

**Subcommittee to study the proposed
accountability system for principal officials and related issues**

Issues raised by members and the Administration's response

| Issues raised by members | Administration's response | |
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| | LC Paper No. | Reference in the Interim Report to the House Committee on 24 May 2002 |
| Constitutionality of the accountability system | | |
| 1. Whether the proposed system is consistent with the Basic Law (BL). | Administration's paper on "Constitutionality of the Accountability System" (LC Paper No. CB(2) 1735/01-02(01)). | Para 26 |
| Legislative measures to give effect to the accountability system | | |
| 2. Primary legislation should be introduced to underpin the accountability system. | Administration's paper on "Resolution under section 54A of the Interpretation and General Clauses Ordinance" (LC Paper No. CB(2)1822/01-02(01)). | Para 30 - 31 |
| 3. Whether the use of the resolution under section 54A of Cap.1 is appropriate and sufficient | Administration's paper on "The Decision relating to the Accountability System" (LC Paper No. CB(2)2000/01-02(01)). | Para 35 |
| 4. Lawful authority for introducing to a accountability system and the decision of the Chief Executive (CE) in Council on the proposed accountability system should be promulgated. | Administration's paper on "The Decision relating to the Accountability System" (LC Paper No. CB(2)2000/01-02(01)). | Para 39 |

| The function, composition and operation of the Executive Council (ExCo) | | |
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| 5. Details of the 689 references to CE in Council in the Laws of Hong Kong. | Administration's papers on "References to the Chief Executive in Council in the Laws of Hong Kong" (LC Paper Nos. CB(2)1822/01-02(02) and CB(2) 1911/01-02(01)). | Para 43 |
| 6. A mechanism should be put in place to deal with appeals that lie to ExCo against decisions of principal officials. | Administration's response to issues raised at the meeting on 7 May 2002 (LC Paper No. CB(2) 2066/01-02(01)). | - |
| 7. Need to amend BL to reflect the operation of ExCo under the accountability system. | Administration's paper on "Executive Council" (LC Paper No. CB(2) 1809/01-02(02)). | Para 50 |
| A new system of employment of principal officials | | |
| 8. Whether the employment of principal officials is consistent with BL. | Administration's paper on "The Constitutionality of the Accountability System" (LC Paper No. CB(2)1735/01-02(01)). | Para 54 - 58 |
| Leave relief arrangements for principal officials | | |
| 9. Arrangements during principal officials' temporary absence. | Administration's paper on "Arrangement during Principal Officials' Temporary absence" (LC Paper No. CB(2) 2075/01-02(01)). | Para 59 - 61 |
| 10. The arrangements should be stipulated in the Code. | | Para 62 |

| Post of Secretary for Justice (SJ) | | |
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| 11. Whether the post of SJ should be included in the accountability system. | Administration's papers on "Enhancing the Accountability System : the post of Secretary for Justice (LC Paper Nos CB(2) 1678 (02) and (03)). | Para 64, 65 and 69 |
| 12. Transfer of SJ's power to make prosecution decisions completely to the Director of Public Prosecutions, if SJ is a political appointee. | | |
| Post of Secretary for the Civil Service (SCS) | | |
| 13. Whether the post of SCS should be included in the accountability system. | Administration's paper on "Preserving the Integrity and Probity of the Civil Service" (LC Paper No. CB(2) 1822/01-02(04)). | Para 74 |
| 14. Views of members on the inclusion of the post of SCS in the accountability system and a suggestion that a system similar to the UK should be adopted. | - | Para 74 |
| 15. Whether there will be a Permanent Secretary working to the politically appointed SCS. | Administration's response to issues raised at the meeting on 11 May 2002 (LC Paper No. CB(2) 2066/01-02(03)). | - |
| 16. Whether it is appropriate for SCS to replace the Chief Secretary for Administration as the head of civil service under the new system. | - | Para 75 |
| Preserving the integrity and political neutrality of the civil service | | |
| 17. Need for preserving the political neutrality of the civil service under the accountability system and safeguarding the interests of career civil servants. | Administration's paper on "Preserving the Integrity and Probity of the Civil Service" (LC Paper No. CB(2)1822/01-02(04)). | Para 79 |

