

立法會

Legislative Council

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Report of the Panel on Home Affairs for submission to the Legislative Council 2001-2002

Purpose

This report gives an account of the work of the Panel on Home Affairs during the 2001-2002 Legislative Council (LegCo) session. It will be tabled at the Council meeting on 26 June 2002 in accordance with Rule 77(14) of the Rules of Procedure.

The Panel

2. The Panel was formed by a resolution passed by the Council on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to district, community and rural matters, human rights, civic education, data protection, press freedom, building management, youth and women matters, the provision of leisure and cultural services as well as matters relating to development of arts and culture, public entertainment, sport and recreation.
3. The terms of reference of the Panel are in **Appendix I**.
4. The Panel comprises 19 members, with Hon IP Kwok-him, JP and Hon Andrew CHENG Kar-foo elected as Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Arts, culture, recreation and sport

Report of the Sports Policy Review Team

5. The Panel received a briefing by the Secretary for Home Affairs on the Report of the Sports Policy Review Team. Members in general expressed support for the initiatives in the Report to promote public participation in sport, encourage more sport

for students, and provide better support for disabled athletes. Some members, however, had reservations about the proposal of dissolving the Hong Kong Sports Development Board (SDB) and establishing a Sports Commission to advise on strategic policy planning and funding of sports development. They considered that there should be a clear central authority for policy making as well as disbursement of public funds in respect of sports development. These members queried whether it was necessary to overhaul the administrative structure for sport radically. One of these members suggested that the Administration should consider expanding the role of SDB and upgrading it to a Sports Commission.

6. The Administration advised that the lack of a clear central authority responsible for overall policy, planning, co-ordination and monitoring of sports development was one of the major problems of the current administrative structure for sport. The proposal of establishing a Sports Commission was put forward to address the concerns of the sports community in this respect. The Administration further explained that under the proposal, the single funding body would disburse public funds in accordance with the strategic funding policy of the Sports Commission.

7. The Panel held a special meeting to hear the views from over 50 organisations concerned, including SDB, the Sports Federation and Olympic Committee of Hong Kong, China, District Councils, National Sports Associations and District Sports Associations, on the Report. Given the importance of the subject matter, the Chairman of the Panel, Hon IP Kwok-him, will move a motion on the Report for debate at the Council meeting on 3 July 2002.

Provision of community facilities

8. During the session, the Panel continued to monitor the provision of community facilities. Members expressed concern that there was inadequate provision of civic centres, community halls or libraries in certain districts, and that small-scale performance venues were in short supply. The Administration advised that it had commissioned a consultancy study on the provision of regional/district cultural and performance facilities in Hong Kong which would also recommend provision of venues of the appropriate scale and standard. The Panel would follow up the issue when the findings of the consultancy study were available.

Outsourcing schemes of the Leisure and Cultural Services Department (LCSD)

9. The Panel discussed the outsourcing schemes of LCSD for cultural, arts, recreational and sports services, and venue management. Some members considered that the outsourcing schemes could help enhance service quality and cost-effectiveness. However, some other members were very concerned about the implications on staff. The Administration stressed that in planning outsourcing schemes, it would avoid creating redundancy of manpower, and affecting the quality and development of leisure and cultural programmes.

Staffing proposal of LCSD

10. The Administration briefed the Panel on a staffing proposal of LCSD which sought to extend the supernumerary Deputy Director (Administration) post by three years up to 31 December 2004 and to replace the supernumerary Assistant Director (Finance) post with a permanent Chief Treasury Accountant post.

11. Some members expressed support for the staffing proposal on the grounds that the directorate establishment of LCSD had already been decreased by 29.4% from 17 to 12 posts since the dissolution of the two municipal councils. They considered that LCSD should be provided with sufficient manpower resources to follow up the considerable number of outstanding capital works projects of the former municipal councils and to provide satisfactory services to the public. Some other members, however, objected to the staffing proposal. They considered that LCSD was expanding the number of directorate posts while downsizing the lower ranks. These members pointed out that the dissolution of municipal councils should have streamlined the work in municipal services and avoided duplication of manpower, but the overall number of directorate posts in LCSD and the Food and Environmental Hygiene Department had in fact increased from 25 to 26.

Building management

12. The Panel had set up a subcommittee to discuss review of the Building Management Ordinance (BMO) with the Administration and to identify areas of improvement to be made in the legislation, for a better management of private buildings. The Subcommittee had held 9 meetings and met deputations to hear their views on problem areas in BMO and possible proposals for improvement at one of the meetings.

