

Executive Summary

Direct Investigation Regulation of Sale of Chilled Meat

Background

Chilled meat such as chilled pork and chilled chicken is an imported food item frequently consumed by Hong Kong people. All shops selling chilled meat must hold a Fresh Provision Shop Licence issued by the Food and Environmental Hygiene Department (“FEHD”). One of the licensing conditions is that chilled meat must be kept in a refrigerator and stored at a temperature between 0°C and 4°C. We note that violation of this licensing condition is however quite common. Some shops even appear to be selling chilled meat fraudulently as fresh meat for higher gain.

2. This direct investigation aims to identify any inadequacies and room for improvement in FEHD’s regulation of shops selling chilled meat.

Our Findings

Risks to Consumers Posed by Improper Storage

3. Professor Yuen Kwok Yung, microbiologist and expert in infectious diseases of the University of Hong Kong, conducted a study commissioned by FEHD between 2007 and 2008. His study revealed that pathogens on the carcass of a slaughtered chicken exposed to an environment of 25°C (i.e. room temperature) for 24 to 48 hours would multiply quickly, posing a health risk to consumers, whereas if the storage temperature was maintained at 7°C instead, their growth could be effectively inhibited.

4. The Centre for Food Safety (“CFS”) of FEHD also points out that if a piece of meat is placed in an environment of unsuitable temperature or high humidity, the micro-organisms (including bacteria and mould) on it can breed to great quantities, resulting in spoilage of the meat and degradation of its flavour. Consumption of meat containing pathogens, if not fully cooked, can also lead to food poisoning.

5. According to the Department of Health, storing food at an unsuitable temperature will accelerate the growth of pathogens (including bacteria) on the food. Some bacteria can produce heat-resisting toxins. Although thorough cooking may kill those bacteria, the toxins may remain in the cooked food and cause food poisoning.

6. In view of the expert opinions cited above, this Office has come to the following conclusion. Since transportation of chilled meat from the slaughterhouse to the retail shops usually takes a long time, chilled meat must be kept at a low temperature throughout the process. If it is stored and displayed at room temperature, the pathogens on its surface will grow quickly and may produce heat-resisting toxins, posing a health risk to consumers.

Irregularities of Shops

7. Our investigation officers have inspected a total of 46 shops selling chilled meat at different markets in various districts of the territory. Irregularities were found in over 60% of them (29 shops), including chilled chickens being displayed in plastic containers with no refrigeration, and what appeared to be chilled chickens, being displayed without their wrappings on open shelves with no refrigeration apparently for sale as fresh chickens. Our investigators inspected those shops again a month later and still found irregularities in about half of them (21 shops).

FEHD's Inspection and Warning Systems

8. FEHD assesses the risk level of each fresh provision shop by reference to a set of criteria including the type of food it sells, its mode of operation and its food hygiene records. "High risk" shops are inspected once every 4 weeks and "medium risk" shops once every 10 weeks. Over 90% of the shops selling chilled meat are categorised as "low risk", and FEHD inspects those shops only once every 20 weeks.

9. If during an inspection a shop is found to be storing or displaying chilled meat in an improper manner, FEHD's health inspector will issue a "verbal warning" to the licensee under the Department's "Warning Letter System" and advise him/her to rectify the irregularities within 2 days, after which a review inspection will be conducted. If the licensee fails to rectify the problem within the specified timeframe, or if the same irregularity is found again at the shop within 6 months after the verbal warning, a "warning letter" valid for 6 months will be issued to the licensee. The licensee will be allowed 6 days to rectify the problem. Should he/she fail to comply, FEHD will issue another warning letter. If a licensee is issued 3 warning letters within 6 months, FEHD will consider cancelling his/her licence.

10. In case of "minor" irregularities (such as displaying a small quantity of chilled meat without refrigeration) and where the licensee or person-in-charge takes immediate rectification action, the health inspectors will normally not issue the aforesaid verbal warning. Instead, a "general verbal warning outside of the Warning Letter System" (known as "informal verbal warning") would be issued. For such informal verbal warnings, no review inspection will be conducted.

Our Comments

Stringent Requirement but Lax Control

11. By way of its licensing system, FEHD strictly requires that chilled meat be stored at a temperature between 0°C and 4°C. Surely, the intent of this requirement was based on the Department's serious concern over the health risk of chilled meat being stored or displayed at an unsuitable temperature. In reality, however, FEHD's monitoring of the shops is terribly lax. Irregularities are common among shops, and the stringent requirement is there for nothing.

Ineffective Enforcement and Infrequent Inspections

12. We note that shops very often display chilled meat at room temperature. Nevertheless, the incidence of enforcement actions by FEHD during the past four years was extremely low. Only about 10 verbal warnings, fewer than 10 reminders and just a few warning letters were issued every year under the Warning Letter System. This shows that FEHD's enforcement is weak and that the Department has almost turned a blind eye to irregularities.

13. At present, a vast majority of shops selling chilled meat are categorised as "low risk" and FEHD inspects them only once every 20 weeks. If a shop, on account of an irregularity, receives a verbal warning valid for 6 months under the Warning Letter System, all it needs to do is to make temporary improvement within the specified timeframe (2 days) and the irregularity can resume for the subsequent 20 weeks. The irregularity will go unnoticed, as FEHD will not conduct any inspection during those 20 weeks. The shop only needs to comply with the licensing conditions again sometime before the next inspection, and will then have a clean slate again. Clearly, FEHD's inspections are too infrequent, with minuscule monitoring effect. This renders the 6-month validity period of a verbal warning virtually useless.

