

立法會
Legislative Council

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Finance Committee of the Legislative Council

**Minutes of the 13th meeting
held at the Legislative Council Chamber
on Friday, 14 June 2002, at 2:30 pm**

Members present:

Dr Hon Philip WONG Yu-hong (Chairman)
Hon NG Leung-sing, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han, JP
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS

Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Miriam LAU Kin-yea, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent:

Hon LEE Cheuk-yan
Hon Cyd HO Sau-lan
Dr Hon David LI Kwok-po, GBS, JP
Hon MA Fung-kwok

Public officers attending:

Miss Denise YUE, GBS, JP	Secretary for the Treasury
Mr Stanley YING, JP	Deputy Secretary for the Treasury
Mr K K LAM	Principal Executive Officer (General), Finance Bureau
Mr Michael SUEN, GBS, JP	Secretary for Constitutional Affairs
Mr Joseph W P WONG, GBS, JP	Secretary for the Civil Service

Mr Stephen LAM, JP	Information Coordinator, Chief Executive's Office
Mr Clement MAK, JP	Deputy Secretary for Constitutional Affairs
Ms Anissa WONG, JP	Deputy Secretary for the Civil Service
Mr Bobby CHENG	Deputy Private Secretary to Chief Executive
Mr Ian WINGFIELD, JP	Law Officer (Civil Law), Department of Justice
Mrs Philomena LEUNG	Principal Assistant Secretary for Constitutional Affairs

Clerk in attendance:

Ms Pauline NG	Assistant Secretary General 1
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Staff in attendance:

Mr Jimmy MA	Legal Adviser
Miss Polly YEUNG	Chief Assistant Secretary (1)3
Miss Yvonne YU	Senior Assistant Secretary (1)4

Item No. 1 - FCR(2002-03)20

**RECOMMENDATION OF THE ESTABLISHMENT SUBCOMMITTEE
MADE ON 6 JUNE 2002**

Members noted that this paper was in relation to the creation of 14 non-civil service principal official positions offset by the deletion of the civil service posts of the Chief Secretary for Administration, the Financial Secretary and the Secretary for Justice, and the creation of a non-civil service post of the Director of Chief Executive's Office offset by the deletion of the civil service post of the Information Coordinator in connection with the implementation of the accountability system for principal officials. For the 16 Permanent Secretary posts to underpin the principal officials, the Administration would re-title 11 existing D8 posts in bureaux, which did not require the Finance Committee (FC)'s endorsement, and create five supernumerary Permanent Secretary posts held against existing vacancies for 12 months under delegated authority.

2. Ms Emily LAU reiterated her disagreement at the Establishment Subcommittee (ESC) meeting about the current arrangements for creating the 16 Permanent Secretary posts. She maintained that in line with usual practice, the endorsement of ESC and approval of FC should be sought for the deletion of the existing 16 bureau secretary posts at D8 and for the creation of the 16 new Permanent Secretary posts required under the accountability system to underpin the Directors of Bureau. She considered that the re-titling of 11 Permanent Secretary posts and the creation of five supernumerary directorate posts for 12 months were simply measures to bypass scrutiny by FC and to expand, instead of streamline, the senior level of government structure. She could not agree with the Administration that the change of the current D8 Bureau Secretaries to Permanent Secretaries with the same schedule of responsibility was merely re-titling. She was of the view that under the proposed accountability system, the Permanent Secretaries, though being civil servants, would still have a highly political role to play as they had to assist the principal officials in explaining and defending policies and answering questions in the Legislative Council (LegCo). She could not see any significant change in their functions.

3. In response, the Secretary for Constitutional Affairs (SCA) reiterated the view of the Administration and referred to earlier comments of the Legal Adviser (LA) that the current staffing and funding proposals relating to the accountability system were legally in order. As regards the role of the Permanent Secretaries, he stressed that their main duties would be to underpin the Directors of Bureau and would continue to play a pivotal role in the implementation of decided policies.

