

**Extract of minutes of meeting of the LegCo Panel on Home Affairs
on 14 November 2000**

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VI. Functions of District Councils and honorarium and allowance for District Council members

[LC Paper Nos. CB(2)48/00-01(01), Appendices I to VI to CB(2)167/00-01 and CB(2)207/00-01(04)]

16. At the invitation of the Chairman, Deputy Secretary for Home Affairs (2) (DS(HA)2) briefed members on the paper provided by the Administration which outlined the Government's measures to enhance the role and functions of the District Councils (DCs) and its support and assistance to DC members. She emphasized that the Administration would adopt a liberal approach in listening to the views of LegCo Members and DC members on how the Government should devolve more powers and strengthen its support to DCs.

Functions of DCs

17. Mr IP Kwok-him pointed out that the Administration's undertaking to transfer part of the functions and powers of the former Municipal Councils (MCs) to DCs when proposing not retaining the former MCs had so far not been discharged. As a matter of fact, most DC members had expressed their hope for more direct involvement in district administration in order to assist the Government to manage district affairs and resolve local problems. Mr IP welcomed the Administration's impending review of the role and functions of DCs. In this regard, he sought the views of the Administration on ways to enhance the functions of DCs. Mr IP further asked about the arrangements for inviting DC members to advise on the management of other district facilities as mentioned in paragraph 3(a) of the paper.

18. DS(HA)2 responded that the Administration had implemented a package of measures to enhance the advisory functions of DCs over the years. Such measures included appointing the chairmen and deputy chairmen of DCs to respective District Management Committees (DMCs), as well as inviting DC members to sit on the Market Management Consultative Committees under the Food and Environmental Hygiene Department (FEHD) to advise on market management matters. Since the latter arrangement had proved to be very successful, the Home Affairs Bureau (HAB) was exploring with the FEHD and the Leisure and Cultural Services Department the possibility of inviting DC members to advise on the management of other district facilities where

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appropriate. The HAB hoped to complete the review of the role of DCs by the following year and implement a series of recommendations and measures such as establishing more committees at the district level to enable DC members to participate in the management of district affairs directly instead of through their respective DCs.

19. Mr Andrew WONG considered that as reflected from the contents of its paper, the Administration only attached importance to the advisory functions of DCs and lacked sincerity in vesting in DCs the real management power in respect of district administration. Mr WONG enquired when the Administration last organized a District Administration Seminar (DAS) and whether it had followed up the views and suggestions put forward by DCs during the seminar. Mr WONG emphasized that he had all along supported that DCs should be conferred with real executive powers in district administration and had expressed such a view during the last DAS.

20. DS(HA)2 responded that the Administration had held a DAS in 1996 inviting the then District Board (DB) members to attend the seminar to put forward proposals on matters relating to district administration. Most of the proposals received were implemented in the years followed. She pointed out that as the former MCs were still in operation, the main purpose of that DAS was to heighten the respect of the Government and the public for DBs. The focus of the discussion during the seminar was the ways to enhance the advisory role of DBs instead of their participation in and management of municipal affairs. She added that the Home Affairs Department (HAD) had subsequently coordinated the establishment of an inter-departmental working group in 1999. Under the leadership of the Director of Home Affairs, the working group made a package of recommendations on the involvement of DC members in district administration and the management of municipal affairs. The proposals were progressively implemented afterwards (see paragraphs 3 to 4 of the Administration's paper).

21. Mr Andrew WONG expressed disappointment at the Administration's refusal to consider changing the advisory role of DCs after the dissolution of the Municipal Councils. Mr WONG said that as the Chairman of the Panel on Constitutional Affairs (CA Panel), he would follow up at meetings of that Panel matters such as the reform of DCs' powers and their role in the constitutional framework.

22. The Chairman agreed that the CA Panel should follow up matters relating to the functions and role of DCs from the perspective of the district-level constitutional framework. He pointed out that the Panel on Home Affairs would also continue to follow up within its terms of reference matters relating to the functions of DCs as well as the honorarium and accountable allowance for DC members.

