

立法會

Legislative Council

LC Paper No. CB(2)343/04-05

(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting held on Tuesday, 9 November 2004 at 10:00 am in the Chamber of the Legislative Council Building

- Members present** : Hon Tommy CHEUNG Yu-yan, JP (Chairman)
Hon TAM Heung-man (Deputy Chairman)
Hon Albert HO Chun-yan
Hon James TO Kun-sun
Hon WONG Yung-kan, JP
Hon LAU Wong-fat, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Albert CHAN Wai-yip
Hon LI Kwok-ying, MH
Hon Daniel LAM Wai-keung, BBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon WONG Ting-kwong, BBS
Hon Patrick LAU Sau-shing, SBS, JP
- Members attending** : Hon James TIEN Pei-chun, GBS, JP
Hon CHAN Yuen-han, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS
Hon CHEUNG Hok-ming, SBS, JP

**Public Officers
attending** : Item IV

Mr Stephen FISHER
Deputy Secretary for Home Affairs (1)

Mr John DEAN
Principal Assistant Secretary for Home Affairs (4)

Item V

Ms Lolly CHIU
Deputy Secretary for Home Affairs (3)

Mr Peter KWOK
Principal Assistant Secretary for Home Affairs (Culture) 2

Mr Steve CHAN
Chief Executive Officer (Policy Review)
Home Affairs Bureau

Miss Susanna SIU
Chief Curator (Policy Review)
Home Affairs Bureau

Mr Louis NG
Executive Secretary (Antiquities and Monuments)
Leisure and Cultural Services Department

Miss Patricia SO
Assistant Commissioner for Tourism (2)
Economic Development and Labour Bureau

**Attendance by
invitation** : Item V

Hong Kong Institute of Archaeology

Ms LIU Mao
Director

Mr YIU Kam-lung
Research Assistant

Central Police Station Heritage Task Force

Mr Albert LAI
Representative

Hong Kong Institute of Architects / "LIVE. Architecture"
Programme of the Chinese University of Hong Kong

Professor Bernard LIM
Chairman of Board of Local Affairs & President Elect/
Unit Leader

Conservancy Association

Dr HUNG Wing-tat
Director

Central and Western Development Concern Group

Mr Stephen CHAN Chit-kwai
Representative

Action Group on the Protection of Central Police Station
Historical Compound

Mr KAM Nai-wai
Convener

Ms CHENG Lai-king
Member

American Institute of Architects Hong Kong Chapter

Dr Ronald LU
Chapter President

Central & Western District Council

Mr YEUNG Wai-foon
District Council member

Mr YUEN Bun-keung
Chairman, Working Group on Concern over the Future
Development of the Central Police Station Historical
Building Mass

Museum of Site

Mr Andy TAM
Chairman

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)2

Staff in attendance : Ms Joanne MAK
Senior Council Secretary (2)2

Miss Sherman WOO
Legislative Assistant (2)2

Action

I. Confirmation of minutes
[LC Paper No. CB(2)84/04-05]

The minutes of the last meeting held on 12 October 2004 were confirmed.

II. Information paper(s) issued since the last meeting
[LC Paper No. CB(2)109/04-05(01)]

2. Members noted that since the last meeting, the Panel had received information paper from the Complaints Division of the Legislative Council (LegCo) Secretariat about a complaint case on inadequate measures to help ethnic minorities integrate into the community [LC Paper No. CB(2)109/04-05(01)].

III. Items for discussion at the next meeting
[Appendices I and II to LC Paper No. CB(2)155/04-05]

Regular meeting on 10 December 2004

3. Members agreed to discuss the following items at the next regular meeting to be held on Friday, 10 December 2004 at 10:45 am –

- (a) Centre for Youth Development Project; and
- (b) review of advisory and statutory bodies.

Action

Special meeting of the Panel

4. Mr Andrew CHENG proposed that the Panel should discuss the Albert House case and a family carnival to be held by the Hong Kong Jockey Club (HKJC) on 26 December 2004 which would allow the entry of adolescents to a racecourse. He said that there was urgency to discuss the two items and, since the agenda for the next regular meeting already had two important discussion items, the Panel should convene a special meeting to discuss the two proposed items. Mr CHENG added that representatives of HKJC should be invited to attend the special meeting to answer members' questions. After discussion, members agreed to hold a special meeting on Friday, 12 November 2004 at 10:45 am to discuss the following two items –

- (a) the case of Albert House: measures to protect flat owners from legal liability or claims arising from or in respect of unauthorised building structures or common parts of their buildings; and
- (b) the organising of a family carnival by Hong Kong Jockey Club on 26 December 2004 which would allow the entry of adolescents to a racecourse.

