

研究擬議主要官員問責制及相關事宜小組委員會

根據《釋義及通則條例》第 54A 條 提出的決議

前言

本文件旨在闡釋為何根據《釋義及通則條例》(第 1 章)第 54A 條提出的決議是恰當的立法途徑，藉以移轉因推行問責制而需移轉的法定職能。

背景

2. 在 2002 年 4 月 19 日的內務委員會會議和過去幾次的小組委員會會議上，議員要求政府解釋為何第 1 章第 54A 條的決議是推行問責制的正確而恰當的方法。本文件旨在綜合過去幾次會議中我們就此事所作回應。

重組決策局

3. 在推行問責制的同時會重組多個決策局。一如有關“問責制的合憲性”的文件所載，是次重組符合《基本法》，《基本法》沒有指定決策局的數目、職能或名稱。《基本法》也沒有規定政府架構五十年不變。

4. 一般而言，政府可以行政措施重組政府架構，無須透過立法規定。這是因為在《基本法》或任何本地法律中未有就政府架構作出規定。《基本法》的條文並無規定政府架構須由法律訂定。同樣地，本地法律也沒有訂明政府架構。不論是回歸前或回歸後，政府均是以行政措施重組政府架構。

第 1 章第 54A 的決議

5. 第 54A 條的決議並非訂定決策局重組的法例。決議是因應重組而提出的。

6. 重組決策局涉及更改行使有關法定職能的公職人員，故須修訂法例，把相關的法定權力移轉給主管有關重組後決策局的主要官員。第 1 章第 54A 條的決議是恰當的立法形式，以達至這目的。

7. 第 1 章第 54A 條是在 1975 年通過。過去曾多次因應政府架構重組而引用這條文，把一名公職人員的法定職能移轉給另一名公職人員。因此，就這目的使用第 1 章第 54A 條的決議與以往的做法完全一致。

8. 就法律政策而言，恰當的做法是如果能合法地透過附屬法例來修訂法例，則無需透過主體法例來達到同樣的目的。就今次的情況，使用第 1 章第 54A 條的決議是完全符合我們既定的法律政策。

9. 議員也詢問，第 54A 條的決議是否足以達成目的，把現時局長的法定職能移轉給問責制主要官員。在這方面，我們必須注意，第 54A 條是就一名公職人員的法定職能移轉給另一名公職人員作出規定。毫無疑問，問責制主要官員符合第 1 章“公職人員”的定義。相關的條文是把法定權力賦予某些公職人員。有關法例並無規定這些公職人員的受聘條款，也沒有訂明某公職人員是否須以公務員條款聘用。因此，相關的主要官員不是公務員這個事實，不會影響第 54A 條的決議的合法性或效力。

政制事務局
2002 年 5 月 6 日

研究擬議主要官員問責制及相關事宜小組委員會

香港法例中有關行政長官會同行政會議的提述

前言

在 2002 年 4 月 29 日的小組委員會會議上，有議員指出香港法例中共有 689 項有關行政長官會同行政會議的提述，並要求政府闡釋，就針對主要官員的決定而提出的上訴現時是由行政長官會同行政會議處理，但日後當問責制主要官員也獲委為行政會議成員時，這些上訴將如何處理。本文件旨在闡述政府的回應。

有關行政長官會同行政會議的提述

2. 我們已仔細查閱香港法例中 689 項有關行政長官會同行政會議的提述，發現有 53 項提述是就特定情況的上訴作出規定，32 項提述與行政長官會同行政會議批准圖則等有關，其中可能涉及考慮公眾的反對意見。其餘則關乎制定附屬法例、修訂主體法例的附表，以及不同事項，例如發出指示、委任等。

由行政長官會同行政會議審理上訴是否恰當

3. 行政會議從來都是政府行政體系一部分。行政會議並非一個獨立的司法或類似司法組織。根據第 1 章第 64(4)條的規定，行政長官會同行政會議在考慮任何向其提出的上訴或反對時，須以施政或行政身分，而非以

司法或類似司法身分處事。在問責制下將有更多主要官員獲委為行政會議成員，不會改變行政會議在這方面的性質。

4. 至於由行政會議審理某些特定的上訴或反對是否恰當的問題，在過去十多年一直是考慮的課題。1993年，當行政上訴委員會成立時，有28類向當時總督會同行政局提出的上訴轉交行政上訴委員會審理。1995年，當時的律政署在檢討過所有向行政局提出的法定上訴和反對後，根據其建議，把更多不同類別的上訴轉由其他機構審理。

