

立法會
Legislative Council

LC Paper No. CB(2)2287/01-02
(These minutes have been
seen by the Administration)

Ref : CB2/HS/1/01

Legislative Council
Subcommittee to Study the Proposed
Accountability System for Principal Officials and Related Issues

Minutes of the first meeting
on Wednesday, 24 April 2002 at 8:30 am
in the Chamber of the Legislative Council Building

Members Present :

- Hon IP Kwok-him, JP (Chairman)
- Dr Hon YEUNG Sum (Deputy Chairman)
- Hon Kenneth TING Woo-shou, JP
- Hon James TIEN Pei-chun, GBS, JP
- Dr Hon David CHU Yu-lin, JP
- Hon Cyd HO Sau-lan
- Hon Albert HO Chun-yan
- Ir Dr Hon Raymond HO Chung-tai, JP
- Hon LEE Cheuk-yan
- Hon Eric LI Ka-cheung, JP
- Hon NG Leung-sing, JP
- Hon Margaret NG
- Hon CHEUNG Man-kwong
- Hon HUI Cheung-ching, JP
- Hon CHAN Kam-lam
- Hon Andrew WONG Wang-fat, JP
- Dr Hon Philip WONG Yu-hong
- Hon Jasper TSANG Yok-sing, JP
- Hon Howard YOUNG, JP
- Hon YEUNG Yiu-chung, BBS
- Hon Ambrose LAU Hon-chuen, GBS, JP
- Hon Emily LAU Wai-hing, JP
- Hon CHOY So-yuk
- Hon SZETO Wah
- Hon Timothy FOK Tsun-ting, SBS, 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 Michael MAK Kwok-fung
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon Audrey EU Yuet-mee, SC, JP
Hon MA Fung-kwok

Member Absent : Hon Andrew CHENG Kar-foo

Public Officers : Mr Michael M Y SUEN
Attending Secretary for Constitutional Affairs

Mr Joseph WONG Wing-ping
Secretary for the Civil Service

Mr Clement C H MAK
Deputy Secretary for Constitutional Affairs

Mr Robin IP
Deputy Secretary for Constitutional Affairs

Mrs Philomena LEUNG
Principal Assistant Secretary for Constitutional Affairs

Clerk in : Mrs Percy MA
Attendance Chief Assistant Secretary (2)3

Staff in : Mr Jimmy MA, JP
Attendance Legal Adviser

Mrs Justina LAM
Assistant Secretary General 2

Mr Paul WOO
Senior Assistant Secretary (2)3

I. Election of Chairman and Deputy Chairman

Hon IP Kwok-him and Dr Hon YEUNG Sum were elected Chairman and Deputy Chairman of the Subcommittee respectively.

II. Membership of the Subcommittee

2. In accordance with House Rule 23(b), the Subcommittee accepted the late application of Hon CHAN Kam-lam to join the Subcommittee.

3. Members noted that Hon Sophie LEUNG LAU Yau-fun had withdrawn her membership of the Subcommittee.

III. Proposed order and areas for study

Relevant papers

4. The Chairman drew members' attention to the following papers prepared by the Secretariat -

- (a) LC Paper No. CB(2)1691/01-02(04) - a summary of concerns and views raised at previous meetings of the Panel on Constitutional Affairs relating to the subject of accountability system for principal officials; and
- (b) LC Paper No. CB(2)1691/01-02(02) - a list of proposed order and areas for study by the Subcommittee.

The Chairman sought members' views on whether new items should be added to the proposed list of areas for study.

5. Members noted that Ms Cyd HO had submitted a list of proposed areas for discussion for the Subcommittee's consideration (LC Paper No. CB(2)1711/01-02(02)).