4. At the invitation of the Chairman, LA recapped his previous advice (LC Paper No. LS114/01-02) that as far as the re-titling of posts was concerned, it did not appear that approval of FC was required because the re-titling would not result in any change to the Approved Estimates of Expenditure. In the Approved Estimates, only information on the overall number of posts and the total amount of personal emolument under each Head of expenditure was provided. There were no breakdown of grading and ranking of posts and their respective costs. However, it would remain a matter for members to consider whether the Administration's claim that the 11 new Permanent Secretaries would continue to take on substantially the same functions and duties after the implementation of the accountability system was justified. LA also confirmed that the delegation of authority to create supernumerary directorate posts for periods up to 12 months subject to certain conditions as approved by FC on 9 March 1983 was still in effect.

5. Ms Emily LAU referred to the two papers tabled at the meeting (LC Papers CB(2)2305/01-02 and CB(2)2308/01-02) which set out the organization chart showing the principal officials under the accountability system and the executive departments. Ms LAU said that these papers were provided in

response to the request made by the Subcommittee to study the Proposed System of Accountability for Principal Officials and Related Issues (the Subcommittee) and by the ESC. In all normal staffing proposals, the Administration should provide detailed organization charts with clear delineation of responsibilities of officers at the higher, same and lower level of the proposed posts. In the present case, the Administration had adopted a very hasty approach in working out the arrangements for the accountability system, as reflected in the omissions and incompleteness of information provided to the ESC and FC. Without complete information, it was difficult for FC to consider the proposal.

6. In reply, SCA confirmed that each principal official would conduct an organizational review within 12 months after his assumption of office. The approval of ESC/FC would be sought on the longer-term arrangements as necessary. Pending the said review, the Administration could not provide members with a more elaborate organization chart in respect of each policy bureau.

7. Mr CHEUNG Man-kwong stated that Members of the Democratic Party (DP) could not agree that only re-titling was involved in the case of the 11 Permanent Secretary posts. The Permanent Secretaries would not be performing substantially the same functions and duties as their policy-making role would be very much reduced in future. On the five supernumerary Permanent Secretary posts involving substantive realignment of policy areas, Mr CHEUNG noted that these posts would only be created for 12 months and the Administration was required to revert to ESC/FC if the change of functions was to continue after the 12-month period. Members of DP considered that when the Administration sought to make permanent the realignment of functions among the five Permanent Secretary posts, it should submit a comprehensive proposal to cover all 16 Permanent Secretary posts. The legislature should have an opportunity to assess whether it was justified for the Permanent Secretary posts to be kept at D8 level in view of the changes in responsibility.

8. Mr Howard YOUNG expressed concern about the expansion of the upper government structure by retaining all the 16 existing D8 posts and enquired whether the organizational review by the principal officials could be expedited and completed preferably before presentation of the draft Estimates for 2003-04.

9. In response, SCA assured members that the principal officials would review the working relationship between the bureaux and departments as well as the staffing and structure of their policy bureaux within 12 months after their assumption of office. As it might be possible that some bureaux would complete their reviews earlier than others and they would seek the approval of ESC/FC on the longer-term arrangements as and when necessary, proposals

relating to the future arrangements for the 16 Permanent Secretary posts might not necessarily be put forward to ESC/FC at the same time. Mr CHEUNG Man-kwong said that while he would not object to some bureaux completing their reviews earlier than others, he considered that the future arrangements for all 16 Permanent Secretary posts should be submitted to FC, instead of just the five supernumerary posts. SCA confirmed that it was the Administration's intention that within 12 months after the Directors of Bureau had been in place, each of them would conduct a review of the working relationship between his bureau and executive departments under his portfolio. The review would cover manpower resources.