(Post-meeting note: as HKJC issued a press statement on 9 November 2004 clarifying that it had no plan to hold any family carnival on 26 December 2004, the item referred to in paragraph 4(b) was deleted from the agenda of the special meeting scheduled for 12 November 2004.)

Invitation of Equal Opportunities Commission

5. The Chairman informed members that the Equal Opportunities Commission (EOC) invited the Panel to visit its office to understand its work and for an exchange of views. Ms Emily LAU said that during the last LegCo term, the Panel had invited EOC to report on its work at a Panel meeting on an annual basis. She added that, in fact, there was much concern about the work of the independent panel of inquiry to inquire into the incidents relating to EOC. Ms LAU suggested that instead of visiting EOC, the Panel could receive a briefing from EOC on its work at a future meeting. The Chairman requested the Clerk to reply to EOC accordingly.

Clerk

Additional items proposed by the Administration for discussion

6. The Chairman informed members that he had met with the Secretary for Home Affairs (SHA) on 26 October 2004 to discuss the work plan of the Panel for the current session. The Administration had proposed new discussion items (items 4 and 20-24 on the list of outstanding items for discussion) and made suggestions as to the timing for discussion of certain items. Relevant

Action

information was included on the list of outstanding items for discussion for members' information.

IV. Consultation Paper entitled "Legislating against Racial Discrimination"

[Consultation Paper entitled "Legislating against Racial Discrimination" & relevant LegCo Brief (File ref: HAB/CR/1/19/102) and LC Paper No. CB(2)155/04-05(01)]

7. Members noted that other than the consultation paper issued by the Administration, the LegCo Secretariat had prepared a background brief [LC Paper No. CB(2)155/04-05(01)] on this subject for members' reference.

Briefing by the Administration

8. Deputy Secretary for Home Affairs (1) (DSHA(1)) explained to the Panel that the Administration decided to introduce a bill to make discrimination on the ground of race unlawful (the Bill) due to the following reasons –

- (a) there was no comprehensive proscription on racial discrimination in the private sector yet;
- (b) to establish norms and standards in respect of race relations in Hong Kong; and
- (c) to fulfill Hong Kong's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which was applicable to Hong Kong.

9. DSHA(1) further said that it was proposed that racial discrimination should be defined as discrimination based on "race, colour, descent, or national or ethnic origin" as set out in Article 1 of ICERD. The Administration was of the view that discrimination against new arrivals from the Mainland by local Chinese was not considered a form of racial discrimination, because the discrimination experienced by them was not based on race. The Administration considered that it was, rather, a form of social discrimination and therefore outside the intended scope of the Bill. DSHA(1) also invited members to note that there was general support for the proposal that EOC should be responsible for implementing the provisions of the Bill.

Action

Discussion

Proposals of the consultation paper

10. Mr Albert HO asked why it was proposed in paragraph 54 of the consultation paper that the field of pupillage and tenancy in barristers' chambers was particularly made one of the protected areas of activity under the Bill. DSHA(1) explained that barristers would fall outside the legislation (if no special provision was made) because they worked neither under a contract nor under a partnership agreement. Furthermore, the pupillage system was more susceptible to discriminatory practices than other fields such as engineers or doctors. DSHA(1) pointed out that similar provisions prohibiting discrimination by, or in relation to, barristers were also found in the existing three anti-discrimination laws and in relevant legislation in the United Kingdom. He added that Hong Kong Bar Association had been consulted on the proposal and it had not raised objection to it.

Admin

11. Miss TAM Heung-man requested the Administration to note that a new qualifying programme for accountants was being introduced, which would also be similar to the articling system in the legal profession. She suggested that consideration should be given to extending the coverage of the protection provisions of the Bill to pupillage in the accounting field. DSHA(1) agreed to follow up the issue.