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| 18. Principal officials should be given the power to deploy and dismiss civil servants (including Permanent Secretaries) working under them. | Administration's response to issues raised at the meeting on 10 May 2002 (LC Paper No. CB(2) 2066/01-02(02)). | Para 81 |
| 19. Request for a copy of the composite civil service circular. | Administration's paper on "Circular setting out the Working Relationship between Civil Servants and Principal Officials" (LC Paper No. CB(2) 2101/01-02(01)). | - |
| 20. Views of members on the composite civil service circular : a) including the working relationship between civil servants and the Director of the Chief Executive's Office, b) deleting paragraph 12 (first sentence in particular). | Administration's response to issues raised at the meeting on 28 May 2002 (LC Paper No. CB(2) 2155/01-02(01)). | - |
| 21. Outcome of consultation with civil servants on the proposed civil service circular. | Administration's response to issues raised at the meeting on 28 May 2002 (LC Paper No. CB(2) 2155/01-02(01)) | - |
| 22. Setting up an independent investigation committee, similar to the Civil Service Commissioner system in the UK, to make enquiry into complaints against principal officials. | - | Para 85 |
| Permanent Secretaries and their role as Controlling Officer in the Approved Estates of Expenditure | | |
| 23. Whether the requirements for the Controlling Officers to comply with administrative regulations and directions issued by the Financial Secretary (FS) and be accountable to FS are compatible with the proposed system. | Administration's response to issues raised at the meeting on 10 May 2002 (LC Paper No. CB(2) 2066/01-02(02)). | - |

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| 24. Regulations made and directions or instructions by FS under the Public Finance Ordinance to designated Controlling officers. | Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2) 2092/01-02(02)). | - |
| 25. Delineation of responsibilities and duties between principal officials and Permanent Secretaries. | Administration's response to issues raised at the meeting on 10 May 2002 (LC Paper No. CB(2) 2066/01-02(02)). | - |
| 26. Making reference to the UK Ministerial Code in considering the role of Controlling Officer. | - | Para 94 |
| 27. Whether Permanent Secretaries will be required to sell policies and how they are to carry out such duties. | Administration's response to issues raised at the meeting on 11 May 2002 (LC Paper No. CB(2) 2066/01-02(03)). | - |
| 28. How the legal status of Permanent Secretaries should be established. | Administration's response to issues raised at the meeting on 7 May 2002 (LC Paper No. CB(2) 2066/01-02(01)). | - |
| Director of CE's Office | | |
| 29. Detailed job description of the post of Director of CE's Office. | Administration's paper on "Job disruption of the post of the Director of the Chief Executive's office" (LC Paper No. CB(2)2068/01-02(01)) | - |
| 30. Impartiality and independence of the ExCo Secretariat. | - | Para 100 |
| Establishment and development of constitutional conventions | | |
| 31. Constitutional conventions should be established to enhance the accountability of CE and principal officials. | Administration's response to issues raised at the meeting on 3 May 2002 (LC Paper No. CB(2)2034/01-02(03)). | Para 106 |

| Issues relating to appointment, employment and removal of principal officials | | |
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| 32. Relativity of the remuneration for principal officials and the Chief Justice, the basis and principles for determining the remuneration for members of the Judiciary, and related information in overseas countries. | Administration's response to issues raised at the meeting on 17 May 2002 (LC Paper No. CB(2)2066/01-02(04)). | - |
| 33. Breakdown on how the remuneration for principal officials is arrived at. | Administration's paper on "Appointment, Employment and Removal of Principal Officials" (LC Paper No. CB(2)1976/01-02(01)). Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02)) | - |
| 34. A mechanism should be put in place for adjusting the remuneration of principal officials. | Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02)) | - |
| 35. A mechanism should be put in place for informing LegCo and public before a decision is taken on the appointment or removal of the principal official. | - | Para 119 |
| 36. Criteria and standards adopted for integrity checking. | Administration's paper on "Extended Checking of Principal Officials" (LC Paper No. CB(2) 2075/01-02(02)). | - |
| Conflict of interest and Code for Principal Officials | | |
| 37. Drawing up a code for principal officials similar to the UK Ministerial Code | The Code is attached to LC Paper No. CB(2)1952/01-02(01) | - |

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| <p>38. The prohibition that principal officials cannot use public funds or resources for party or constituency work should be explicitly spelt out in the Code.</p> | <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02))</p> | <p>-</p> |
| <p>39. The various prohibitions against principal officials using their official position for personal gain or other purposes should be set out in greater detail in the employment contract.</p> | <p>Administration's paper on "Employment Contract and Conflict of Interest" (LC Paper No. CB(2) 1952/01-02(01)).</p> <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02))</p> | <p>-</p> |
| <p>40. Views of members on the duration of the sanitation period.</p> | <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02))</p> | <p>-</p> |
| <p>41. Changes to the Code should be subject to the scrutiny of LegCo.</p> | <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02))</p> | <p>-</p> |
| <p>42. Breaches of the Code should be liable to criminal sanctions.</p> | <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02))</p> | <p>-</p> |
| <p>43. Whether a person who is a member of the Communist Party or Kuomintang can be appointed as a principal official.</p> | <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02))</p> | <p>-</p> |
| <p>44. Whether a principal official can stand as a candidate for the CE election.</p> | <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02))</p> | <p>-</p> |