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10. In response to Ms Emily LAU's request, SCA undertook to consider providing the organization chart in respect of each of the 11 policy bureaux as soon as possible, and details of the distribution of duties among the directorate staff in the bureaux within 12 months. SCA also agreed to report to the Panel on Constitutional Affairs the progress of various aspects of the accountability system six months after its implementation.

(Post-meeting note: The organization charts of the new bureaux showing the position as at 1 July 2002 provided by the Administration were issued to members vide LC Paper No. FC95/01-02 on 19 June 2002.)

11. Miss Margaret NG requested to put on record her objection to the present proposal for the reasons she stated at the ESC meeting. Ms Audrey EU shared the concerns raised by Ms Emily LAU and requested to put on record her objection to the present proposal.

12. Dr YEUNG Sum stated that Members of DP would object to the present proposal. They considered that under the proposed accountability system, powers would be centralized and vested with the Chief Executive. They also expressed regret for the lack of adequate consultation with civil servants and the community on such a major change. Members of DP were dissatisfied that the various arrangements for the accountability system were ill-conceived and worked out in a hasty manner.

13. Mr LEUNG Yiu-chung considered that the staffing and funding proposals should not be submitted before LegCo had passed the relevant Resolution which was the legal basis for the accountability system. He took the view that the current arrangement had deviated from established practice and was procedurally not in order. He stated that he would not vote on the current proposal and would walk out of the meeting in protest.

14. Mr IP Kwok-him stated that Members of the Democratic Alliance for Betterment of Hong Kong (DAB) supported the present proposal. He disagreed with some members' view that the Administration had sought to bypass scrutiny by FC and pointed out that even if funding was approved,

members would still have the opportunity to examine the future set-up of each bureau under the accountability system as the Administration would have to revert to ESC/FC in 12 months' time. As regards other concerns, he recalled that the Subcommittee had met for over 54 hours and all relevant policy issues had been adequately deliberated.

15. Miss CHOY So-yuk did not agree with the proposal to include environmental affairs, transport and works under the same principal official. However, since members could not vote on individual policy portfolios and she was in support of the accountability system as a whole, she would vote for the present proposal.

16. Mr James TO considered that if members did not agree with the arrangements under the proposed accountability system, they should not support the present proposal.

17. Ir Dr Raymond HO said that he would support the present proposal notwithstanding his view that the SCS post should not be a political appointment as the main duty of the postholder was to manage the civil service. He welcomed the proposal to place environmental affairs, transport and works under one policy bureau for improving coordination and efficiency.

18. Mr Frederick FUNG Kin-kee said that since the handover in 1997, the Hong Kong Association for Democracy and People's Livelihood had been advocating an accountability system under which civil servants would be responsible for implementing policies while policy-making responsibility would rest with politically appointed principal officials. He considered the proposed accountability system a move in the right direction and would therefore support the present proposal. Notwithstanding, Mr FUNG pointed out that he disagreed with certain proposed amalgamation of policy portfolios and would move amendments to the Resolution.

19. Mr Howard YOUNG said that Members of the Liberal Party (LP) supported the present proposal and considered that the accountability system should be implemented early to tie in with the second-term office of the Chief Executive.

20. Mr Andrew WONG stated his objection to the present proposal. While he agreed that principal officials should be accountable, he could not accept the accountability system as currently proposed. In this regard, he expressed his view that the civil service should be headed by a Permanent Secretary at D9 or D10 rank. The proposed Director of Chief Executive's Office position should either be filled by a civil servant, or a political appointee as one of the principal officials, similar to the Chief Cabinet Secretary in Japan. He was disappointed that the Administration had not given any undertaking to establish constitutional conventions. In giving his views on an accountability system,

Mr WONG suggested, inter alia, that the Chief Executive should seek to secure support from a majority of Council Members for his policies.

21. Referring to FCR(2002-03)21 (item 2 on the agenda), Mr Andrew WONG considered it appropriate to charge the remuneration of all the principal officials, except the Secretary for Justice, to Head 142 Subhead 108. However, he queried why the said financial arrangement had not been included in the relevant ESC paper.