23. Mr Albert CHAN agreed that the Panel should continue to follow up matters relating to the functions of DCs and the support provided to them by the

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Administration. He strongly urged the Administration to enhance the functions of DCs and be more responsive to views and proposals put forward by DC members on matters relating to district administration. He pointed out that it was inadequate to merely invite chairmen and vice-chairmen of DCs to attend meetings of respective DACs as full members. The Administration should further entrust responsibilities in respect of district management, improvement of environmental hygiene, as well as community and rural minor environmental improvement projects to the relevant committees formed under DCs. He was of the view that as DC members were most familiar with district affairs, the Administration should gradually transfer more executive duties and powers in respect of district management to DCs. In fact, in lobbying DC members to support its proposal for not retaining the former MCs, the Administration had undertaken to enhance the role of DCs in advising on and monitoring the delivery of municipal services should the proposal be passed by the LegCo. Unfortunately, such undertaking had not been discharged and as a result, DC meetings often became forums for empty talks and DCs were not able to serve their functions in respect of district administration. He added that while DBs/DCs had been in operation for over a decade, the Administration was attaching less and less importance to them. Government officials even refused to attend DC meetings and papers provided by the Administration were far from comprehensive.

24. Referring to the dissatisfaction expressed by Mr Albert CHAN that DCs lacked real powers in district administration, the Chairman enquired whether the Administration could undertake to seriously consider enhancing the functions and powers of DCs in respect of district administration in reviewing their role. Otherwise, the review would just end up as empty talks which could not bring any substantial improvement to district administration.

25. DS(HA)2 responded that the Administration would carefully consider members' views expressed at the meeting and give explanations on views which were considered unacceptable. She pointed out that delegating specific executive functions to DCs would run the risk of fragmenting responsibilities with each DC operating in its own way. As regards the attendance of government officials at DC meetings, the Chief Secretary for Administration had recently issued internal guidelines asking departments to strengthen communication with DCs and respect opinions of DC members. Therefore, each Department had to delegate officers of suitable ranking to attend DC meetings. DS(HA)2 added that she understood that some departments might have difficulties in observing the guidelines and undertook to follow up the matter.

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26. Mr James TO referred to Article 97 of the Basic Law (BL) which stated that "*District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and*

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environmental sanitation.” According to his understanding, the district organizations “to be consulted by the government of the Region on district administration and other affairs” referred to DCs whereas the district organizations “responsible for providing services in such fields as culture, recreation and environmental sanitation” referred to the former MCs. In this connection, Mr TO asked whether DCs, as organs of non-political power and subject to BL 97, could replace the former MCs as the district organizations responsible for providing services in such fields as culture, recreation and environmental sanitation.

27. DS(HA)2 responded that BL 97 had indeed laid down the scope of powers of district organizations. However, within that scope, there still remained many powers which could be transferred to DCs. Reference would be made to BL 97 when reviewing the role and functions of DCs. Since the review had not started, the Administration had yet to consider the circumstances under which powers vested in DCs would go beyond the scope as laid down in that Article. She added that while the HAB would not disagree with Mr TO’s interpretation of BL 97, it had to seek legal advice from the Department of Justice. Mr Andrew WONG was of the view that the Administration should give its clear interpretation of BL 97.

28. The Chairman and Miss Cyd HO considered that the Administration should transfer the executive powers in respect of district administration to DCs in a practicable manner. The establishment of the Provisional MCs after 1997 implied that the existence and functions of the former MCs did not contravene the BL. Therefore, they urged the Administration to seriously consider transferring the executive powers of the former MCs in respect of district administration to DCs. Miss HO emphasized that in conducting a comprehensive review of the role of DCs, the Administration should change its basic conception of DCs as advisory bodies as defined under the District Councils Ordinance. She further asked whether the comprehensive review would consider the views expressed by various organizations during the consultation on the proposal to dissolve the former MCs.