12. Referring to paragraph 60 of the consultation paper, Mr Albert HO queried why small companies and employers should be exempted from the anti-discriminatory provision in the field of employment for three years after enactment of the Bill, given that there would be codes of practice issued to provide practical guidance on compliance with the new race discrimination law. He added that a transitional period of one year would be more acceptable.

13. DSHA(1) pointed out that the proposed exception clause was consistent with provisions in the existing anti-discrimination laws. He explained that while transnational corporations and large companies probably had already put in place anti-discriminatory measures/practices in employment-related matters, small companies/employers might need some time to adapt to a new regulatory system. Moreover, small enterprises had expressed concern about possible increases in operating costs entailed by enactment of the proposed legislation. Nevertheless, the Administration was still in the course of consulting the public and the business sector on the appropriate length of transitional period to be proposed in the Bill.

14. Referring to paragraph 14 of the consultation paper, Mr James TIEN asked how most of the employment-related complaints (some 3 000 cases) received by EOC between 1996 and 2003 had been resolved as he noted that only 27 of them had been taken to court. DS(HA)(1) responded that many of

Action

these complaints had been resolved by conciliation by EOC. He said that EOC should endeavour, by conciliation, to effect a settlement of complaint. Only if conciliation was not successful, complainants could then apply to EOC for legal assistance. DSHA(1) further said that the conditions under which EOC might grant assistance were stipulated in the law, which required EOC to consider issues of principle, the ability of the applicant to deal with the case unaided and merits of the case. DSHA(1) added that there were on average only seven to eight complaint cases under each of the three anti-discrimination laws taken to court each year.

15. In response to Mr James TIEN, DSHA(1) confirmed that the drafting and the scope of application of the Bill modeled on the three anti-discrimination laws. He said that large companies and employers should not find it too difficult to adapt to the new race discrimination law when it came into operation, since it would be similar to the existing three anti-discrimination laws on many aspects.

16. Mr James TIEN asked about examples of indirect racial discrimination under the proposed legislation, and whether the provisions of the Bill on indirect racial discrimination were the only provisions not to be found under the existing three anti-discrimination laws. DSHA(1) explained that an employer might be regarded as indirectly discriminating against members of ethnic minorities if the employer imposed certain requirements on job applicants and his purpose of so doing was only to exclude members of ethnic minorities from eligibility for the job. Examples of such requirements might include requirements in respect of languages, religion, dressing, outlook (e.g. job applicants not allowed to have beards), etc. He said that these examples would not be spelt out in the provisions of the Bill. In the future, the court would rule over disputes alleging indirect racial discrimination on the basis of the circumstances of each case.

17. Referring to Annex C to the consultation paper, Ms Emily LAU noted that only 60.5% of respondents had rated it unacceptable for a landlord refusing to sublet a room to a person because of his/her racial background. She requested the Administration to explain the proposal to make exception for small dwellings under the Bill.

18. DSHA(1) explained that the rationale behind the proposal was that when a landlord sublet a room in his/her flat where he/she lived to a person, the landlord would have close contact with that person as they would have to share common facilities (bathroom/toilet/kitchen) inside the flat. The Administration considered that in such a situation, the landlord should have the right to choose his tenant since they would be living together and sharing many common facilities.

Action

19. Referring to the proposal of appointing EOC as the implementation body, Ms Emily LAU asked whether the recent significant drop in caseload of EOC had reflected that public confidence in EOC had been undermined and whether the Administration would take this into account in considering whether EOC should be appointed to be the implementation body.

20. DSHA(1) responded that EOC was preparing a report of its review on improving its operation and he noted that the report of the independent panel of inquiry would be due in mid February 2005. He believed that the publication of these reports would help answer some of the questions that the public had about EOC. He further said that since the existing anti-discrimination laws had been in place for many years, it was natural for the caseload to drop.

21. Referring to paragraph 67 of the consultation paper, Mr James TO asked for examples of organised religion which limited employment to a person from a certain racial or ethnic group for a job related to that religion. He further asked whether such organised religion also imposed the same restriction in respect of entry to its worshipping places, to prevent persons who also subscribed to that religion but were not from a certain racial or ethnic group from entering those places. Mr TO asked whether such restrictions on entry to worshipping places, if any, would be in breach of any of the anti-discriminatory provisions of the Bill.