22. In this connection, the Secretary for the Treasury (S for Tsy) explained that FCR(2002-03)21 sought FC's approval for the financial arrangements necessary for implementing the accountability system, including the remuneration packages for the 14 principal officials, a supplementary provision under Head 142, as well changes in controlling officers and in the titles of some Heads and Subheads in the 2002-03 Estimates of Expenditure. EC(2002-03)2 however dealt with changes in civil service establishment, and the creation and deletion of non-civil service and civil service posts respectively. Mr Andrew WONG nevertheless maintained his view that some of the information given in FCR(2002-03)21 should be included in EC(2002-03)2.

23. Ms Emily LAU noted that while retired civil servants re-appointed to the public service would have their monthly pension suspended, pensionable civil servants appointed as principal officials could receive their monthly pension. She considered the proposed retirement arrangements grossly unfair and contrary to existing rules against "double benefits".

24. In response, the Secretary for Civil Service (SCS) advised that civil servants who were appointed principal officials could receive their monthly pension when they reached the earliest permissible retirement age. The special arrangement had regard to the fact that no gratuity or retirement benefits were provided in the remuneration package of the principal officials and that the officers should not be discouraged from taking up the appointment because of suspension of monthly pension. It was therefore proposed that the Chief Executive should exercise his discretion under the relevant pension legislation not to suspend the payment of monthly pension to the pensionable civil servants appointed as principal official when they reached the earliest permissible retirement age.

25. Mr James TO sought information on the number of cases in which the Chief Executive had exercised his discretion not to suspend the payment of monthly pension. On whether the monthly pension for civil servants who were compulsorily retired or who had to retire in the public interest should be suspended until they reached retirement age despite their immediate financial difficulties, the Chairman agreed that the matter should be pursued in another context.

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26. Ms Emily LAU queried the latest progress in the consultation with civil servants on the composite circular which would set out the working relationship between principal officials and civil servants. SCS responded that in accordance with existing procedures, the Central Consultative Councils would be consulted on the draft circular. The draft had also been issued to all members of the Administrative Grade. The Administration would provide a copy of the composite circular to members after the draft had been finalized.

27. The Chairman put the item to vote. 34 members voted for the item, 17 voted against and none abstained :

For:

Mr Kenneth TING Woo-shou
Dr David CHU Yu-lin
Mr Eric LI Ka-cheung
Mr NG Leung-sing
Mr HUI Cheung-ching
Miss CHAN Yuen-han
Mr CHAN Kam-lam
Mr WONG Yung-kan
Mr Howard YOUNG
Mr LAU Kong-wah
Ms Miriam LAU Kin-yee
Miss CHOY So-yuk
Mr TAM Yiu-chung
Mr Abraham SHEK Lai-him
Mr Tommy CHEUNG Yu-yan
Dr LO Wing-lok
Mr IP Kwok-him
(34 members)

Mr James TIEN Pei-chun
Dr Raymond HO Chung-tai
Dr LUI Ming-wah
Mrs Selina CHOW LIANG Shuk-yee
Mr CHAN Kwok-keung
Mr Bernard CHAN
Mrs Sophie LEUNG LAU Yau-fun
Mr Jasper TSANG Yok-sing
Mr YEUNG Yiu-chung
Mr LAU Wong-fat
Mr Ambrose LAU Hon-chuen
Mr Timothy FOK Tsun-ting
Dr TANG Siu-tong
Mr Henry WU King-cheong
Mr LEUNG Fu-wah
Mr Frederick FUNG Kin-kee
Mr LAU Ping-cheung

Against:

Mr Albert HO Chun-yan
Miss Margaret NG
Mr CHEUNG Man-kwong
Mr Andrew WONG Wang-fat
Mr LAU Chin-shek
Mr Andrew CHENG Kar-foo
Mr LAW Chi-kwong
Mr Albert CHAN Wai-yip
Ms Audrey EU Yuet-mee
(17 members)