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| <p>45. Whether a principal official can be a member of a political party or organisation.</p> | <p>Administration's paper on "Employment Contract and Conflict of Interest" (LC Paper No. CB(2)1952/01-02(01)).</p> <p>Administration's response to issues raised at meeting on 17 May 2002 (LC Paper No. CB(2) 2066/01-02(04)).</p> | <p>-</p> |
| <p>46. Whether a principal official can be directors of companies during his term of office.</p> | <p>Administration's response to issues raised at meeting on 17 May 2002 (LC Paper No. CB(2) 2066/01-02(04)).</p> | <p>-</p> |
| <p>47. Whether principal official will be required to declare interests and investments held on trust.</p> | <p>Administration's response to issues raised at meeting on 17 May 2002 (LC Paper No. CB(2) 2066/01-02(04)).</p> <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02)).</p> | <p>-</p> |
| <p>48. Stipulating in the Code that principals officials : a) are required to declare membership of political organisations and parties, b) cannot be company directors.</p> | <p>Administration's response to issues raised at the meeting on 24 May 2002 (LC Paper No. CB(2)2104/01-02(01)).</p> | <p>-</p> |
| <p>49. Consistency of para 5.10 of the Code with the relevant provisions of the Prevention of Bribery Ordinance.</p> | <p>Administration's response to issues raised at the meeting on 24 May 2002 (LC Paper No. CB(2)2104/01-02(01)).</p> | <p>-</p> |
| <p>50. Views of members that principal officials should not accept any invitation to make a sponsored visit in private capacity.</p> | <p>Administration's response to issues raised at the meeting on 24 May 2002 (LC Paper No. CB(2)2104/01-02(01)).</p> | <p>-</p> |

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| <p>51. A more effective mechanism should be provided for enforcing the committee's advice on post-office employment of principal officials.</p> | <p>Administration's response to issues raised at the meeting on 21 May 2002 (LC Paper No. CB(2)2092/01-02(02))</p> <p>Administration's response to issues raised at the meeting on 28 May 2002 (LC Paper No. CB(2)2155/01-02(01))</p> | <p>-</p> |
| <p>52. Express provision in the Code to prohibit principal officials from using government resources for work relating to their political parties or constituencies.</p> | <p>Administration's response to issues raised at the meeting on 28 May 2002 (LC Paper No. CB(2)2155/01-02(01))</p> | <p>-</p> |
| <p>53. Procedures for amending the Code and whether CE's decisions under paragraph 5.6 of the Code would be recorded and made public.</p> | <p>Administration's response to issues raised at the meeting on 28 May 2002 (LC Paper No. CB(2)2155/01-02(01))</p> | <p>-</p> |
| <p>54. Ways to disclose information provided by principal officials with regard to their political affiliation.</p> | <p>Administration's response to issues raised at the meeting on 28 May 2002 (LC Paper No. CB(2)2155/01-02(01))</p> | <p>-</p> |
| <p>55. Ways to make the Code public.</p> | <p>Administration's response to issues raised at the meeting on 28 May 2002 (LC Paper No. CB(2)2155/01-02(01))</p> | <p>-</p> |
| <p>Splitting, merging and retention of bureaux</p> | | |
| <p>56. Views of members on the number and proposed amalgamation and splitting of policy portfolios.</p> | <p>Speech made by the Secretary for Constitutional Affairs at the motion debate on 29 May 2002 (LC Paper No. CB(2)2127/01-02(01)).</p> | <p>-</p> |
| <p>57. How tourism and logistics industries will provide a lot of employment opportunities under the proposal to merge the Economic Development portfolio with the Manpower portfolio.</p> | <p>Response is still awaited.</p> | <p>-</p> |

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| 58. Information on the number and name of department(s) under each bureau. | Response is still awaited. | - |
| 59. Information on the number of Permanent Secretary under each Director of Bureau. | Administration's response (LC Paper No. CB(2)2147/01-02(01)). | - |
| Relationship between bureaux and departments | | |
| 60. Objectives, considerations and plans for streamlining the structure of departments and bureaux. | Administration's response to issues raised at meeting on 17 May 2002 (LC Paper No. CB(2) 2066/01-02(04)). | - |
| 61. An organisation chart showing the policy bureaux and departments as well as the advisory boards and committees under the respective Directors of Bureau. | Under preparation by the Administration (LC Paper No. CB(2)2045/01-02(01)). | - |
| Review of advisory and statutory bodies and other public bodies, implications of the proposed system on their roles and functions | | |
| 62. An undertaking that members of boards and committees will be drawn from people of high standing and who are familiar with work of such committees. | Administration's response to issues raised at the meeting on 14 May 2002 (LC Paper No. CB(2) 2045/01-02(01)). | - |
| Pension payment arrangements for serving civil servants appointed as principal officials | | |
| 63. Views of members on the pension payment arrangements for serving civil servants appointed as principal officials. | Administration's paper on "Retirement Arrangements for Pensionable Civil Servants" (LC Paper No. CB(2)1992/01-02(01)). | - |

| Financial and staff implications | | |
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| 64. Views of members on the paper submitted to the Establishment Subcommittee. | Response is still awaited. | - |

Council Business 2

Legislative Council Secretariat

3 June 2002