22. In response, DSHA(1) cited the example that Jewish people were regarded as an ethnic group and if the doctrines of Judaism imposed a restriction that only Jewish people who were believers could be employed by certain synagogues for jobs related to Judaism, an exception from the anti-discriminatory provision of the Bill would be made in such cases. Mr James TO requested the Administration to provide more detailed information in writing.

Admin

Extending the scope of the Bill to cover discrimination against new arrivals from the Mainland

23. Dr Fernando CHEUNG requested the Administration to re-consider extending the scope of the Bill to cover discrimination against new arrivals from the Mainland by local Chinese, given that there was no plan to legislate against social discrimination in the foreseeable future. He added that what accounted for the discrimination against new arrivals from the Mainland by local Chinese were differences in their cultural background and, in some cases, the language barrier. He considered that the discrimination experienced by new arrivals was, therefore, similar to racial discrimination in nature.

24. DS(HA)(1) reiterated that the discrimination experienced by new arrivals from the Mainland was not based on race because, by definition, racial discrimination was discrimination based on "race, colour, descent, or national

Action

or ethnic origin”, among which language, culture or religion was not included. DSHA(1) said that some local Chinese who had emigrated after birth in Hong Kong and then returned after living overseas for many years could neither speak very fluent Cantonese and they might also experience difficulties because of the language problem. DSHA(1) asked whether members would consider that these persons were also subjected to racial discrimination. DSHA(1) added that while a person could not choose his racial or ethnic origin, a person could learn a language or culture and to subscribe to a religion the person liked.

25. DSHA(1) further said that legislation was not the most effective way to eliminate social discrimination. The Administration considered that since new arrivals from the Mainland were ethnic Chinese and Chinese-speaking, in time they would be able to adapt to the Hong Kong society and assimilate. The Administration considered that it would be more effective to eliminate discrimination against new arrivals from the Mainland through public education and publicity.

26. Dr Fernando CHEUNG considered that the Administration was evading the issue of discrimination against new arrivals from the Mainland and defining racial discrimination in a very narrow manner to limit the intended scope of the Bill. Dr CHEUNG pointed out that the concept of assimilation was outdated already and in other countries like the United States, emphasis was put on diversity rather than assimilation.

27. DSHA(1) responded that the Administration was also willing to consider various options of prohibiting discrimination against new arrivals from the Mainland, including legislation, in order to resolve problems faced by them. However, it was of the view that even if it had decided to enact such legislation, this should not be done within the framework of the Bill but by way of a separate legislation in order to avoid implementation problems and also because the concept of racial discrimination was different from that of discrimination against new arrivals. DSHA(1) added that based on the outcome of public consultation exercises conducted so far, there was no consensus in support of extending the scope of the Bill to cover discrimination against new arrivals from the Mainland or enacting legislation against such discrimination.

28. Mr WONG Kwok-hing asked whether calling new arrivals from the Mainland as “阿燦”/“表妹”/“表叔” could be regarded as discrimination. He considered that failure to enact legislation to prohibit discrimination against new arrivals from the Mainland would only encourage more such discriminatory acts to occur.

29. DS(HA)(1) responded that the Administration was not denying the existence of discrimination against new arrivals. It was only of the view that

Action

such discrimination should not be regarded as racial discrimination, and the most effective way to resolve the former was not by way of legislation but public education and publicity.

30. Ms Emily LAU said that since DSHA(1) had openly stated that the Administration's position was that discrimination against new arrivals from the Mainland should not be considered a form of racial discrimination, she did not understand why it was still put down in paragraph 25 of the consultation paper that the Administration was inviting public views on this matter. DSHA(1) explained that the Administration was open-minded but he was obliged to explain the Administration's current position on the matter. He stressed that the Administration was still listening to public views and welcomed any further views submitted by the public.

31. Mr James TO said that he supported that legislation should be enacted to prohibit discrimination against new arrivals from the Mainland, and proposed changing the Bill to be called "Racial and Related Discrimination Bill" so that it could also cover discrimination against the new arrivals.

32. Miss CHAN Yuen-han said that she had received many complaints of discrimination encountered by new arrivals from the Mainland and had conducted a survey on this issue. She said that many social workers had expressed the view that even if the Administration did not intend to cover discrimination against new arrivals within the scope of the Bill, it should devise a package of measures for tackling the problem and helping the new arrivals integrate into the community.