Mr Fred LI Wah-ming
Mr James TO Kun-sun
Mr SIN Chung-kai
Dr YEUNG Sum
Ms Emily LAU Wai-hing
Mr SZETO Wah
Mr Michael MAK Kwok-fung
Mr WONG Sing-chi

28. The Committee approved the item.

Item No. 2 - FCR(2002-03)21

HEAD 142 - GOVERNMENT SECRETARIAT: OFFICES OF THE CHIEF SECRETARY FOR ADMINISTRATION AND THE FINANCIAL SECRETARY

- ♦ **Subhead 108 Remuneration for special appointments**

HEAD 143 - GOVERNMENT SECRETARIAT: CIVIL SERVICE BUREAU

HEAD 152 - GOVERNMENT SECRETARIAT: COMMERCE AND INDUSTRY BUREAU

HEAD 144 - GOVERNMENT SECRETARIAT: CONSTITUTIONAL AFFAIRS BUREAU

HEAD 145 - GOVERNMENT SECRETARIAT: ECONOMIC SERVICES BUREAU

HEAD 146 - GOVERNMENT SECRETARIAT: EDUCATION AND MANPOWER BUREAU

HEAD 154 - GOVERNMENT SECRETARIAT: ENVIRONMENT AND FOOD BUREAU

HEAD 147 - GOVERNMENT SECRETARIAT: FINANCE BUREAU

HEAD 148 - GOVERNMENT SECRETARIAT: FINANCIAL SERVICES BUREAU

HEAD 149 - GOVERNMENT SECRETARIAT: HEALTH AND WELFARE BUREAU

HEAD 53 - GOVERNMENT SECRETARIAT: HOME AFFAIRS BUREAU

HEAD 96 - GOVERNMENT SECRETARIAT: HONG KONG ECONOMIC AND TRADE OFFICES

HEAD 150 - GOVERNMENT SECRETARIAT: HOUSING BUREAU

HEAD 55 - GOVERNMENT SECRETARIAT: INFORMATION TECHNOLOGY AND BROADCASTING BUREAU

HEAD 56 - GOVERNMENT SECRETARIAT: PLANNING AND LANDS BUREAU AND WORKS BUREAU

HEAD 151 - GOVERNMENT SECRETARIAT: SECURITY BUREAU

HEAD 153 - GOVERNMENT SECRETARIAT: TRANSPORT BUREAU

HEAD 46 - GENERAL EXPENSES OF THE CIVIL SERVICE

Various subheads

HEAD 106 - MISCELLANEOUS SERVICES

♦ **Various subheads**

HEAD 176 - SUBVENTIONS: MISCELLANEOUS

♦ **Various subheads**

HEAD 177 - SUBVENTIONS: NON-DEPARTMENTAL PUBLIC BODIES

♦ **Various subheads**

HEAD 184 - TRANSFERS TO FUNDS

29. Members noted that the proposal sought to implement the accountability system for principal officials, including the remuneration package for the principal officials and the necessary funding for implementation. Members also noted that the Subcommittee had held a total of 15 meetings to discuss various aspects of the accountability system, including the proposed related subsidiary legislation. A motion in support of the system was passed at the Council meeting of 29 May 2002.

30. In reply to Ms Emily LAU's enquiry about the division of work between the principal officials and the Permanent Secretaries, SCA advised that principal officials would attend full sessions of LegCo to initiate bills or motions, respond to motions and answer questions from Members. They would also attend relevant committee meetings where major policy issues were involved. The Permanent Secretaries would assist the principal officials in various aspects of the latter's work, such as assisting in explaining and defending policies and their implementation in public including at meetings of LegCo Panels and committees. As to whether there would be more participation by principal officials in various meetings of LegCo, SCA said that this would be the case as one of the main duties of the principal officials was to secure support of LegCo for government policies/legislation and his attendance at relevant committee meetings would be important for achieving this task.