5. 在決定是否恰當方面，我們應用了兩個指導原則 –

- (a) 有需要減輕行政會議在次要事項的決策工作，如批出牌照；
以及
- (b) 有需要遵守《人權法案條例》第十條。

《人權法案條例》第十條的規定包括：人人在法院或法庭之前，悉屬平等。任何人因其權利義務涉訟須予判定時，應有權受獨立無私之法定管轄法庭公正公開審問。這類上訴不應由行政會議審理。然而，不是所有就行政決定提出的上訴均涉及涉訟中權利義務的判定，例如：

- (i) 根據《城市規劃條例》等對草擬圖則提出的反對；
- (ii) 內容涉及許多政策考慮的行政決定，如批准道路工程的建議；以及
- (iii) 關於對入境事宜行使法定酌情權方面提出的上訴，

均不涉及這類判定。因此，無論是現時，或是在問責制下，由行政長官會同行政會議審理這類上訴均是合法的。在問責制下將有更多主要官員獲委為行政會議成員，不會對由行政會議審理某些上訴或反對是否恰當的現行準則有任何實質影響。

與上訴有關聯的主要官員

6. 有人提出，由於主管某決策局或部門的主要官員現已成為行政會議成員，故針對該決策局或部門的決定而向行政會議提出上訴，可能會產生問題。我們相信這個情況可按現行安排解決；當局會就有關主要官員應否在某項上訴中退席向他／她提供法律意見。

政制事務局
2002年5月6日

立法會

Legislative Council

立法會CB(2)1822/01-02(03)號文件

檔號：CB2/HS/1/01

研究擬議主要官員問責制及相關事宜 小組委員會

《麥健時報告書》(McKinsey Report)

在1972年年初，當時的總督麥理浩要求麥健時顧問公司(McKinsey & Company Inc.)就香港政府的架構進行簡要研究。該公司在研究中發現妨礙政府架構效率的若干問題，同時亦指出基本的問題：“在熟練和富經驗的人員不斷減少的情況下，卻試圖擴充服務，結果事倍功半，這是香港政府的基本困難所在。”

2. 隨後，該顧問公司進行了一項詳細研究，以找出並建議改善政府架構的方法，從而加強政府在熟練人手有限的情況下擴充服務的能力。兩份報告書分別在1972年11月及1973年5月發表。

3. 簡要而言，《麥健時報告書》建議採取下列方法，以解決所發現的問題——

- (a) 加強現行架構——劃一部門提交文件的程序、向各部門下放權力，以及廣泛應用電腦；
- (b) 引入新架構，以確保各部門策劃工作時更重視成效——訂立長遠的工作計劃、每年營運計劃及資源計劃；
- (c) 改善人事管理，招聘較多熟練人員，並發展在職人員的潛能——把高級職位開放予所有職系人員投考，並根據個人才幹而非服務年資進行晉升選拔；及
- (d) 改變政府的組織架構——把政府劃分為不同的決策科，負責制訂政策，並由各有關部門負責執行。

4. 隨文附上《麥健時報告書》的摘要(只備英文本)，以方便委員參閱。有興趣閱讀該兩份報告書全文的委員，可與小組委員會秘書聯絡。

立法會秘書處
議會事務部2
2002年5月6日

cb2t209

Strengthening the Machinery of Government

Summary

November 1972

STRENGTHENING THE MACHINERY

OF GOVERNMENT

SUMMARY

Measured in terms either of its population or of its economy, Hong Kong has one of the highest growth rates in the world - a situation that imposes heavy pressure on Government to expand the scale and scope of the services it provides. It must respond to the demand to increase the volume of existing services. It must satisfy the rising expectations of the population by improving the quality of these services and by introducing new ones. And because the services are becoming increasingly complex in themselves, Government may require increasingly sophisticated methods of providing them.

In addition to meeting the requirements of growth Government must continue to satisfy the normal criteria of public sector activities, both legislative and executive. In its legislative or policy-making role, for example, it must provide Hong Kong with a stable legal environment, it must ensure that all the implications of proposed Government action are considered and that all interests receive an equitable hearing, it must be seen to be fair and honest. In its executive role - for example, in building roads, educating children or running hospitals - it must satisfy in addition criteria that are more akin to those of a commercial undertaking, namely to respond rapidly to changing needs, to provide goods and services to the required standard at minimum cost, and to achieve increasing standards of efficiency and effectiveness.

Whether or not the Government satisfies the legislative criteria to a sufficient degree involves a qualitative judgement that is beyond our competence to make. However, on the question of whether or not the Government meets the criteria for its executive role, we were able to apply more factual measures.