33. DSHA(1) responded that according to the results of the public consultation exercises conducted, two different views seemed to have come up on how to resolve problems confronting the new arrivals from the Mainland. One view was that even if the Bill did not address the problem of discrimination against new arrivals, the problem should be addressed by a separate legislation. Another view was that the Administration should strengthen support services for new arrivals and enhance publicity/public education so that the barrier between the new arrivals and local Chinese could be removed. The Administration would listen to more views before deciding on its final position. He added that if the scope of the Bill was extended to cover discrimination against new arrivals as well, the Bill would be very complicated and the two parts, namely, racial discrimination and discrimination against new arrivals from the Mainland, would be unrelated.

Need for strengthening support services for ethnic minorities

34. Mr Albert HO considered that the Administration should allocate more resources to resolve the language barrier problem encountered by members of ethnic minorities to ensure equal opportunities for them in gaining access to

Action

different social services. He said that in fact, the unavailability of retraining courses conducted in English was equivalent to denying those who were non-Chinese speaking access to such service.

35. DSHA(1) responded that the primary consideration of the Employees Retraining Board (ERB) in deciding whether or not to organise courses conducted in English was cost-effectiveness. He said that ERB was willing to hire an English-speaking instructor or, if only Chinese-speaking instructors were available, an interpreter to assist the course instructor to conduct a course, if there were adequate non-Chinese speaking participants interested in attending the course.

36. Mr Albert HO and Dr Fernando CHEUNG considered that the language barrier had been the main cause giving rise to indirect racial discrimination. They said that other than the unavailability of retraining courses conducted in English, the lack of interpretation service provided in public hospitals also posed a hindrance to members of ethnic minorities who were non-Chinese speaking in using the service. They suggested that all public services (e.g. public hospitals) should put in place measures to resolve the language barrier problem, and that ERB should publicise that courses conducted in English were actually available upon request. Dr CHEUNG suggested that the Bill should provide that no local resident should be denied equal opportunities, on the ground of race or language, in gaining access to any public service.

37. Mr Albert CHAN considered that the Administration should resolve the problem of racial discrimination not just by legislation but also by enhancing administrative means. He said that a group of Pakistanis had tried for a long time to find a place in Tin Shui Wai for religious activities but were still in vain. He said that ethnic minorities had been complaining that they had experienced serious discrimination in the areas of education, employment and religion.

38. DSHA(1) responded that the Administration would devote as much resources as possible to cater for the needs of ethnic minorities and facilitate their integration into the community. He informed members that the Administration had supported the building of a mosque in Sheung Shui and construction works could commence when the applicant had dealt with the technical aspects of the project and raised enough funds. He explained that the Administration's policy was that it would assist any organised religion to find land for construction of a place of worship if there was a need for it.

39. DSHA(1) further said that the Home Affairs Bureau (HAB) had been addressing the issue of racial discrimination through public education and administrative means. It had allocated funds to ethnic minority groups for organising services for ethnic minorities and had provided services, such as teaching ethnic minority children studying in mainstream schools Chinese and providing interpretation service for their parents when they attended parent-

Action

teacher interviews. DSHA(1) said that HAB would continue to liaise with other relevant bureaux to ensure that they took into account the needs of ethnic minorities in mapping out their policies. He invited members to note that the Bill was intended to provide that any special measures (i.e. positive or affirmative action) taken in respect of persons of a particular racial or ethnic group to give equal opportunities with other persons should not be rendered unlawful under the Bill.

40. Dr Fernando CHEUNG said that some non-governmental organisations had been complaining about the lack of appropriate measures adopted by law enforcement departments to ensure members of ethnic minorities enjoyed equality of treatment when coming into contact with these departments. DSHA(1) responded that "Government" would be included as one of the protected areas of activity under the Bill as set out in paragraph 44 of the consultation paper, and "Government" included the Government and all public authorities.

Further discussion

Admin

41. As proposed by Ms Emily LAU, the Panel requested the Administration to give a report on the outcome of the current public consultation exercise for discussion by the Panel around February 2005.