31. Miss Margaret NG maintained her views expressed at the ESC meeting and stated her objection to the present proposal. She was of the view that the

proposed accountability system underpinned by principal officials and Permanent Secretaries lacked a legal basis and was therefore not lawful. She also considered that where certain arrangements were contrary to the spirit of constitutional principles, they should not be pursued even if there was no explicit breach of the law. Referring to discussion by LegCo on the proposed accountability system and the related funding requests and legislative proposals, Ms NG opined that the issues had not been adequately deliberated, as evidenced by the lack of sufficient information on the future statutory functions proposed to be exercised by the various Directors of Bureau.

32. In response to Mr Albert CHAN, SCA advised that according to the findings of the survey on the remuneration of the 56 Chief Executive Officers (CEOs) in the consultancy study commissioned by the Administration earlier on, the median remuneration level was over \$6 million per annum. However, as monetary rewards might not be the key consideration of prospective principal officials in taking up public service, and in view of the possible concern of the community over this level of remuneration, the Administration had therefore taken a political decision to pitch these principal officials' level of remuneration at the current cost to the taxpayer of the incumbent civil servants at Director of Bureau rank, which was well below the 20th percentile of the remuneration of the 56 CEOs surveyed.

33. Mr Andrew WONG stated his objection to the present proposal as many issues relating to the accountability system had not been thoroughly deliberated. He considered that the information given in the present proposal should be included in the ESC submission and sought the Administration's clarification on the future arrangements for controlling officers and FC's role, if any, in the matter.

34. In response, S for Tsy confirmed that all along, changes in controlling officers of Heads and Subheads would require approval by FC. She further explained that under the existing arrangements, the controlling officers of Heads and Subheads were approved by Members in the context of the annual estimates of expenditure. According to section 8 of the Public Finance Ordinance (Cap.2), no change could be made to the approved estimates of expenditure except with the approval of FC upon a proposal of the Financial Secretary (FS). As only FS could propose amendments to the approved estimates of expenditure, members of FC could not propose their own amendments but could only vote on the Administration's proposal as it stood.

35. Having regard to section 12 of the Public Finance Ordinance which stipulated that "a controlling officer shall be responsible and accountable for all expenditure from any head or subhead for which he is the controlling officer", Mr Andrew WONG stated his view and sought the Administration's undertaking that in future, only civil servants (i.e. Permanent Secretaries), not political appointees, could serve as controlling officers and oversee the

financial prudence of public expenditure under their purview.

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36. In this regard, S for Tsy pointed out that the Public Finance Ordinance had not specified that only civil servants could be designated as controlling officers. However, since changes in controlling officers and the titles of Heads and Subheads in the approved estimates would require approval by FC, members would still have the opportunity to scrutinize and decide whether to support any proposed changes. At Mr Andrew WONG's request, S for Tsy said that she could confirm the aforesaid advice in writing.

37. Dr YEUNG Sum stated the objection of Members of DP to the present proposal for reasons already explained. He added that Members of DP did not agree to the proposed amalgamation of policy portfolios and would move amendments to the Resolution at the Council meeting on 19 June 2002.

38. Ms Audrey EU objected to the present proposal, the main reason being that Members had not been given sufficient time to deliberate on the proposed accountability system. She recalled that since the Chief Executive's announcement in his 2000 Policy Address, there had been very little progress. However, the new system was suddenly announced, giving Members less than two months to examine voluminous information and decide on such an important issue.

39. Mr CHAN Kam-lam stated that Members of DAB supported the present proposal. He disagreed with some members' comments about hasty discussion and said that Members had deliberated on various aspects of the accountability system at length. Notwithstanding certain views held by Members of DAB on the proposed amalgamation of policy portfolios, they were prepared to support the present proposal.