We found a variety of problems, all of them symptoms of one underlying problem - the Hong Kong Government's fundamental difficulty of trying to expand services in the face of a continuing decline in numbers of skilled and experienced staff, and the resulting dilution of their efforts. Our task, therefore, was to identify and recommend ways of improving the machinery of Government so as to increase its capacity to expand with the present limitations on the supply of skilled staff. We were asked to advise on how these improvements could be achieved without, in the first instance, significantly changing the system - that is, without significantly changing organisational relationships, main areas of responsibility or constitutional requirements.

We believe that, within these limits, improvements can be achieved by adopting the three approaches described in the full report. Some further opportunities for improvement undoubtedly exist beyond the limits, and those that merit early attention are outlined at the end of the report. However, the issues they raise will require considerable study before changes can be demonstrated as being both desirable and feasible; it is intended that the more important of them shall be the subject of a further report.

The three approaches that can be adopted now are as follows:

1. Strengthen the existing machinery without making radical changes. This could give significant but limited improvements
2. Introduce new machinery so that executive activities, which are performed mainly by the decentralised Government departments, could be managed more in terms of the results they produce than, as at present, in terms of the resources they use. This change would allow greater central control to be exercised while substantially reducing the administrative load, and would give the Government a greater capability to deal with continuing growth
3. Improve personnel management so that more skilled staff are made available and the potential of those already in service is more fully developed.

Summary descriptions of these recommended approaches, and of the further opportunities for improvement, are given in the four sections that follow. The detailed findings and conclusions on which they are based are set out in full in the main report.

The three approaches are largely independent of each other, and could be tackled separately or together. Similarly, within each approach the individual recommendations are also largely independent and therefore leave Government considerable freedom to tackle them one at a time or all at once. Moreover, the activities of Government are so important to so many people that any fundamental change in its machinery should be introduced with caution. The more radical elements of the proposed new machinery should therefore be tested thoroughly in a limited area before any widespread implementation is contemplated. On the other hand, with Government activities expanding at their present rate, delay now would make change even more difficult later. For these reasons the plans to implement the recommendations will need continuing high-level involvement to ensure the adoption of the best options for change, and the most suitable balance of speed and risk.

Before we examine the proposals it is worth putting them into perspective. As advisers to Government on how to improve its machinery, we have had to focus our efforts on those areas where the potential for improvement is greatest; we cannot give corresponding weight to areas that are working well. Thus, we must dispel at the outset any impression the report may give that the Hong Kong Government is open to censure. This is not the case. The need for change in Government machinery stems primarily from growth. In the main we have found staff to be hard-working and dedicated administrators one has only to look out of the window at Hong Kong's prosperity and vitality to recognise their contribution - but they need to adopt some new attitudes and develop more managerial skills to cope with the expanding activities. Most have been open minded and have given us every cooperation in identifying the problems and in seeking new ways to overcome them.

1. STRENGTHENING EXISTING MACHINERY

By any standards the Hong Kong Government is a large and complex operation. The rapid growth rate of the Colony also means that a new dimension is added to the problem.

In a situation of this kind, the demands made on the machinery of Government - i. e., the day-to-day processes and procedures - are continually developing and changing, and, not surprisingly, improvements are possible at any point in time.

When we looked first for ways to strengthen Government machinery without making fundamental changes, five opportunities stood out as offering the most worthwhile benefits. However, to gain the full benefits, and to create an atmosphere where staff will be continuously looking for further improvements, some changes in the working environment will also be necessary.

Changes in Machinery

The five recommended changes are:

1. Standardise submissions. When departments wish to change Government policy, or when they need more resources, they send a submission to the Secretariat describing and justifying the proposal. At present, for a variety of reasons, the submissions are frequently incomplete. Excessive delays occur and effort is wasted while Secretariat and department staff resolve the difficulties. For the bulk of submissions a checklist can be provided - some are already being tested - that should largely resolve the problem.

2. Clarify the roles of departments and branches. Our experience in working with staff in the Secretariat and departments suggests that many of them are unclear about the scope and responsibilities of their own and others' jobs. As a result important tasks can be left undone; on other tasks staff overlap and duplicate each others' efforts, causing frustration and demoralisation,

We therefore recommend that the roles and responsibilities of branches and departments should be defined in terms of the end results required rather than purely in terms of broad areas of responsibility, as at present. The specific actions required can be completed fairly rapidly, but continuing long-term pressure from the top is required to ensure that staff observe the requirements,

3. Delegate authority even further. In theory the resolutions of Legislative Council and its committees require all decision-making powers to remain highly centralised. In practice, however, substantial decision making powers are delegated. The papers forwarded to committees for approval give only an outline of the proposal and, by implication, say that the Secretariat have investigated the case and believe it to be justified. The committees probe and cross-question, but they rarely reject a proposal. Rather than actually take the decisions they maintain a valuable pressure on Secretariat staff to get the decisions right. Further, the Secretariat staff have large negative decision powers in that they decide which proposals are put forward for committee approval.