13. At the Subcommittee's request, the Administration undertook to draw up preliminary legislative proposals to enable owners of house developments to form owners' corporations (OCs), incorporate express provisions in BMO protecting individual members of a management committee from legal liabilities arising from the collective decisions made by an OC, provide for a mechanism in BMO for the re-appointment of the first manager of a new building and stipulate the appropriate procedures for the formation of OCs in BMO. The Administration would also explore the feasibility of establishing a non-statutory mediation mechanism through making arrangements for mediation bodies to provide voluntary services at the Building Management Resource Centres (BMRCs). The Subcommittee would follow up the discussion when the preliminary legislative proposals were available.

14. The Subcommittee had expressed concern about allocation of undivided shares and management shares in Deeds of Mutual Covenant (DMC) which was usually in favour of the owners of non-residential (or commercial) portions in a building at the expense of the owners of residential portions. To address the problem, the Administration agreed to amend the DMC guidelines to require both the undivided

shares and management shares of a building to be allocated on the basis of gross floor area instead of market value.

15. At a meeting between Members and with District Council (DC) members, DC members had expressed concern that assistance to buildings with serious building management problems to deal with urgent repairs and maintenance works was inadequate. The Panel took up the issue with the Administration. The Administration informed the Panel that there were various existing venues through which owners of private buildings could deal with urgent repairs and maintenance works in respect of common areas of their buildings. The Administration also briefed the Panel on its proposals which enabled OCs to borrow from the Building Safety Loan Scheme, for the purpose of complying with statutory building improvement directions, an amount equivalent to the costs which should be borne by the missing owners and/or owners who refused to pay their share of the improvement costs.

16. A majority of members expressed support for the Administration's proposals. These members stressed that since the proposed empowerment of an OC to act as the agent of missing and irresponsible owners was quite an uncommon provision, the legal responsibilities to be borne by the OC as the agent of these owners should be clearly spelt out in the legislation. To ensure timely implementation of the required repair works, they also suggested that certain restrictions should be imposed on the rights of the owners concerned to raise objection to their share of the improvement costs. The Administration undertook to consider members' suggestions in drawing up the necessary legislative proposal and the associated implementation arrangements.

17. The Panel discussed the operation and deployment of resources of BMRCs. Given the substantial resources incurred, members were very concerned about the cost-effectiveness of the services provided by BMRCs. They suggested the Administration to review the operation of BMRCs and extend their opening hours to Sundays and public holidays. The Administration undertook to consider members' views and suggestions, and to enhance the training provided to staff of BMRCs for the purpose of providing better services to OCs and owners.

Promotion of equal opportunities

18. The Panel discussed the promotion of equal opportunities on racial issues. Members expressed reservations about the effectiveness of the Race Relation Unit established under the Home Affairs Bureau (HAB) to promote equal opportunities on racial issues, given its very limited staffing and financial resources. The Administration explained that with the assistance of non-governmental organisations, the Unit would co-ordinate and train volunteers to run induction programmes for non-Chinese New Arrivals. The Administration also undertook to provide the Panel with an analysis of the results of the consultations conducted on the need to legislate against racial discrimination in the private sector as early as possible.

19. The Panel received a briefing on the work of the Equal Opportunities Commission. The Panel had also set up a subcommittee to follow up the issue of discrimination on the ground of sexual orientation. The Subcommittee had held 7 meetings. The Subcommittee discussed with the Administration and organisations concerned possible discrimination on the ground of sexual orientation in various areas, including the guidelines of blood donation, implementation of the principle of equal opportunities for people of a different sexual orientation in schools, difference in treatment between sexes in the application of the offences of homosexual and heterosexual buggery, rights of homosexual couples to apply for public housing and provision of civil service medical benefits. The Subcommittee also met deputations to discuss various issues of discrimination on the ground of sexual orientation. While some deputations, mostly religious bodies, had expressed objection to legislating against discrimination on the ground of sexual orientation, other deputations, mostly homosexual groups, had expressed support for legislation.

District affairs

20. The Panel held a special meeting to receive a briefing on the outcome of the DC Review. As regards the powers of DCs, most members in general expressed disappointment that the role of DCs would remain to be of an advisory nature and that only very limited powers in district affairs would be given to DCs. The Administration reiterated that it would continue to explore ways to further enhance the role and functions of DCs in district affairs. As regards the remuneration of DC members, members considered that the title of the monthly Accountable Allowance of DC members should be renamed as "work expenses allowance" so as to reflect more accurately the purpose of the allowance, and its ambit should be expanded in order to increase the flexibility of claiming reimbursement. The Administration undertook to convey members' suggestions to the Independent Commission on Remuneration for Members of the DCs of the Hong Kong Special Administrative Region. The Panel had also monitored the implementation progress of the recommendations arising from the DC Review.