40. On the pension arrangements for serving civil servants appointed as principal officials, Mr Albert HO noted that under the relevant pension legislation, the Chief Executive might exercise his discretion on individual cases as to whether the monthly pension of a pensioner re-appointed to public service should be suspended. However, as a policy decision had already been announced that the monthly pension of the pensioners appointed as principal officials would not be suspended, Mr HO queried whether such a pre-determined policy decision would amount to a fettering of the discretion of Chief Executive in respect of individual cases. Miss Margaret NG shared Mr HO's concern and pointed out that the discretion was to be exercised by the Chief Executive himself, and not by the Chief Executive in Council.

41. In reply, SCS confirmed that the Chief Executive would exercise his discretion having regard to the circumstances of each case. The Law Officer (Civil Law) supplemented that under the relevant pension legislation, the Chief Executive's discretion could be exercised in respect of a single person or a

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limited class of persons who shared common circumstances. However, the Chief Executive would not be able to exercise his discretion on the suspension or otherwise of payment of monthly pension until the person concerned was appointed principal official. In his opinion, a decision in principle that a class of persons should benefit from the exercise of discretion in their favour would not amount to a fettering of discretion. At members' request, the Law Officer (Civil Law) agreed to provide his views in writing before 19 June 2002 for members' reference. Miss Margaret NG considered that the matter might be further discussed at another suitable forum.

42. Ms Emily LAU reiterated her grave concern about the inequity of the pension arrangements in question. She considered the Administration's arguments untenable and asked whether the Administration would agree to withdraw the proposed arrangements. While members would consider the legal advice to be provided by the Administration, she also requested the Legal Adviser to offer his comments in due course. Ms LAU further indicated that she would raise the matter at the House Committee meeting to see if a meeting should be convened to discuss the issue. SCS took note of the difference in opinion between some members and the Administration but confirmed that the Administration would not change its position on the matter. Ms Emily LAU expressed regret over the Administration's stance.

(Post-meeting note: The Administration's paper on Suspension of Pension on Re-appointment to the Public Service under the Pensions Ordinance (Cap. 89) and Pensions Benefits Ordinance (Cap. 99) was issued to members vide LC Paper No. FC94/01-02 on 18 June 2002. A paper prepared by the Legal Service Division (LC Paper No. LS126/01-02) setting out its comments on the Administration's paper was subsequently issued to members vide LC Paper No. FC96/01-02 on 20 June 2002 and the Chinese version was also issued to members vide LC Paper No. FC98/01-02 on 21 June 2002.)

43. Mr James TIEN sought confirmation on the respective roles of principal officials and Permanent Secretaries in controlling and managing public finance. In particular, he enquired whether decisions on resources allocation would rest with principal officials while the Permanent Secretaries would assume a "book-keeping" function to ensure that the relevant rules and procedures on public finance were followed. In reply, SCA confirmed that this would be the case.

44. Members noted that according to the Administration, there was a 3.5% differential between the monthly salaries of the Directors of Bureau, SJ, FS and CS. Mr James TIEN considered that since SJ, FS and CS were each provided with an official residence free of rent and with supporting domestic staff, there was in fact a greater differential between their remuneration package and that

of the Directors of Bureau.

45. Ms Emily LAU also agreed that the remuneration package for CS, FS and SJ as presented in the paper had not duly reflected the value of their official residence and supporting staff provided to them free of charge. In this regard, she sought information on the market value of the three existing official residences assigned to CS, FS and SJ, the number of support staff and staff costs.

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46. In reply, S for Tsy advised that no rating and valuation exercise had been conducted in respect of the three official residences as they were not subject to the payment of Rates. Hence, there was no available information on the market value of the official residences. The Administration would provide information on the staffing establishment of the official residences.

47. In this connection, SCA advised that at present, CS, FS and SJ had to pay a monthly rent for their official residence in accordance with the relevant civil service regulations. Under the accountability system, the three principal officials would not be civil service posts. He pointed out that as CS, FS and SJ often held official and non-official functions and meetings at their residences, the Administration considered it appropriate to provide each of them with an official residence. He reiterated that the remuneration level of principal officials was on the low side as compared to the remuneration of the CEOs surveyed.