In practice, therefore, the person who issues the papers to the committee takes the decision. As volume increases this responsibility is delegated down the organisation.

Further such de facto delegation will be inevitable as the volume and scale of Government activity increases. We believe that rather than be overtaken by events, Government should anticipate this requirement now so that senior staff can be relieved of some of their administrative load and can give higher priority than at present to more critical tasks.

The degree of further delegation must be left to the judgement of senior staff because the present machinery does not provide a means of controlling overall end results without examining individual items. To help these judgements, the decision levels of senior posts and committees should be analysed regularly and systematically. First trial attempts have revealed a lot of scope for delegation.

4. Control the progress of files. Many of the decisions taken by Government are extremely complex and require files of papers to be passed through large numbers of departments and branches. When top-level staff perceive a matter as urgent, the machinery of Government can respond with great rapidity and impressive effect. But top-level pressure

cannot be applied to every individual file and therefore for various reasons some substantial delays can occur on more routine matters.

To avoid such delays two steps are necessary. First there should be a systematic and routine measurement of the paperwork flow and, second the measure should be used by top-level staff to apply pressure or identify remedial action. Such steps are taken already in some instances.

We recommend that simple control systems should be introduced across the whole Secretariat and extended later to the departments.

5. Route in parallel rather than in series. In many cases files and papers are routed serially from person to person because at each stage the individual needs the total picture. At times, however, parallel routing and the consequent speeding up of processes become practical.

Many of these changes can be achieved only through 'managerial' observation and pressure, but for the more important processes some more systematic O. & M. analyses should be undertaken.

Changes in Environment

None of the ideas underlying the above recommendations are new many of them are already being applied in some areas; none of them require other than general skills to identify and implement - skills of an order that already exists within Government. The five changes described above will bring the best immediate benefits but other opportunities abound. An environment is therefore needed that actively encourages staff not merely to operate the machinery but also to improve it.

Specifically, the Government should:

1. Make available 20-30 per cent of D. C S. 's time for direct management of the Secretariat. We believe major benefits could be gained by freeing sufficient of the D C. S. 's time to spend about one day a week regularly visiting all parts of the central Secretariat, and ultimately other areas of Government, observing what is actually happening, identifying problem areas, training more junior staff and understanding their difficulties, and generally keeping the place on its toes. We believe that such action would highlight many minor but cumulatively important improvements.

The more immediate reason for needing an active top-level presence is to gain tangible benefits from the improvements recommended in this section and the others that will follow.

1. Given the present responsibilities of the D.C.S., freeing even one day a week would be extremely difficult. There seem to be two possible solutions: heavy delegation to branch heads, or the creation of a second post at D, C. S. level. Neither solution is perfect, and the choice must depend on a judgement of their relative merits.

2. Upgrade the A. C. S. (S. D.) post to P. A. C. S. level. To provide the D. C. S. with the necessary direct support to make the management role effective, the present A. C. S. (S. D.) post should be upgraded to P. A. C. S. level. In the short term the main task would be to oversee the implementation of the agreed recommendations in this report. Longer term, the emphasis would be on identifying and implementing further improvement opportunities. These responsibilities would be difficult to discharge unless the incumbent of the post is at least of equivalent status to most branch heads in the Secretariat.

2. INTRODUCING NEW MACHINERY

The end result of Government's complex processes is the implementation of a large number of programmes* ranging across diverse fields such as crime prevention, housing, education. Achieving the objectives of these programmes requires departments to carry out a mix of activities** and in turn each of these activities requires a mix of resources.

The interrelationships between the programmes, activities and resources are also complex, and for this reason issues and decisions have to be examined from several viewpoints. Thus planning, decision making and control in Government need to be conducted in several dimensions.

In addition to taking account of this complexity, the approach used to manage these activities must meet three basic criteria. First - and most important - it must allow the centre to hold the ultimate decision powers and to retain strong overall control of all facets of Government business. Second, the approach must enable top-level Secretariat staff to devote the full attention merited to the major issues facing Government. And finally, it must be operable by the numbers and skills of staff currently available.