General issues

6. Miss Margaret NG said that as the item on "consistency with the Basic Law" covered a wide range of complex issues, adequate time should be allowed for thorough discussion by the Subcommittee. Miss NG pointed out that these issues included -

- (a) differences between the terms "civil servants" and "public servants";

- (b) transfer of statutory powers from the current policy secretaries to the principal officials under the proposed system;
- (c) impact of the proposed system on the relationship between the Executive and the Legislature; and
- d) impact of the proposed system on the role and functions of the Executive Council (ExCo).

7. Mr CHAN Kam-lam and Mr CHEUNG Man-kwong suggested that the relationship between the Legislative Council (LegCo)/the Chief Executive (CE) /principal officials/Permanent Secretaries after the implementation of the accountability system should also be examined.

8. Mr Albert HO said that as the appointment of principal officials were made by the Central People's Government (CPG), the relationship between the principal officials and CPG, including their accountability to CPG, should be clarified.

9. Ms Emily LAU said that the powers and accountability of CE under the proposed system should be examined.

The Executive Council

10. Ms Audrey EU said that the impact of the proposed system on the advisory role of the ExCo as prescribed in the Basic Law (BL) should be looked into.

Employment matters

11. Some members suggested that issues relating to the appointment and removal of principal officials, and measures to guard against conflict of interest should be discussed. Mr Albert HO suggested that the Subcommittee should also consider whether legislation should be introduced to provide safeguards against conflict of interest.

Development of constitutional conventions

12. Some members considered that the development of constitutional conventions for enhancing accountability, such as constitutional conventions relating to appointment and removal, should be included as a separate item for discussion. Mr CHEUNG Man-kwong suggested and members agreed to request the Research and Library Service Division (RLSD) to provide information on the subject for members' reference.

RLSD

Transfer of statutory functions

13. Miss Margaret NG and Mr Albert HO said that the Administration should

Action
Column

explain the legislative means to implement the proposed system, in particular the reasons for effecting the transfer of statutory functions to the principal officials under the proposed system by way of subsidiary legislation, and not primary legislation.

Reorganisation of Bureaux

14. Mr CHEUNG Man-kwong and Mr Howard YOUNG said that the Administration should explain the justifications for the proposed splitting, merging and retention of Bureaux under the proposed system. Mr CHEUNG Man-kwong pointed out that the Administration had not provided justifications for retaining the Constitutional Affairs, Home Affairs and Security portfolios as independent bureaux, and separating the Education portfolio from the existing Education and Manpower Bureau to become a separate bureau. Mr Howard YOUNG added that there were public views that the Constitutional Affairs and Home Affairs portfolios should be merged.

Civil service under the proposed system

15. Ms Emily LAU said that some civil servants had expressed concern that the proposed system was not consistent with the spirit and recommendations of the McKinsey Report on Strengthening the Machinery of Government issued in the 1970s. She suggested that the Subcommittee should make reference to the McKinsey Report when discussing the changes the proposed system would bring to the civil service and its operation. Ms LAU also requested the Administration to prepare a paper to facilitate the Subcommittee's discussion.

Adm

Review of roles and functions of statutory and public bodies

16. Ms Emily LAU and Mr CHEUNG Man-kwong proposed that the Subcommittee should examine the implications of the proposed system on the roles and functions of advisory and statutory/public bodies, including the Monetary Authority, Radio Television Hong Kong, the Securities and Futures Commission, and the Judicial Officers Recommendation Commission.

17. The Subcommittee asked the Secretariat to draw up a revised list of areas for study, incorporating the items suggested by members.

Secretariat

IV. Workplan and meeting schedule

18. Mr CHEUNG Man-kwong said that the Administration should provide a detailed analysis on the constitutionality of the proposed system, with particular focus on how the proposed system was consistent with the relevant requirements laid down in BL, such as BL 48(5), BL 55 and BL 56, for consideration by the Subcommittee. Miss Margaret NG requested the Administration to make available the papers to members at least one week before the relevant meeting.

