

Legislative Council Panel on Constitutional Affairs

System of Accountability of Principal Officials

Introduction

In the 2000 Policy Address, the Chief Executive noted that the Legislative Council and the community had expressed the view that as senior officials were involved in policy making and played a leading role in public affairs, they should be held accountable for the outcome of their policies. The Chief Executive agreed that the SAR Government should respond seriously, undertake a thorough review, and make the system of accountability more complete. He undertook to examine how, under his leadership, the accountability of principal officials for their respective policy portfolios could be enhanced.

Background

2. We note that at present, principal officials holding Secretaries of Departments and Directors of Bureaux positions assume an important role in policy formulation and implementation which is different from that of other civil servants. They are not only responsible for putting forward policy options and analysing their implications. They also play an active and important role in the policy making process and they are expected to garner the support of the community by explaining, promoting, and defending policies in public. In addition, they have to steer legislative proposals through the Legislative Council.

3. At present, all principal officials holding Secretaries of Departments and Directors of Bureaux positions are appointed on civil service terms and as such are subject to a well established system of disciplinary action for any misconduct or poor performance. The disciplinary proceedings are elaborate and time-consuming; they require a high level of proof and are subject to judicial review.

4. Further, most principal officials holding Secretaries of Departments and Directors of Bureaux positions are at present appointed on permanent and pensionable terms and they have a reasonable expectation to remain in service until normal retirement. Asking them to leave, not because of any misconduct or poor performance on their part, but because of perceived failure of government policy or its outcome, is incompatible with the terms of their appointment as

civil servants.

5. Therefore there is a need to review the present appointment system in respect of principal officials holding Secretaries of Departments and Directors of Bureaux positions.

Principles for the review

Basic Law provisions

6. The System of Accountability of Principal Officials would be implemented within the ambit of the Basic Law.

7. The Basic Law provides that the Chief Executive is the head of the HKSAR and represents the HKSAR. He is the head of the HKSAR, leads the HKSAR Government, and is accountable to the Central People's Government and the HKSAR. According to the Basic Law, the Chief Executive nominates and reports to the Central People's Government for appointment of principal officials; and recommends to the Central People's Government the removal of the principal officials.

8. The Basic Law also provides that the Government of the HKSAR must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure.

9. In conducting the review, we must ensure that any changes are consistent with the relevant provisions of the Basic Law.

A politically neutral civil service

10. In considering ways to enhance the accountability of principal officials, we must also ensure that the present civil service system remains basically unchanged. Hong Kong needs a permanent, meritocratic and politically neutral civil service.

Scope of the review

11. Our work at present is to consider how best to put together a set of

appropriate arrangements to address the current problems. We also need to consider the system of appointment of principal officials holding the positions of Secretaries of Departments and Directors of Bureaux, their working relationship with civil servants, and whether there needs to be any adjustment to the structure and operation of the Government. As the review is still underway, we are unable to provide the Panel with details at this stage.

Constitutional Affairs Bureau
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