29. SHA responded that the comprehensive review of the role of DCs would commence following the “District Councils Day” to be held on 18 November 2000. The HAB had no pre-determined views on the scope of powers of DCs. Since assuming office, he himself had called at 16 DCs to listen to the views of DC members directly. Apart from carefully considering the views of DC members, the Administration would also conduct extensive public consultations. As regards the proposal of transferring the functions and powers of the former MCs in respect of district administration to DCs, SHA pointed out that it was inappropriate to transfer certain executive powers such as the vetting and approving of applications for liquor licence to the 18 DCs. In order to ensure that the views of DC members could be fully reflected in the review, the HAB and HAD would continue to gauge DCs’ views. Given that the new DCs had been in operation for more than 10 months, the Administration would welcome

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further submissions from organizations which had previously expressed their opinions on how the functions of DCs could be enhanced. He added that as the BL was the constitutional document of Hong Kong, the review of the role and functions of DCs should be conducted within the scope as laid down therein. SHA pointed out that the District Councils Ordinance was only one of the statute laws of Hong Kong. If there was a wider consensus among the community that the powers and responsibilities of DCs should be enhanced, the Administration would consider amending the relevant legislation to entrust DCs with the appropriate powers and responsibilities in respect of district administration.

30. Mr TANG Siu-tong said that as the Chairman of the Yuen Long District Council, he had never felt that DCs had any real power in the provision of cultural, recreational, environmental hygiene services, etc.

31. SHA responded that he appreciated Mr TANG Siu-tong's feeling. He pointed out that the views of DCs had always had much bearing on the Government's policy on district administration. Therefore, it was not entirely true to say that DCs merely played an advisory role.

32. The Chairman pointed out that many DC members expected the Administration to transfer the powers vested in the former MCs to DCs as undertaken in dissolving the former. He urged the Administration not to lose sight of DC members' dissatisfaction at their lack of real powers.

33. Mr Albert CHAN and Miss Cyd HO asked whether the Administration could state the responsibilities and powers of the former MCs that could and could not be transferred to DCs. Mr Andrew WONG considered that while he agreed it might not necessarily be appropriate to transfer all the powers of the former MCs to DCs, the Administration should transfer to DCs those responsibilities and powers requiring no central coordination. It was only when DCs became district organizations having real powers and responsibility that improvements could be made to district administration. Mr WONG said that if the outcome of the review indicated that the role of DCs should remain at the advisory level, there should be no need to maintain the operation of DCs.

34. SHA responded that it was inappropriate for the Administration to comment on the powers that could or could not be transferred to DCs when the review was under way for fear of having any undue influence on it. He did not agree with the remarks that DCs should be abolished if they did not have any real executive powers and responsibilities. He pointed out that DBs/DCs had been in operation for over a decade and it was beyond doubt that their advisory role had a bearing on Government policies and people's livelihood. In fact, many people would turn to DC members for assistance whenever they met problems in their daily lives. As most of these problems were related to the living environment and transport arrangements in individual districts, it would be, theoretically speaking, difficult to resolve such problems through other channels such as the LegCo. He cited the attendance of the chairmen and deputy

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chairmen of DCs in respective DMCs, as well as the allocation of funds for DCs to implement or sponsor community building activities and minor environmental improvement projects, to illustrate the increasingly important role of DCs in district administration.

35. Miss Cyd HO expressed concern about the scope of the comprehensive review on the role of DCs. She was of the view that the Administration should prepare a consultation document to allow sufficient time for the public to understand the scope and key issues of the review. The Chairman also enquired whether the Administration had set a timeframe for completing the review and submitting a report on the review.

36. SHA responded that the Administration would take into account the views expressed by all parties including the LegCo, the academics and representatives of other sectors of the community. The Administration had yet to work out a timetable for the comprehensive review on the role of DCs. Mr Albert CHAN suggested that the Administration should conduct the consultation in two stages. The Administration should first gauge the opinions received and after analysis, propose a number of options for people to discuss in greater detail. The Chairman requested the Administration to consider Mr CHAN's views.