Informal Verbal Warnings Lack Deterrent Effect

14. When an irregularity is found, FEHD usually just issues an informal verbal warning to the shop concerned. However, informal verbal warnings are almost totally ineffective as they have no binding effect and there is no follow-up mechanism.

15. FEHD initially indicated that its staff would only issue an informal verbal warning to those who displayed a small quantity of chilled meat at room temperature and rectified the irregularity immediately afterwards. Nevertheless, when asked to define "small quantity", FEHD then clarified that it would consider not only the quantity of the meat but also other factors. In the absence of clear guidelines on when to issue an informal verbal warning, enforcement action is up to individual officers' judgement and there can be much variance. Officers tend to be lenient to minimise conflicts with shop operators.

Excessive Time Allowed for Rectification of Irregularities

16. FEHD explains that under the Warning Letter System, grace periods of 2 and 6 days respectively are given to shop operators so as to allow them time to rectify their irregularities after receiving verbal and written warnings. We consider the time allowed too long. Surely, to rectify such irregularities, the shop operator just needs to stop displaying chilled meat at room temperature. Normally, little or no time is required for gearing up. Therefore, except in special circumstances, FEHD should take decisive and stringent measures, such as requiring immediate rectification by the shops, to protect consumers.

17. Subsequent to our commencement of this direct investigation, FEHD has issued an internal guideline, instructing its staff to demand immediate rectification by shop operators regarding improper storage or sale of chilled meat.

Control of Licence Holders Too Lenient

18. We notice that shop operators whose licences are suspended or cancelled can apply for similar licences afterwards without any restrictions, provided that they do not voluntarily surrender their licences to evade the penalty of licence suspension or cancellation. We find FEHD too lenient in not setting any such restrictions. It has not duly taken into account whether an applicant is a “fit and proper person” to be a licensee. Whether a licence has been cancelled or voluntarily surrendered should make no difference to FEHD when it considers an application from the same operator for a new licence.

Need for Stronger Actions against Unlicensed Operators

19. We have also noticed that some shops have started doing business while FEHD is still processing their licence applications. FEHD should, therefore, expedite its processing of applications. FEHD should also take stronger actions against shop operators who have no intention of applying for a licence at all.

Need for More Rigorous Investigation on Sale of Chilled Meat as Fresh Meat

20. Our site inspections, case studies and FEHD’s statistics on enforcement actions have all revealed cases of shops appearing to be selling chilled meat as fresh meat. Those shops usually display chilled meat at room temperature for sale. They not only cheat their customers but also create food safety hazards. FEHD should, therefore, conduct more inspections and enhance the ability and efficiency of its officers in collecting evidence to prosecute those offenders.

Inadequate Publicity and Education

21. The public have not thus far paid much attention to the common practice of shops improperly storing or displaying chilled meat at room temperature. Most

people may not realise the impropriety of such acts and the health risk of consuming such chilled meat. Even if they fall sick after consumption, they may not associate their sickness with the improper storage or display of the chilled meat. Hence, they would not bother to lodge a complaint.

22. We believe that when consumers are better informed and become more alert, they will make their purchase wisely and report irregularities. This would become a significant force in monitoring the shops, and would in turn help FEHD in the regulation of sale of chilled meat.

Our Recommendations

23. The Ombudsman makes the following recommendations to FEHD:

- (1) to suitably raise the risk category of shops selling chilled meat and increase the frequency of regular inspections of shops, particularly those that have already been given formal or informal warnings; also to conduct surprise inspections on shops that have received warnings to ensure more effective monitoring and curb the prevalent problem of improper storage of chilled meat;
- (2) to define “minor” irregularities clearly, having regard to food safety requirements, and require strict observance by inspectors; also to instruct inspectors to issue a verbal warning under the Warning Letter System immediately in case of a subsequent offence by a shop with a “minor” irregularity, whether the new offence involves a “minor” or major irregularity;
- (3) to strictly require prompt action by shop operators to rectify their irregularities after receiving a verbal warning or warning letter; failing which, FEHD should immediately step up its enforcement action under the Warning Letter System;
- (4) for any person whose Fresh Provision Shop Licence has previously been cancelled due to repeated offences, to refuse to process within a specified period of time any application by that person or his/her representative for a fresh provision shop or related licence in respect of the same premises;
- (5) to expedite the processing of licence applications for fresh provision shops in order to minimise unlicensed operations by applicants, and to take stronger enforcement actions against those shop operators who have no intention of applying for a licence at all;

- (6) to conduct more rigorous investigation on cases of sale of chilled meat as fresh meat and enhance the ability and efficiency of staff in collecting evidence to prosecute those offenders;
- (7) to release information through the media about shops which are persistently involved in irregularities and upload such information on to the websites of FEHD and CFS for easy public access, thus helping to safeguard the health of consumers and deter offences; and
- (8) to enhance publicity and public education through various channels to inform citizens that shops must store and display chilled meat at 0°C to 4°C, that failure to do so is a breach of the licensing condition and will speed up the spoilage of the meat, which will possibly result in food poisoning and other health risks even if the meat is cooked.

**Office of The Ombudsman
October 2013**