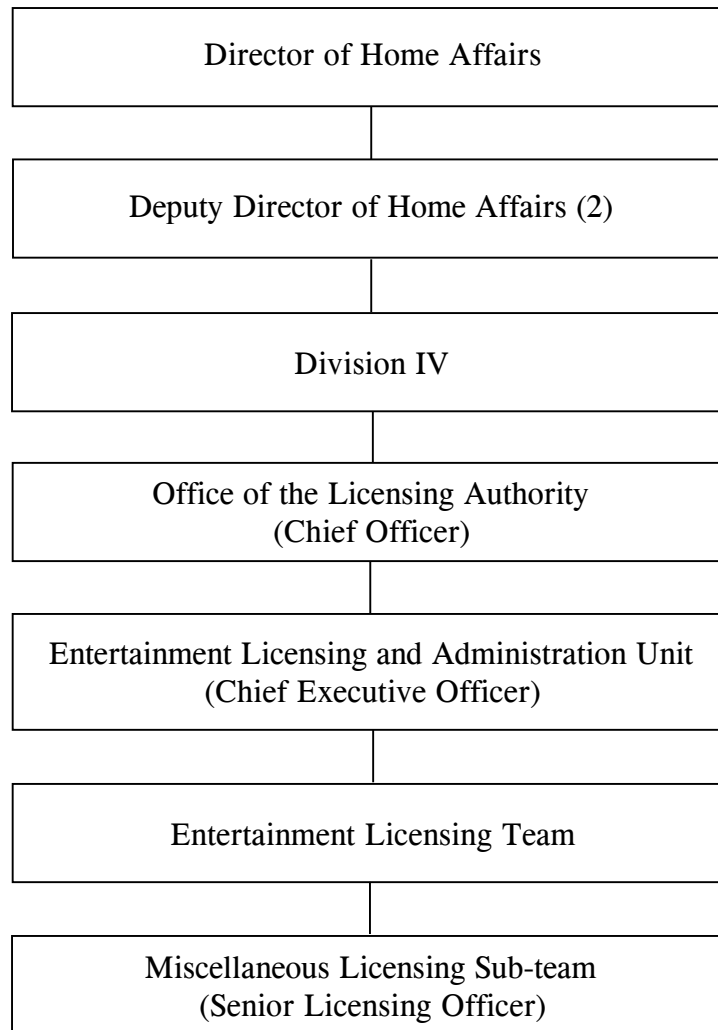
Public Subscription Permit No. 2013/XXX/1

<u>Income</u>	<u>HK\$</u>
Charity sales	XXX
Donations received	XXX
	<hr/>
	XXX
 <u>Expenditure</u>	
Advertising	XXX
Allowances/souvenirs for volunteers	XXX
Auditors' remuneration/professional fee	XXX
Salaries for fundraisers	XXX
Printing and stationery	XXX
Transportation	XXX
Miscellaneous	XXX
	<hr/>
	XXX
 Excess of income over expenditure	<hr/> <hr/>

Approved and authorised for issue by the Board of Directors on [DATE].