V. Review of built heritage conservation policy

[LC Papers Nos. CB(2)155/04-05(02)-(07), CB(2)180/04-05(01), CB(2)194/04-05(01)-(02) and Consultation paper entitled "Review of Built Heritage Conservation Policy"]

42. The Chairman welcomed the representatives of nine deputations and of the Administration to attend the meeting.

Meeting with deputations

Hong Kong Institute of Archaeology
[LC Paper No. CB(2)155/04-05(04)]

43. Ms LIU Mao presented the views of Hong Kong Institute of Archaeology as detailed in its submission. Ms LIU expressed dissatisfaction with the heritage conservation work in Hong Kong. She pointed out that there was a serious lack of proper measures for built heritage protection, as reflected by the fact that there were no recurrent expenditures spent on any research study commissioned by the Government on built heritage conservation. She urged the Government to put on hold the planning of any heritage tourism project until the Government had formulated its policy on the conservation of built heritage.

Action

*Central Police Station Heritage Task Force
[LC Paper No. CB(2)155/04-05(05)]*

44. Mr Albert LAI presented the views of Central Police Station Heritage Task Force (the Task Force) as detailed in its submission. The Task Force was concerned about the conservation of the Central Police Station, the former Central Magistracy and Victoria Prison. The Task Force was of the view that the future development of these buildings should be subject to the guiding principles of “Heritage First” Principle and the China Principles, as detailed in paragraph 2 of its submission. Mr LAI said that the Task Force advocated the adoption of a “Citizen-Envisioned Participatory Assessment Model” (CEPAM) for selection of tenderers for the Central Police Station Compound Project. The Task Force also proposed that the assessment of tenders should be conducted by an assessment panel comprising representatives from the Government, professional bodies and the public.

Hong Kong Institute of Architects / "LIVE. Architecture" Programme of the Chinese University of Hong Kong

45. Professor Bernard LIM expressed concern about the Central Police Station Compound Project. He suggested that the responsible bureaux/department should draw up a detailed conservation plan for the Project, and proponents should be required to put up proposals on how they would fulfil the conservation plan for consideration by the tender board. He suggested that it should be made a tender condition that project proponents should try their best to preserve as many parts of the 17 historic buildings and historic walls at the site as possible, and extra marks should be given to innovative design compatible with the historical buildings. He added that the external walls of the Central Police Station Compound had high historic value and should all be preserved.

46. Professor Bernard LIM further said that Hong Kong Institute of Architects considered it important that the general public, the local community and professionals should be allowed to participate both in the pre-tender stage and the tendering process. Moreover, in the course of implementing the Project, a monitoring committee comprising representatives of the Antiquities Advisory Board (AAB), professional bodies and the community should be formed to oversee the implementation of the project and future uses of the buildings.

*Conservancy Association
[LC Paper No. CB(2)180/04-05(01)]*

47. Dr HUNG Wing-tat presented the views of the Conservancy Association as detailed in its submission. He stressed that the Central Police Station Compound Project should be conservation led and the monetary return of the

Action

project should not be over-emphasised. The issue should therefore be followed up by the Panel on Home Affairs instead of the Panel on Economic Services. Dr HUNG pointed out that in the development of the former Tsim Sha Tsui (TST) Marine Police Headquarters, the weighting given to heritage preservation at 25% was too low. He said that a high-class hotel had been built at that site, but the atmosphere and environment of the former marine headquarters had been adversely affected. He expressed support for the suggestion that a monitoring committee comprising members of the public and stakeholders should be formed to oversee the implementation of the Project and future uses of the buildings.

*Central and Western Development Concern Association
[LC Paper No. CB(2)194/04-05(01)]*

48. Mr Stephen CHAN Chit-kwai presented the views of the Central and Western Development Concern Association (the Association) as detailed in its submission. The Association expressed grave concern that the current weightings given to premium and qualitative aspects of proposals were set at 40% and 60% respectively. It was worried that the monetary return of the project would be over-emphasised. The Association also demanded for wide public participation in the Project. The Association considered that the tendering exercise for the Project was tantamount to land sale and called on LegCo to closely monitor the arrangements made for disposal of the site.

