

**Legislative Council
Panel on Constitutional Affairs**

Accountability System of Principal Officials

Introduction

In the 2000 Policy Address, the Chief Executive noted that the Legislative Council and the community had expressed the view that as senior officials were involved in policy making and played a leading role in public affairs, they should be held accountable for the outcome of their policies. He undertook to examine how, under the leadership of the Chief Executive, the accountability of principal officials for their respective policy portfolios could be enhanced.

2. After the 2000 Policy Address, the Chief Executive personally chaired a Steering Group comprising the Chief Secretary, Financial Secretary, Secretary for Justice, Secretary for Constitutional Affairs, Secretary for the Civil Service, Head of the Central Policy Unit, and Information Coordinator to review the system of accountability. In his 2001 Policy Address, the Chief Executive outlined the initial thinking emerging from the study.

Background

3. Prior to 1985, the Legislative Council was made up of appointed members only. Very often appointed members assumed a high profile, working together with senior civil servants, in explaining and promoting government policies to the public and even defending government policies.

4. Since then, the political environment has gradually changed. With appointed members of the Legislative Council being phased out, senior civil servants, and particularly Secretaries of Departments and Directors of Bureaux have assumed an increasingly prominent role in public and in the proceedings of the Legislative Council. They are not only responsible for putting forward policy options and analysing their implications; they also play a more direct, active and important role in the policy making process and are expected to garner the support of the community by explaining, promoting, and defending policies in public. In addition, they have to steer legislative and funding proposals through the legislature.

5. Reunification brought with it a fundamental change to how Hong Kong is run and what Hong Kong people expect from their government. They expect the government to be more responsive to the needs of the community and to be subjected to a higher degree of accountability. There is also increasing pressure for top civil servants to be held accountable for the outcome of their policies and the services delivered by their executive departments, i.e. to assume political responsibility.

Problems

6. At present, the three Secretaries of Departments and all Directors of Bureaux are civil servants. As civil servants, they are held accountable for administrative and managerial mishaps, as well as for personal misconduct. They are subject to a well-established civil service appointment, management and disciplinary system. We recognise the need to meet the public's pressure for top government officials to be held politically accountable for the outcome of their policies. However, it would not be appropriate to ask civil servants to assume political responsibility. To do so would seriously undermine the political neutrality of the civil service and the integrity of the civil service system.

7. Concurrent with senior officials assuming an increasingly political role, their workload as administrators has expanded rapidly. In the past four years, the intensity, complexity and volume of work have increased exponentially. All these developments have prompted the government to undertake a thorough review of the present arrangements.

Principles

8. In conducting the review, we need to ensure that we work within the parameters of the Basic Law and we must not go beyond the existing provisions. Any arrangements that have been worked out must meet the test of constitutionality.

9. We must also ensure that the traditional values of the civil service are maintained and strengthened and the civil service will remain permanent, professional, neutral, highly efficient, and free from corruption.

Objectives

10. The objectives are: to strengthen the accountability of principal officials in their respective policy areas; ensure the Government can better respond to the demands of the community; make sure that policies are well co-ordinated; strengthen the co-operation between the Executive and the Legislature; ensure effective implementation of policies; and provide quality services to the public.

Initial thinking

New system of appointment

11. As outlined by the Chief Executive in his 2001 Policy Address, our initial thinking is to introduce a new system of appointment applicable to the Chief Secretary, the Financial Secretary, the Secretary for Justice and most Directors of Bureaux. These officials would be appointed on terms different to those in the civil service. They would be public servants but not civil servants. Their term of office would not exceed that of the Chief Executive who nominated them for appointment. Such a system would provide greater flexibility in filling these positions with suitable candidates identified from within as well as outside the civil service.

Role of principal officials under the new accountability system

12. These officials would have clearly defined roles and responsibilities: they would each be responsible for policy areas designated by the Chief Executive and would lead the executive departments within their particular portfolios. They would be responsible for formulating, explaining, and defending government policies as well as canvassing support from the public and the Legislative Council. They would be answerable to the Chief Executive for the success or failure of their policies. They would have to shoulder political responsibility for their respective portfolios.

Executive Council

13. These officials would be appointed to the Executive Council. In this way, they would participate directly in policy-making at the highest level. They would take part in setting priorities for policy and legislative initiatives, and in deciding on the allocation of resources for the government as a whole. Principal officials will thus be better placed to fulfil their roles and shoulder their responsibilities.

Retaining civil service posts at Director of Bureau (D8) rank

14. The existing civil service posts at Director of Bureau (D8) rank would be retained but the post titles would be changed. These posts would be filled by civil servants. They would be responsible to, and work under, the principal officials appointed under the new accountability system. They would be responsible for public administration and would assist the principal officials in formulating and implementing policies. They would continue to shoulder managerial responsibility.

Other principal official posts

15. The proposed changes outlined above would not be applicable to the five specified principal official posts in BL48(5), i.e. Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration, and Commissioner of Customs and Excise.

Implementation timetable

16. As pointed out by the Chief Executive in his 2001 Policy Address, it would be for the Chief Executive in the second term to decide whether and if so, when the ideas relating to the new accountability system should be implemented.

17. In the coming few months, we will be working on the details, including the number of principal officials and their respective portfolios, the terms and conditions of appointment, and the remuneration package. We would also continue to take account of views expressed by different sectors of the public and continue to exchange views with the LegCo Panel on Constitutional Affairs, academics, commentators, and others.

Change for the better

18. Under the new arrangement, the government would be able to respond more quickly and comprehensively to public needs. There would be greater incentive for principal officials under the new accountability system to keep closely in touch with the public, listen to the public's views more carefully, consider such views more positively, ensure that their policies are in tune with public sentiments, and see that the delivery of services meets with public approval. As members of the Executive Council, these officials would be able to see how their policies interlock with those of other principal officials. The

government would be in a better position to prioritise policy and legislative initiatives as well as the allocation of resources and coordinate decisions that cut across different policy and operational areas of the government.

19. Principal officials will be better placed to interact and cooperate with members of the Legislative Council. There would be strong structural incentive for principal officials to work with the legislature and to secure the latter's support in order that the legislative and funding proposals would be passed.

20. At the same time, the changes would help to preserve the neutrality of the civil service. It would ensure that the integrity of the civil service system is maintained and that the strengths of a permanent, professional, neutral, and meritocratic civil service are preserved.

21. The new system of appointment will bring about a new approach to policy-making and a government that is even more responsive and responsible to the legislature and to the people.