21. The Panel had held a joint meeting with the Panel on Constitutional Affairs to discuss the composition of the second term DCs. The Administration proposed that pending a comprehensive review of DCs after the DC elections in 2003, the existing district boundaries of the 18 DCs should be retained and the total number of elected seats should be capped at 390 for the second term DCs by maintaining the size of elected membership for each district.

22. A majority of members considered that while it might not be opportune to introduce too many changes to the composition of the second term DCs, additional elected seats could be provided for the districts with significant population growth without reducing the number of elected seats for other DCs with negative population growth. However, the Administration stressed that it was not acceptable to do so as it would be against the principle for seat distribution among DCs, and any changes to

the second term DC should be kept to the minimum before the comprehensive review. The Administration therefore considered that the status quo should be maintained for the second term DCs.

Village Representative (VR) elections

23. Following the discussion on the implications of the judgment of the Court of Final Appeal (CFA) concerning the right of two non-indigenous inhabitants in VR elections which was delivered in December 2000, the Panel had since then pressed the Administration to put forward proposed arrangements for the conduct of VR elections which would be compatible with the CFA judgment as early as possible.

24. The Panel discussed the proposed arrangements for the conduct of VR elections put forward by the Administration. The Administration informed members that there would be two types of VRs, namely, an indigenous inhabitants representative representing indigenous inhabitants of an indigenous village and a residents representative representing all residents of a village, for the VR elections to be held in 2003 and thereafter.

25. Members noted that a person would be required under the proposed arrangements for the conduct of VR elections to ordinarily reside in a village for at least three and five years immediately preceding the date of his application to be registered as a voter and his nomination as a candidate respectively for a residents representative election in that village. Some members queried whether such a stringent residency requirement was compatible with the Bill of Rights, given no such requirement was imposed in LegCo Election or DC elections. These members also expressed concern that disputes might arise if the responsibilities of the two types of VRs had not been clearly delineated.

26. The Panel also heard views from the Heung Yee Kuk on the proposed arrangements for the conduct of VR elections. Heung Yee Kuk informed the Panel that it was the mainstream view of the Heung Yee Kuk that the Administration's proposed arrangements for the conduct of VR elections was broadly acceptable in principle. However, the majority of the 27 Rural Committee chairmen held a dissenting view from the Administration on the residency requirements for a residents representative election and the rights of the wives of indigenous inhabitants for an indigenous inhabitants representative election in their residing village. These Rural Committee chairmen also considered that the post of an indigenous inhabitants representative or a residents representative should be left vacant until the next election if no one stood as a candidate before the deadline for nomination. The Panel had scheduled a special meeting to hear views from the public on the proposed arrangements.

Protection of personal data

27. Following the issue of the Draft Code of Practice on Monitoring and Personal Data Privacy at Work by the Privacy Commissioner for Personal Data for public consultation, the Panel discussed the Draft Code with the Privacy Commissioner, the Federation of Hong Kong and Kowloon Labour Unions, the Hong Kong General Chamber of Commerce and the Administration.

28. Most members were supportive of the Draft Code. They considered that it had successfully struck a balance between the interests of the employers and the personal data privacy rights of employees, and provided practical guidance in respect of the requirements under the Personal Data (Privacy) Ordinance. They also considered that the provisions of the Draft Code should be issued as requirements under a Code, rather than as guidelines, to ensure compliance.

Press freedom

29. The Panel discussed the Hong Kong Press Council's (HKPC's) consultation paper on a draft bill with HKPC, the Law Reform Commission of Hong Kong, the Hong Kong Journalists Association and the Administration.

30. A majority of members expressed reservations about the draft bill which sought to make HKPC a statutory body with a qualified libel privilege. They considered that although the effectiveness of the existing self-regulatory mechanism of the press industry was questionable, the setting up of a statutory press council might lead to Government intervention and would compromise press freedom. These members pointed out that press freedom was not a privilege of the industry and public interest was at stake as the right to know was involved. They suggested that mal-practices of the press industry could be dealt with within the existing legal framework such as amending the Defamation Ordinance. HKPC stressed that it was generally agreed that the existing self-regulatory mechanism of the press industry was inadequate. However, HKPC would keep an open mind on the issue and would be ready to consider any feasible alternative to address the problems with media ethics.

Women issues

31. The Panel had monitored closely the implementation of the recommendations of the Inter-departmental Working Group on Review of Law and Administrative Measures affecting Divorcees and Children who are Eligible for Alimony. The Panel had also followed up the discussion on the proposal of setting up an intermediary body for the collection of maintenance payments with the Administration and the Women's Commission. Members reiterated their support for the setting up of an intermediary body. They expressed great disappointment at the Administration's inaction on the issue.