* - A continuing service to the public, direct or indirect - e.g., Medical and Health Service

** - The tangible action taken to achieve programme objectives - e.g., keeping shops and offices under surveillance.

To meet these criteria Government needs to delegate to departments, in a controlled manner, responsibility for the operational or executive types of decision that represent the bulk of Government activity. The generally more difficult and more important policy-making or matter-of-judgement types of decision should be retained as a central responsibility.

The present machinery does not permit the departments actually to take many decisions, since it provides few means of ensuring that any delegated decision powers are properly exercised without individually checking each decision. As a consequence, large numbers of relatively unimportant decisions have to be taken centrally - for example, whether to buy a calculating machine, whether a new filing cabinet is warranted.

When the Government machine is small and most applications can be examined in depth by the few top-level staff, this approach can work well and be highly efficient. But as the size of operation grows, this approach can be maintained only by further fragmentation of responsibility for individual resources. It then becomes increasingly difficult to:

- Maintain or improve value for resources
- Allocate resources in a balanced manner
- Obtain good value from scarce experienced staff
- Achieve a rapid response for decisions and implementation
- Focus on problems as a whole.

What is needed, therefore, is a new approach for managing departmental activities that will permit the desired delegation. We believe that an approach that concentrates on planning and controlling departmental activities in terms of their end results or their output of goods and services rather than, as at present, in terms of the input or the individual resources used, will meet this requirement.

Although this recommended approach is very different from the one used at present, there is nothing novel about it. It is the kind of approach used by most large businesses with diverse operations; it is also being adopted progressively by central and local government, notably in Sweden, the United Kingdom and the United States.

To adopt this new approach the Government needs to make four changes in its machinery.

1. Introduce annual operating plans. These plans relate the use of resources to the required end results of an activity, and provide the basis for

- Ensuring that resources are allocated in a balanced manner
- Obtaining increasing value for resources
- Delegating executive decisions in a controlled manner so that the load on top-level staff is reduced.

This type of plan is often generated in Hong Kong when resources are required for implementing new policies, but typically not for the bulk of expenditure that relates to existing policies.

2. Formalise the process and extend the coverage of long-term programme plans. This type of plan relates activities to overall programmes. It provides an aid to top-level staff, first in determining and setting overall programme objectives, and second in identifying and then setting appropriate objectives for each departmental activity that contributes to the programme

Long-term programme plans have been drawn up for some areas, but typically efforts are sporadic and plans are not kept up to date on a rolling basis.

3. Formalise the process and extend the coverage of resource plans. This type of plan identifies total requirements, across the whole Government Service, for particular resources such as money, categories of staff, land, etc. It thus helps to identify potential shortfalls in time to take corrective action and to ensure that scarce resources are diverted to priority areas with minimum disturbance.

Again examples of these plans do exist, but they are insufficiently complete or up to date to achieve their full potential. The need to introduce such plans for key grades of staff is covered more fully in the next section.

4. Introduce processes for monitoring performance against plans. To gain the full benefits of any planning process it is necessary to monitor performance against plan to detect shortfalls while there is still time to take corrective action. The recommended new processes provide a reference against which performance can be monitored. At present, such controls as do exist are exercised in the form of limits. The main form of control is financial and is maintained by requiring formal application to be made before the approved vote on any category or sub-category of expenditure can be exceeded. This necessary control prevents

overspending, but it does little to ensure that money is well spent and nothing to prevent what may be equally damaging, namely under spending.

* * *

While we believe the new approach would be more effective than the present method of managing departments' activities, the difficulty of reeducating large numbers of senior staff to think in a new way, while they have to keep the Government machine operating, should not be underestimated. Further, given the size of Government, the change could not be achieved overnight; a practical period for full implementation would certainly be measured in years rather than months.

Although we believe from our limited assessment that the staff are capable of adapting to this new approach while dealing with current issues, at this point of time it is not certain whether all the difficulties of implementation can be overcome. Moreover Government should not embark on such radical change without a thorough evaluation and test. We have therefore recommended a cautious trial in one or two sample areas before embarking on full scale implementation. Such trials have the further invaluable advantage of allowing detailed development of the new processes in practical surroundings,

When the initial tests are completed around the end of March, 1973, Government should decide the priority for extending the implementation of the new processes,

3. IMPROVING PERSONNEL MANAGEMENT

To achieve the objective of personnel management - i.e., to meet the manpower requirements of each grade - four basic tasks must be carried out: recruiting people to fill vacancies; retaining people by providing a satisfying career package; developing people to fill more senior posts; deploying people to positions where they are most useful.