Adm

19. In response to the Chairman, Secretary for Constitutional Affairs (SCA) said that the Administration was in the process of preparing information papers on certain issues of major concern to members. The Administration would provide these papers for the consideration of members as soon as possible. He assured members that the Administration would try its best to assist the Subcommittee in its deliberation.

20. SCA added that the Subcommittee might consider holding regular meetings, e.g. once or twice per week for the purpose of discussing the subject of constitutionality of the proposed system and related legal issues, such as the means to give effect to the accountability system etc; Other areas for study could be considered at other regular meetings. Ms Emily LAU and Miss Margaret NG did not support designating meetings solely to discuss legal issues. Ms Emily LAU said that some other important issues should be discussed as and when necessary.

21. Some members criticized the tight timetable proposed by the Administration and the lack of public consultation on the proposed system. They queried whether it was practicable and reasonable for the Administration to set 1 July 2002 as the target date to implement the new system.

22. In response to Ms Emily LAU, SCA said that it was the intention of the Administration to move a motion on the accountability system for principal officials for debate at the Council meeting on 29 May 2002. Some members considered that the motion debate should only be held after the Subcommittee had concluded deliberations on the proposed system and related issues.

23. Mr LEE Cheuk-yan and Ms Emily LAU reiterated that given the importance and complexity of the subject, the Subcommittee's work should not proceed in haste. They added that there should be proper public consultation before implementation of the proposed accountability system.

24. SCA drew members' attention to LC Paper No. CB(2)1711/01-02(01) prepared by the Administration. The Administration explained in the paper that since CE announced in his Policy Address in October 2000 that a study would be conducted to review the accountability system for principal officials, the Administration had exchanged views with LegCo Members at a number of meetings of the Panel on Constitutional Affairs, and attended the public consultation meetings arranged by the Panel. The Administration had also exchanged views with academics and commentators on various occasions. In addition, the Administration had taken note of other views expressed through various channels.

25. Referring to LC Paper No. CB(2)1691/01-02(03) prepared by the Secretariat which set out available time slots for meetings in May 2002, the

Action
Column

Chairman invited members' views on the meeting schedule for the Subcommittee. Members agreed that the Subcommittee should hold meetings twice a week, as follows -

Date	Time
29 April 2002 (Monday)	8:30 am - 12:45 pm
3 May 2002 (Friday)	8:30 am - 12:45 pm
7 May 2002 (Tuesday)	8:30 am - 12:45 pm
10 May 2002 (Friday)	8:30 am - 12:45 pm
11 May 2002 (Saturday)	9:00 am - 1:00 pm
14 May 2002 (Tuesday)	8:30 am - 12:45 pm
17 May 2002 (Friday)	8:30 am - 10:30 am
18 May 2002 (Saturday)	9:00 am - 1:00 pm
21 May 2002 (Tuesday)	8:30 am - 12:45 pm
24 May 2002 (Friday)	8:30 am - 12:45 pm
28 May 2002 (Tuesday)	8:30 am - 12:45 pm
31 May 2002 (Friday)	8:30 am - 12:45 pm

V. Public consultation

26. Members agreed that the Subcommittee should invite interested individuals and organisations to submit and/or present their views on the proposed system at the meetings scheduled for 11 May 2002 and 18 May 2002. Invitation for submissions would be published in newspapers and posted at the LegCo website. Invitation letters would also be sent to interested parties including the District Councils, major civil servants associations, the legal professional bodies and academics. Members also agreed that organisations of similar nature would be arranged to attend the same meeting as far as possible.

Secretariat

VI. Date of next meeting

27. The next meeting would be held on 29 April 2002 from 8:30 am to 12:45 pm. Pending a paper to be submitted by the Administration on the constitutionality of the proposed system, it was agreed that members would proceed to discuss item II of the List of areas for study, i.e. principal officials under the proposed system, at the meeting.

28. There being no other business, the meeting ended at 10:45 am.

Council Business Division 2
Legislative Council Secretariat
14 June 2002