48. Mr HUI Cheung-ching stated that Members of the Hong Kong Progressive Alliance supported the present proposal. In reply to Mr HUI's enquiry on whether the Directors of Bureau would also be entitled to an entertainment allowance, SCA confirmed that the Directors of Bureau would be entitled to an entertainment allowance on an accountable basis.

49. Regarding the future adjustment mechanism for the remuneration of principal officials, SCS confirmed that the remuneration of principal officials would be de-linked from civil service pay. Their employment contracts contained provisions to the effect that their remuneration could be subject to both upward and downward adjustments. SCS said that any future increase in civil service pay would not necessarily constitute grounds for a corresponding increase in the salaries for principal officials. Nevertheless, to share the community's hardship, the principal officials would be prepared to have their salaries adjusted accordingly (i.e. by 4.42%) if the relevant bill was passed to effect a reduction in civil service pay from 1 October 2002.

50. Referring to the policy portfolio of education and manpower, Ms Emily LAU observed that the programme area of manpower did not appear to fall under the purview of the future Secretary for Education and Manpower. In reply, the Deputy Secretary for Constitutional Affairs (DS(CA)) advised that

the programme area of manpower was within the purview of the future Education and Manpower Bureau and a committee set up under the Bureau was responsible for formulating policies on manpower issues. The Vocational Training Council and Employees Retraining Board, both being non-government bodies, were responsible for implementation of the relevant policies.

51. The Chairman put the proposal to vote. 35 members voted for the proposal, 17 voted against and none abstained:

For:

Mr Kenneth TING Woo-shou	Mr James TIEN Pei-chun
Dr David CHU Yu-lin	Dr Raymond HO Chung-tai
Mr Eric LI Ka-cheung	Dr LUI Ming-wah
Mr NG Leung-sing	Mrs Selina CHOW LIANG Shuk-ye
Mr HUI Cheung-ching	Mr CHAN Kwok-keung
Miss CHAN Yuen-han	Mr Bernard CHAN
Mr CHAN Kam-lam	Mrs Sophie LEUNG LAU Yau-fun
Mr WONG Yung-kan	Mr Jasper TSANG Yok-sing
Mr Howard YOUNG	Mr YEUNG Yiu-chung
Mr LAU Kong-wah	Mr LAU Wong-fat
Ms Miriam LAU Kin-ye	Mr Ambrose LAU Hon-chuen
Miss CHOY So-yuk	Mr Timothy FOK Tsun-ting
Mr TAM Yiu-chung	Dr TANG Siu-tong
Mr Abraham SHEK Lai-him	Ms LI Fung-ying
Mr Henry WU King-cheong	Mr Tommy CHEUNG Yu-yan
Mr LEUNG Fu-wah	Dr LO Wing-lok
Mr Frederick FUNG Kin-kee	Mr IP Kwok-him
Mr LAU Ping-cheung	

(35 members)

Against:

Mr Albert HO Chun-yan	Mr Martin LEE Chu-ming
Mr Fred LI Wah-ming	Miss Margaret NG
Mr James TO Kun-sun	Mr CHEUNG Man-kwong
Mr SIN Chung-kai	Mr Andrew WONG Wang-fat
Dr YEUNG Sum	Ms Emily LAU Wai-hing
Mr Andrew CHENG Kar-foo	Mr SZETO Wah
Mr LAW Chi-kwong	Mr Michael MAK Kwok-fung
Mr Albert CHAN Wai-yip	Mr WONG Sing-chi
Ms Audrey EU Yuet-mee	

(17 members)

52. The Committee approved the proposal.

53. The Committee was adjourned at 4:30 pm.

Legislative Council Secretariat
17 October 2002