Measures of effectiveness applied to the present performance of these tasks suggest a number of problems. The overriding problem is the serious shortage of manpower in Government, overall and in key grades such as the Administrative Class or the Police. There is also evidence of problems in general morale; in the speed and effectiveness of response to changing personnel needs; and in the way resources are used in achieving personnel objectives.

These problems arise largely from the lack of coordination of the four tasks. Responsibility for their execution is spread both within the departments themselves, and between the various Establishment Branch divisions, P. S. C., etc. This distribution results from a number of factors, including statutory requirements, and the need for centralising certain functional activities and skills, and we recognise that it must remain largely the same. What is needed, we believe, is an approach to coordinating the various tasks of each class or grade that will ensure they are carried out effectively, and a clear assignment of responsibility for this coordination.

The recommended approach consists of the systematic development and regular revision of a Personnel Resource Plan. Application of the approach to the few sample grades we have examined suggests there may be many opportunities to improve performance of the four tasks, for example:

- Recruiting might be improved by (a) setting up a U.K. recruiting office; (b) exploring alternative recruiting sources; (c) transferring existing staff from professional grades to the Administrative Class.
- Retaining staff might be improved by (a) developing a compensation package that suitably balances the various elements - e. g., pay, pensions, housing; (b) changing the personnel management approach to a more sympathetic, positive style.
- Developing staff might be improved by applying more specific performance criteria so that individual development needs are identified more clearly.
- Deploying staff might be made more effective by wider use of formal job descriptions and increased tenure in postings.

Once agreed, the Personnel Resource Plan would provide clear guidelines within which to design short-term personnel activities and develop Annual Staff Estimates

4. CONSIDERING LONGER TERM CHANGES

We were asked in the first instance to recommend ways of improving Government machinery without fundamentally altering the present system. However, some further worthwhile improvements can undoubtedly be achieved if these limits are extended. This chapter outlines seven opportunities that we believe merit further consideration.

The changes implied by these opportunities would be fairly radical, and the issues they raise warrant a considerably wider and deeper analysis than we have given them in our study so far. We therefore only outline the problems here and suggest the form the solutions might take. On the more immediate of these problems we will be working with Government to reach more specific recommendations.

Reallocate Department Responsibilities

If Government is to get full benefit from the new approach recommended in Section 2 - to manage departments in terms of their results rather than the resources they use - responsibilities for each required result must be clearly identified. Some organisational adjustments will therefore be necessary,

The reorganisation could take a number of forms:

- Creating new departments as is being currently contemplated for Housing
- Merging department responsibilities, as has been done under the new Information Secretary
- Reorganising departments internally so that responsibilities reflect tasks more closely - for example, the recent reorganisation of U. S. D. on geographic rather than functional lines.

Group Departments Into Managerial Units

In the present organisation structure, the heads of some 40 or 50 departments and of the majority of Secretariat branches report directly to the C, S, or D. C. S., creating a span of control that makes effective management difficult. The span could be reduced by one of several alternatives - e, g., grouping departments under "super directors" as in P,W.D.; changing the role of Secretariat branch heads so that they become middle managers between department heads and D. C. S.; creating additional posts above Staff Grade A level to share the D. C. S. responsibilities,

Change Secretariat Policy Branch Responsibilities

The need to extend and formalise programme plans was discussed earlier. One of the difficulties associated with their development and effective implementation at present is that responsibility for a programme may span several branches and departments, and for many programmes no

single person, except at C. S. or F. S. level, is responsible for coordination.

We believe the problem could be solved by relating Secretariat policy branch responsibilities to groups of programmes rather than to groups of departments as at present.

Reorganise Secretariat Branches

The Secretariat branches divide into four main categories: policy branches, which advise on the type and standard of services Government should provide; resource branches, which advise on the overall allocation and control of a particular resource; adviser branches, whose special expertise is available to assist throughout Government; and support branches, which provide essential central services for other branches and departments. At present most Secretariat branches play more than one of these roles, which results in two main problems: a lack of clarity among staff as to what they are supposed to produce by way of results, and a possible misuse of scarce skills.

We believe improvements might be achieved by:

- Segregating the four categories of role so that each branch focuses on one type only
- Reorganising the branches so that similar managerial activities are grouped together. F. S. might take charge of all resource branches, while D C S. takes charge of policy and support branches.

Rationalise and Change the Roles of Advisory Committees

The number of advisory bodies is large and is growing. Clearly these bodies perform a valuable and essential function, but frequently the benefits they produce hardly seem to merit the demands they make on the time of top-level staff and busy private citizens. We believe that more benefits could be obtained, first by rationalising the roles of these committees and reducing their numbers; second by adapting the existing machinery and the proposed new machinery to give committees a more positive and more clearly defined role in policy formulation.