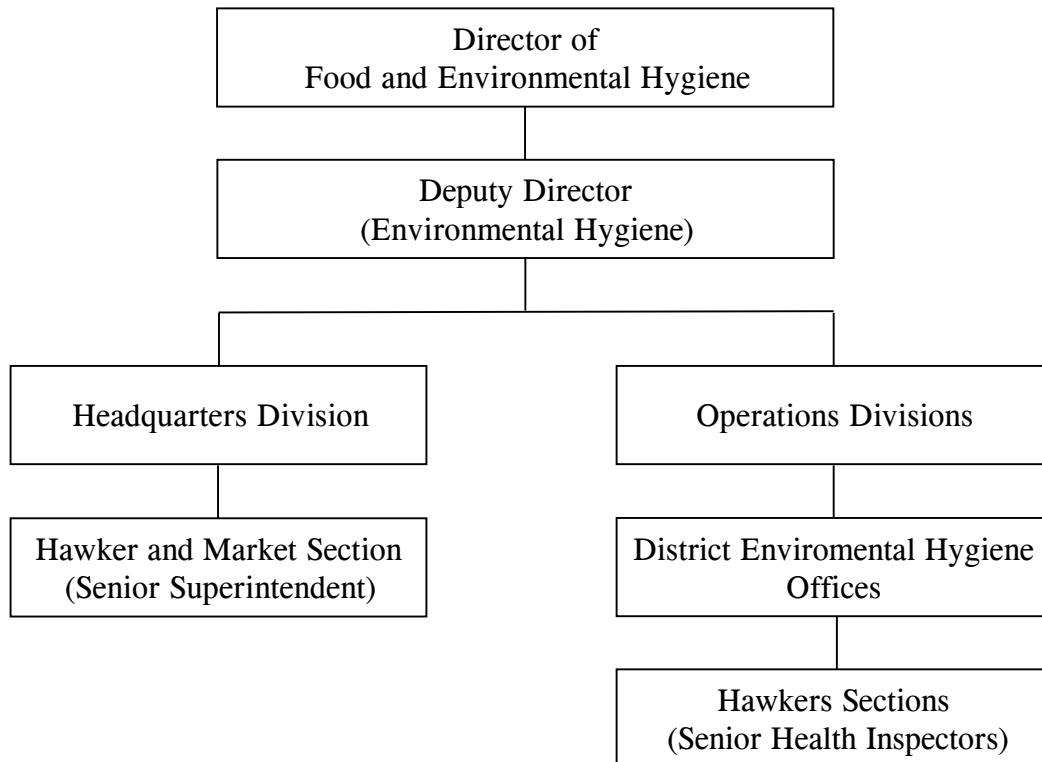
Source: SWD records

**Home Affairs Department:
Organisation chart (extract)
(31 December 2016)**



Source: HAD records

**Food and Environmental Hygiene Department:
Organisation chart (extract)
(31 December 2016)**



Source: FEHD records

Comparison of key permit/licence conditions and administrative measures imposed by the three licensing departments

Aspect covered	Extracts of the relevant condition and administrative measure		
	SWD	HAD	FEHD
	PSP for general charitable fund-raising activities	Lottery licence	Temporary hawker licence
(a) Track record requirement	The applicant must have at least three years' track record of charitable activities	If this is the first application, the applicant is required to submit audited annual financial statements for the past three years and three years' worth of track records of activities/charitable works	Not available
(b) Disclosure of fund-raising purpose	The permittee shall display its service information prominently at the approved locations to facilitate public understanding of the organiser and the purposes of fund-raising	Lottery tickets should contain a statement stating clearly the intended use of the net lottery proceeds	Not available
(c) Custody of funds raised	The permittee shall take sufficient security measures for the safe keeping of the funds raised, and ensure that all the donation boxes are secure and properly sealed	Lottery organisers must ensure the proper collection and counting of all donations received	Not available
(d) Preparation of audited accounts	The permittee is required to prepare an account for audit by a CPA	The licensee shall prepare an account and obtain a written report made by a CPA	Organisations issued with more than 12 licences within 12 months shall prepare an account for each and every of the licences subsequently issued for audit by a CPA
(e) Submission of audited accounts	Within 90 days of the last event day	Within 90 days of the date of the draw of the lottery	Within 90 days of the last day of the licence period

Appendix H
(Cont'd)
(para. 5.7 refers)

Aspect covered	Extracts of the relevant condition and administrative measure		
	SWD	HAD	FEHD
	PSP for general charitable fund-raising activities	Lottery licence	Temporary hawker licence
(f) Standard of audited accounts	The audited report prepared by a CPA in accordance with Practice Note 850 issued by the HKICPA is deemed acceptable	The CPA is required to give an assurance that the account is properly prepared from the licensee's books and records and no matter has come to the CPA's attention which indicates that the account does not accurately reflect all the moneys collected or received from the sale of lottery tickets and all the disbursements made	Not available
(g) Publication of audited accounts by the organisation	The audited report may be published in newspaper, organisation's newsletter or websites (for at least 6 months in the case of website)	Not available	Not available
(h) Funds raised donated to other organisation	The permittee is required to submit a copy of the receipt from the organisation or institution	The licensee shall submit copies of receipt of donations from the beneficiaries	Not available
(i) Funds raised used for meeting the operation expenses of the organisation	Not available	The licensee shall submit an audited annual financial statement of the organisation, which should show the income and expenditure of the lottery, and the whereabouts of the net proceeds in meeting the approved purpose(s) of the lottery event	Not available
(j) Restriction on fund-raising expenses	Not available	Administrative expenses should not exceed 20% of the gross proceeds received from lottery tickets sold	Not available

Source: SWD, HAD and FEHD records

Recommendations of the Law Reform Commission Report

The LRC Report contained 18 recommendations on charities, covering aspects on definition and registration of charities, facilitation of good practice, financial reporting by charities, and filing requirements (and requirement of display of registration number) for charitable fund-raising activities. The 18 recommendations are summarised below:

Statutory definition

- (a) there should be a clear statutory definition of what constitutes a charitable purpose;

Categories of charitable purpose

- (b) the statutory definition of what constitutes a charitable purpose that is exclusively charitable should include 14 heads and all of these heads of charitable purpose must be also for the public benefit;

Legal forms of charitable organisations

- (c) the current system of allowing a variety of legal forms of charitable organisations to exist should continue;

Registration of charitable organisations

- (d) all charitable organisations which solicit from the public for the donation of cash or its equivalent; and/or have sought tax exemption should be subject to the requirement of registration. The list of registered charitable organisations should be established and maintained by a B/D and be available for public inspection;

Financial reporting standard

- (e) a specifically formulated financial reporting standard should be adopted for charities in Hong Kong;

Filing requirements

- (f) certain filing requirements should be imposed on charitable organisations in their applications for charitable fund-raising licences or permits;

Information available to the public

- (g) the Government should ensure that tax-exempt charities make information about their operations available to the public by publishing certain documents, such as their financial statements and activities' reports, on their websites;

Enforcement action for non-compliance with filing and disclosure requirements

- (h) the Government should designate a B/D to be responsible for enforcement action in cases of non-compliance with the filing and disclosure requirements;

Standardised application form and conditions

- (i) a standardised application form setting out some common basic requirements (including the requirement for disclosure of certain information about the charity) should be adopted in respect of different types of charitable fund-raising licence or permit applications and the existing function of the information portal under the "GovHK" website should be enhanced by making the information available for public inspection;

Centralised hotline

- (j) the function of the Government's existing 1823 Call Centre should be enhanced or a new telephone hotline should be set up for answering public enquiries and receiving complaints in relation to charitable fund-raising activities;

Display of registration number

- (k) the registration number of charitable organisations involved in all forms of charitable fund-raising activities (including those via the Internet or other electronic means and involving face-to-face solicitation of pledges from donors for regular donations) should be prominently displayed on, among others, any related documents, webpage, message transmitted by electronic means or any means through which appeals for charitable donations are made (as the case may be);

Facilitation of good practice

- (l) charitable organisations should be encouraged to work with institutions/organisations to facilitate good practice and to improve co-operation between charitable organisations and the Government. Good practice guidelines should be issued by a coordinating B/D;

Public education

- (m) the Government, through the coordinated efforts of B/Ds, should engage in more public education on how to become a smart donor and on matters relating to charitable fund-raising activities;

Setting up a platform of coordination

- (n) the Government should set up a platform of coordination in dealing with applications for charitable fund-raising licences among the different departments responsible for the licensing of charitable fund-raising activities;

Allocation of more resources

- (o) more resources should be allocated to Government departments involved in the licensing of charitable fund-raising activities in order to enhance their role in relation to the monitoring of charitable fund-raising activities;

More frequent reviews by the IRD

- (p) the IRD should conduct more frequent reviews of tax-exempt charities to ascertain whether the activities of these charities are compatible with their charitable objects and more resources should be allocated to the IRD for such purpose;

Cy-près doctrine

- (q) the Government should introduce legislation along the lines of the English statutory model of the cy-près doctrine (i.e. to solve the problems which arise when a charitable gift fails because the original purposes of such gift, in whole or in part, cannot be carried out) so as to provide a statutory basis for the doctrine in Hong Kong and to broaden the scope of its application; and

Setting up of a charity commission

- (r) a charity commission should not be set up at this stage. It should be a long-term goal to set up a charity commission or a centralised regulatory authority upon review of the impact and effect of the implementation of the other recommendations made in the LRC Report.

Source: LRC Report

Acronyms and abbreviations

Audit	Audit Commission
B/Ds	Bureaux/departments
CPA	Certified Public Accountant
DoJ	Department of Justice
FEHD	Food and Environmental Hygiene Department
HAB	Home Affairs Bureau
HAD	Home Affairs Department
HKICPA	Hong Kong Institute of Certified Public Accountants
HKPF	Hong Kong Police Force
HLCS	Hawker Licensing and Hawker Conviction System
IRD	Inland Revenue Department
IRO	Inland Revenue Ordinance
Lands D	Lands Department
LegCo	Legislative Council
LFAC	Lotteries Fund Advisory Committee
LIS	Licensing Information System
LRC	Law Reform Commission
OGCIO	Office of the Government Chief Information Officer
PSP	Public subscription permit
SWD	Social Welfare Department