32. The Administration reiterated its position that there was no sufficient evidence to prove that setting up an intermediary body would be more effective than implementing the improvement measures recommended by the Working Group. Members urged that the Women's Commission should actively follow up the setting up of an intermediary body because it was of great concern to women. The Women's Commission undertook to work closely with the Administration to assess whether setting up an intermediary body would be the best means and to develop an effective mechanism for the collection of maintenance payments.

Advisory and statutory boards

33. The Subcommittee on Payment of Honoraria to Government Boards and Committees was set up under the House Committee in February 2000 to conduct a review of the current arrangements for remunerating non-official members serving on Government boards and committees. The Subcommittee had recommended, among other things, that the Administration should conduct a general review on the operation of the current Government boards and committees and the remuneration policy for non-official members. In the light of the Subcommittee's recommendation, HAB conducted a survey on the 634 government advisory and statutory bodies (ASBs) in 2001. The Administration briefed the Panel on the results of the survey and the improvement measures recommended by HAB.

34. Members in general considered the review conducted by HAB too general given the nature of ASBs varied widely from committees with considerable powers to those with pure advisory functions. They were of a strong view that there was a need to rationalise the ABS system and its remuneration policy, increase the transparency of its operation, and ensure a balance of representation. Members requested the Administration to conduct a comprehensive review of the ASB system and review the effectiveness and operation of each ASB according to its nature. The Panel would follow up the issue upon completion of the comprehensive review.

35. The Chinese Temples Committee is a statutory body established under the Chinese Temples Ordinance which is mainly responsible for the registration, management and inspection of Chinese temples, as well as the management, control and audit of the Chinese Temples Fund and the General Chinese Charities Fund. Secretariat service for the Committee is provided by the Trust Funds, Temples and Cemeteries Section of HAB. In the wake of a corruption case involving a member of the Chinese Temples Committee and the executive secretary of the Trust Funds, Temples & Cemeteries Section, the Panel discussed the operation and supervision of the Chinese Temples Committee with the Administration.

36. Members stressed that there was an urgent need to increase the transparency of the operation of the Chinese Temples Committee, and enhance the supervision over the Committee as the Chinese Temples Fund involved a huge amount of money. The Administration informed the Panel that HAB was working on a series of measures to enhance the system and operation of the Secretariat of the Trust Funds, Temples and

Cemeteries Section which included reviewing the operational procedures, formulating a declaration of interest system and drawing up a code of conduct for staff.

Other issues

37. The Panel discussed the visit system of the Justices of the Peace with the Administration. The Panel had also received briefings from the Administration on the Chief Executive's 2001 Policy Objectives, proposed amendments to the Gambling Regulations to revise the licensing arrangements for lotteries, trade promotion competitions and mahjong/tin kau parlours, and the plan to acquire and fit out the permanent office premises of the Equal Opportunities Commission.

38. The Panel held a total of 12 meetings between October 2001 and June 2002, one of which was a joint meeting with the Panel on Constitutional Affairs. Panel members also visited the Hong Kong Central Library and the Hong Kong Museum of History.

Council Business Division 2
Legislative Council Secretariat
21 June 2002

Legislative Council

Panel on Home Affairs

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to district, community and rural matters, human rights, civic education, data protection, press freedom, building management, youth and women matters, the provision of leisure and cultural services as well as matters relating to development of arts and culture, public entertainment, sport and recreation.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Home Affairs**

Membership List

Chairman	Hon IP Kwok-him, JP
Deputy Chairman	Hon Andrew CHENG Kar-foo
Members	Dr Hon David CHU Yu-lin, JP Hon Cyd HO Sau-lan Hon Albert HO Chun-yan Hon NG Leung-sing, JP Hon James TO Kun-sun Hon Andrew WONG Wang-fat, JP Hon LAU Wong-fat, GBS, JP Hon Emily LAU Wai-hing, JP Hon CHOY So-yuk Hon Timothy FOK Tsun-ting, SBS, JP Dr Hon TANG Siu-tong, JP Hon Henry WU King-cheong, BBS Hon Tommy CHEUNG Yu-yan, JP Hon Michael MAK Kwok-fung Hon Albert CHAN Wai-yip Hon WONG Sing-chi Hon MA Fung-kwok (Total : 19 Members)
Clerk	Miss Flora TAI Yin-ping
Legal Adviser	Mr Stephen LAM Ping-man
Date	11 October 2001