Hive Off Some Departments

Many Governments reduce the central administrative load by hiving off sections of activity to form separate agencies or nationalised industries. Government's role in the activity is then limited to setting overall standards and determining key factors such as prices; in all other respects the agencies are managed independently by their own Board and staff. In Hong Kong potential candidates for hiving off would include the airport, the railway, the Waterworks and the Post Office.

Increase Delegation From Finance Committee

The present machinery requires most decisions on the use of funds to go to Finance Committee or one of its sub-committees. The increase in scale of Government activity results in a corresponding increase in the numbers of committee items, and although steps are taken periodically to delegate authority to individuals the volume is still monumental.

The situation could be improved by greater statutory and other delegation, or by:

- Reducing supplementary papers by using operating plans as a basis for Annual Estimates
- Making greater use of block votes
- Reducing the number of heads and sub-heads in the Annual Estimates.

* * *

The introduction across the whole of Government of the recommended changes will entail a sizable additional work load, much of which will inevitably fall on senior staff who are already hard pressed with day-to-day administration. It may therefore prove to be necessary to tackle implementation over a period of years,

Tests to determine the desirability and feasibility of the recommended changes are now being carried out in pilot areas. When they are completed, Government will be able to decide more precisely on the timing of full implementation.

Whatever timing is decided, we have no doubt of the ultimate value of full implementation. Eventually, it should result in substantial savings in manpower and other resources. And it should considerably strengthen the Hong Kong Government's capability to meet the requirements of growth in the future.

研究擬議主要官員問責制及相關事宜小組委員會

保持公務員隊伍廉潔守正、誠信不阿的特質

目的

一支高效專業、公正中立、廉潔信實的公務員隊伍，是香港安定繁榮的重要支柱。這些特質是公務員隊伍基本信念的精髓。本文件闡明政府如何致力在新的主要官員問責制下，保持各項形成目前公務員文化的基本信念，而這些信念是政府最高層的主要官員必須同樣恪守和維護的。

指引公務員操守的基本信念

2. 概括而言，我們要求每一名公務員都恪守下述基本信念：

- (a) 堅守法治；
- (b) 守正忘私；
- (c) 交代政府的決策和行動；
- (d) 政治中立；
- (e) 在執行公務時不偏不倚；
- (f) 全心全意、竭盡所能服務市民。

3. 目前，這些信念已明文載於規管公務員操守的規例和指引中，涵蓋範疇包括利益衝突、接受利益和款待、申報私人投資、利用以公職身分取得的資料，以及外間工作等。為確保公務員充分了解上述信念並明白我們維護這些信念的決心，我們為各級公務員印製了一本公務員良好行為指南，另外又為高層管理人員編印手冊，強調領導人員應該以身作則，在公務員隊伍中建立並維持誠實廉潔的文化。

4. 我們又有系統地推行人力資源管理工作，務求把工作表現管理和培訓等職務與鞏固上述基本信念的工作聯繫起來。

5. 公務員如有涉及刑事成分的不當行為，可被檢控；如其行為違反操守規則，則可被紀律處分。政府有既定的紀律程序，處理公務員被指行為不當的個案，包括按照自然公正的原則進行聆訊，由獨立的審裁小組在考慮各有關方面向他們援引的事實證據後作出裁決。

6. 如果公務員在執行職務時，遇見舞弊或其他刑事行為，他有責任向有關的執法機關舉報。此外，也有可能在某些情況下，公務員相信其上司要求他作出不恰當但不至於非法的行為。公務員制度有既定的程序^{註 1}，讓他就其遭遇在內部提出投訴。他可以向所屬部門的首長、公務員事務局局長、政務司司長或行政長官申述。此外，視乎事件的性質，他還可以向有權處理該類事件的法定監察機構，例如公務員敘用委員會和申訴專員公署，提出投訴。

主要官員工作行為守則

7. 二零零二年四月十七日，行政長官在立法會致辭時強調：“我們一定要在確保現行公務員架構穩定、延續的大前提下，推行問責制。我們不但要做到這一點，而且，還要通過實行問責制，確保公務員體制的優點，包括常任、專業、中立和廉潔等，都得到保留和發揮得更好”。為顯示對公務員隊伍的重視，並為保持公務員隊伍廉潔守正的特質，公務員事務局局長將會成為問責制主要官員之一，並會從現職公務員中調任。除了負責公務員政策外，公務員事務局局長的任務還包括管理公務員隊伍和維護公務員體系的信念。

