

Legislative Council Panel on Constitutional Affairs

Accountability of Government Officials In Answering Members' Questions at Meetings of the Legislative Council

Background

In his letter to the Legislative Council Panel on Constitutional Affairs (the Panel) dated 6 May 2005, the Honourable Ronny TONG said that from time to time Government officials avoided answering, or refused to answer, Members' questions in Council meetings. He queried whether this was against Article 64 of the Basic Law (BL). The issue has been scheduled for discussion by the Panel on 20 June 2005. This paper sets out the views of the Administration on the issue.

The Administration's views

(i) Overall framework

2. Under BL 64, the Hong Kong Special Administrative Region (HKSAR) Government "must abide by the law and be accountable to Legislative Council (LegCo): it shall ... answer questions raised by members of the Council ...". BL 73(5) correspondingly entrusts the LegCo with the power and function to "raise questions on the work of the government".

3. The above provisions should be viewed in the light of the wider context of the constitutional design of our political structure. As explained by Mr JI Pengfei in his address to the National People's Congress (NPC) on 28 March 1990 in respect of the draft Basic Law, "the relationship between the executive authorities and the legislature should regulate each other as well as co-ordinate their activities. To maintain Hong Kong's stability and administrative efficiency, the Chief Executive (CE) must have real power which, at the same time, should be subject to some restrictions".

4. Another important principle embodied in the Basic Law is the principle of executive-led government. According to the “Explanatory Note on the Draft Interpretation by the NPCSC of Article 7 of Annex I and Article III of Annex II to the Basic Law of the HKSAR of the PRC”, delivered by Mr LI Fei to the NPCSC on 2 April 2004, “In the political structure established by the Hong Kong Basic Law, the HKSAR is executive-led. The CE is the head of the SAR. He represents the HKSAR and is accountable to the Central People’s Government and the HKSAR.”

(ii) Practical arrangements

5. Within the above context, the Government fulfills its responsibility to answer questions raised by LegCo Members through the procedural framework laid down in Part E of the LegCo Rules of Procedure (RoP). According to RoP 22(1), any Member may address a question on the work of the Government. Such questions may be raised with a view to either “seeking information on such matter” or “asking for official action with regard to it”.

6. Apart from certain procedural aspects (e.g. number of questions that may be asked under RoP 23, notice requirement under RoP 24 etc), the LegCo Rules further regulate the contents of questions (RoP 25), and asking and answering of questions (RoP 26). Under RoP 26(4), supplementary questions may be raised for the purpose of elucidating the answer.

7. The Government always makes its best endeavour to answer Members’ questions. Indeed, Principal Officials are required to give accurate and truthful information to the LegCo, and to correct any error at the earliest opportunity. In exceptional cases where it is not possible to provide all or some of the information sought, Members concerned would usually be advised of the reason in Government’s reply.

8. The Government is committed to fulfilling its responsibilities under the Basic Law. This is reflected in the large number of questions handled in LegCo sitting over the years. For example, during the second term LegCo, the Government provided answers to 6 279 questions raised by Members. On average, more than 1 500 replies to LegCo questions were made each year. As for the third term LegCo, 1 352 replies have been made to LegCo questions so far (from 1 October 2004 to 8 June 2005). Detailed figures are at **Annex**.

9. It is also important to note that all answers provided by the Government are a matter of public record. They are recorded in the Hansard, and are often widely reported by the media. The arrangement is therefore highly transparent and facilitates public monitoring of the Government. The public may use the information thus obtained as a basis for discussion of public policies. Likewise, LegCo Members who are interested in pursuing in greater depth the relevant issues which are the subject of the LegCo questions may do so through a variety of other means in LegCo, such as panels, bills committees, or motion debates. All this helps to ensure that the Government is accountable to the people of Hong Kong.

Constitutional Affairs Bureau
13 June 2005

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Annex

Number of LegCo Questions replied

Second Term (2000-04)					
	00/01	01/02	02/03	03/04	Sub-total:
Oral	159	153	160	155	627
Written	451	436	455	457	1 799
Supplementary^{Note}	986	952	1 006	909	3 853
Total	1 596	1 541	1 621	1 521	6 279

Third Term (2004-08) (as at 8.6.05)	
	04/05
Oral	131
Written	398
Supplementary	823
Total	1 352

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Note : Supplementary questions to oral replies given at LegCo sittings.