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Honorarium and allowance for DC members

37. The Chairman declared interest as incumbent DC members for himself as well as the following members attending the meeting: Mr James TO, Mr Andrew WONG, Mr LAU Wong-fat, Mr TANG Siu-tong, Mr Albert CHAN and Mr IP Kwok-him.

38. Mr IP Kwok-him expressed concern about DC members' honorarium and accountable allowance as well as the revision mechanism. He pointed out that DC members were currently granted an accountable allowance of up to \$10,000 per month which was hardly enough to cover the costs for hiring sufficient staff to discharge DC duties. Mr IP also expressed concern about the current practice of revising the rates of DC members' honorarium and accountable allowance annually with reference to the movement of the Consumer Price Index (CPI). Given the downward adjustment in the CPI this year, he was concerned that the Administration would reduce the already insufficient honorarium and accountable allowance from January 2001. Such reductions would put DC members into greater financial difficulties and was contrary to the Administration's undertaking to strengthen support for DC members.

39. Mr Albert CHAN considered that the current arrangement of reducing the honorarium for DC members with multiple membership in different tiers of the representative government was definitely unreasonable. He pointed out that each existing LegCo geographical constituencies (GC) covered an extensive area. For example, the New Territories West GC encompassed a total of five DC districts and a population of about 2 million. The honorarium and allowance for

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LegCo Members basically were insufficient for them to hire enough staff and run their offices. Therefore, he was of the view that the Administration should not deduct one-third from the DC members' honorarium simply because they were holding multiple membership.

40. In response, DS(HA)2 explained that the levels of DC members' honorarium and accountable allowance as well as the revision mechanism were examined and approved by the Finance Committee in 1992. As a result, revisions to the remuneration package for DC members were pegged to those for LegCo Members and Members of the Executive Council. Given the downward adjustment of CPI due to deflation this year, there might be a reduction in the levels of the remuneration for DC members, LegCo Members and Members of the Executive Council. As such, the Administration was reviewing the operation of the revision mechanism and had yet to establish its stance and formulate a policy in this respect. She pointed out that if LegCo Members had reached a consensus on changing the current revision mechanism, the Administration would surely take into consideration the views of LegCo Members. She added that as proposed in the paper submitted to the Finance Committee by the Administration on 2 July 1999, the Secretary for the Treasury could only revise the levels of DC members' honorarium and allowance with reference to the movement of the CPI (C) and the Administration could not initiate changes to the revision mechanism unilaterally.

41. Mr IP Kwok-him pointed out that to help LegCo Members to consider whether the existing mechanism was reasonable, the Administration should provide statistics explaining how the levels of DC members' honorarium and accountable allowance were computed. He was also of the view that the Administration should consult LegCo Members and DC members on revision of honorarium and accountable allowance and put forward proposals for improving the computation and revision mechanism.

42. DS(HA)2 explained that the Administration had yet to work out a formula for calculating the honorarium and the maximum accountable allowance for DC members. However, the annual adjustment according to the movement of CPI(C) was based on preset formulae. She informed members that whether the levels of DC members' honorarium and accountable allowance were reasonable would be examined within the scope of the review of DCs' role and functions.

43. Mr Andrew WONG suggested that to avoid reduction in DC members' honorarium as a result of deflation, the mechanism for revising the honorarium and accountable allowance for DC members should be in line with that for revising the remuneration for civil servants. He pointed out that a reduction in DC members' honorarium and accountable allowance would lead to salary reductions of DC members' assistants, which would adversely affect the good employment relations between DC members and their assistants. He also suggested that the Administration should consider providing permanent offices for DC members to help reduce their expenses in rents. The Chairman added

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that the Administration should consider providing DC members with well-equipped offices to facilitate their discharge of duties with reference to the mode of operation of LegCo Members' offices.

44. SHA responded that if it was concluded upon the completion of the review of DCs' role and functions that there was considerable room for revising the honorarium and allowance for DC members, the Administration would readily consider relevant proposals in detail. He pointed out that as the nature of work of DC members and civil servants were basically differed, he personally did not agree to the suggestion of pegging the revision of the honorarium and accountable allowance for DC members to that of the remuneration for civil servants.

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