8. 為達到上述目標，代表政府最高層的主要官員自當帶頭為維持並建立一支保持上述特質的公務員隊伍盡一分力。

9. 主要官員的聘用條件將會規定他們必須遵守政府稍後制定的工作行為守則。工作行為守則的大前提，是公職人員有責任確保其履行公職和安排私務的方式，不僅是依法而行，而且經得起公眾最嚴密的監

^{註 1} 根據現行中央指引，每一個部門都有酌情權視乎本身的運作需要，制定最合適的程序，但有關程序必須符合若干主要規則：公務員可採取口頭或書面形式向部門首長提出投訴；投訴會保密處理；未經投訴人同意不會向他人公開投訴人的身分，唯參與調查投訴的人員則作別論；只要投訴人本着真誠提出投訴，他不會受到懲罰。部門首長在接獲投訴後會立即進行調查，調查工作可能包括與投訴人或其他人會面。一般而言，部門必須在接獲投訴三個月內完成處理投訴程序，並給予投訴人書面回覆。

察。工作行為守則會訂有條文，闡明主要官員與公務員的關係；條文會訂明：

- (a) 主要官員的職責包括維護並保持公務員隊伍的基本信念和廉潔守正、不偏不倚的特質；他們不可要求或促使公務員作出有違公務員身分的不當行為；
- (b) 公務員事務局局長身為主要官員，必須就公務員的管理事宜，包括維護公務員隊伍的基本信念，向行政長官負責；
- (c) 公務員的聘任、管理和升遷事宜會繼續根據當前適用於公務員隊伍的規則辦理。當局並會繼續依據當前的公務員紀律處分機制處理紀律事宜；個別公務員如被指稱行為不當，有關個案會依循公正的程序按照事實證據審理裁定。

主要官員問責制下公務員的角色和責任

10. 根據擬議的問責制，公務員應該一如既往，依法執行職務，並繼續憑着明智分析、客觀研究和對社會整體利益的了解，無畏無私地提出建議。

11. 在現行制度下，公務員必須遵守政府規例，包括《公務員事務規例》內規管公務員操守和紀律的條文，以及公務員事務局為補充有關規例而不時就具體事項發出的通告。為確保公務員清楚了解他們在主要官員問責制下的角色和責任，我們會發出綜合通告加以說明。

公務員事務局通告的主要條文

12. 通告會訂明公務員與主要官員合作的框架，包括公務員須竭盡所能協助在任主要官員和行政長官的責任。我們會闡明公務員在履行公職時必須恪守的信念和高度誠信準則（請參閱上文第 10 段），包括必須在決策過程中保持政治中立，並就政策方案提出詳細而坦誠的意見；一旦政府最高層作出決定後，便應切實執行有關決定。通告又會訂定程序，以處理公務員相信有人要求他不依法辦事或作出有違公務員身分的不當行為的情況（請參閱下文第 14 至 16 段）。

13. 通告會適當地強調在政府機構內提倡坦誠溝通文化的重要性，讓主要官員及其公務員同事能夠在平常接觸中即時處理各種問題和關注事項。

14. 通告還會訂明公務員有責任支持推行問責制。同時，我們必須在公務員與主要官員之間培養忠誠互信的精神。為加強這份團隊精神，通告會訂定保障措施，盡可能確保公務員不會身處招人不滿或可能有損其廉潔、誠信或公正原則的境地。

15. 首先，如果公務員相信有人要求他作出有違公務員身分或基本信念（見上文第 2 段）的行為，他應該按照綜合通告所定程序報告有關事件，以便當局妥為跟進。有關程序將與上文第 6 段所述的現行安排類似。

16. 第二，如果該項指示來自主要官員，有關事件會提請公務員事務局局長注意，以採取適當行動。

總結

17. 我們相信上述安排有助於保持公務員體系廉潔守正、誠信不阿的特質。再者，立法會、廉政公署、申訴專員公署、審計署、公務員敘用委員會，以及凡事尋根究底的自由傳媒，都會從旁監察，防止濫權的可能。

18. 我們這一支以廉潔守正見稱的公務員隊伍，是經過多年努力建立而成的。我們堅決維護這聲譽。行政長官一再強調必須確保公務員架構穩定，保持公務員體制常任、中立，並維持政府高效、專業和廉潔。這些特質是政府和市民大眾都希望能夠保持的，因為市民對公務員隊伍誠信廉潔的信心，關乎香港特區的有效管治。

公務員事務局
二零零二年五月