*Action Group for the Protection of Central Police Station Historical Compound
[LC Paper No. CB(2)155/04-05(06)]*

49. Mr KAM Nai-wai presented the views of the Action Group for the Protection of Central Police Station Historical Compound (the Action Group) as detailed in its submission. Mr KAM said that the Government's policy on heritage conservation was confusing and outdated, and it gave people the impression that it kept on changing and only emphasised economic benefits. The Action Group also questioned why the weighting given to premium for the Central Police Station Compound Project was at such a high percentage, i.e. 40%, which was even higher than that for the former TST marine headquarters project, i.e. 25%.

50. Mr KAM pointed out that the Action Group requested that the entrance building at the Victoria Prison (the F Hall) should be preserved. In addition, the Central Police Station Compound Project should be put under the purview of HAB and public participation in the Project should be enhanced. The Action Group suggested that non-profit making organizations should be allowed to operate within the Compound in the future to ensure that the public could use at least some of the facilities there at an affordable price level. The Action Group also suggested that that the operation of AAB should be revamped to enhance the transparency of its work.

Action

American Institute of Architects Hong Kong Chapter

51. Dr Ronald LU said that the American Institute of Architects Hong Kong Chapter (the Institute) was of the view that Hong Kong should strive to preserve its indigenous heritage attractions, but many of which seemed to be disappearing. He hoped that the Government could demonstrate to the world that it cared about Hong Kong's heritage and would ensure that the objectives of heritage preservation and economic sustainability would be achieved in taking the Central Police Station Compound Project forward.

*Central and Western District Council
[LC Paper No. CB(2)155/04-05(07)]*

52. Mr YUEN Bun-keung invited members to note that Central and Western District Council (C&WDC) had passed five motions concerning the Central Police Station Compound Project at its meeting on 7 October 2004, details of which and other views held by C&WDC on the Project were set out in its submission. Mr YEUNG Wai-foon called on the Government not to proceed with the tendering exercise for the Project in the present stage until it had finished reviewing the current weighting giving to premium and enhancing public participation in the tendering process.

*Museum of Site
[LC Paper No. CB(2)194/04-05(02)]*

53. Mr Andy TAM presented the views of Museum of Site as detailed in its submission. He also called on the Government to put on hold the tendering exercise for the Central Police Station Compound Project to allow more time for public consultation.

Meeting with the Administration

Review of Built Heritage Conservation

54. Deputy Secretary for Home Affairs (3) (DSHA(3)) said that the paper provided for this meeting was to brief members on the major findings of the first stage public consultation on the Review of Built Heritage Conservation Policy (the review) conducted by HAB from February to May 2004 and the way forward. She said that the review proceeded in two stages, with the first stage focusing on broad policy issues and the second stage on proposed implementation measures. She said that the community had taken tremendous interest in the public consultation exercise and many views and suggestions had been received.

55. DSHA(3) further said that HAB was conducting an in-depth analysis on views received and was formulating proposals on implementation measures for

Action

further public consultation in 2005. She pointed out that some of the concerns raised by the deputations, such as on setting up of a heritage trust fund and the issue of transfer of development rights, had also been raised by people during the public consultation exercise. The Administration would further look at the views and suggestions received on these aspects

56. Mr LAM Wai-keung expressed support for the direction of the review as set out in the Administration's paper. He said that he was asked by Mr LAU Wong-fat to make the following points –

- (a) there should be wide public participation in any consultation on heritage conservation and due regard should be given to the views of Heung Yee Kuk in the course of any consultation on heritage development projects; and
- (b) the option of business concession should be explored to achieve better use of resources.

Central Police Station Compound Project

57. In response to the views expressed by the deputations, Assistant Commissioner for Tourism (2) (AC for T) of the Economic Development and Labour Bureau (EDLB) said that the Administration was reviewing the tender arrangements for the Central Police Station Compound Project in the light of the comments received. She said that the Administration would continue to listen to views from all parties interested in the Project with an open mind, and would endeavour to take these views into account in taking the Project forward.

58. Mr WONG Kwok-hing asked whether the Administration would accede to the requests raised by the deputations that the tendering exercise for the Project should be put on hold and that the tender assessment panel should include representatives of the public and of AAB. Miss CHAN Yuen-han further suggested that the tendering exercise should be put on hold for six months, during which the Administration should conduct further public consultation on the Project. Moreover, the Administration should undertake that none of the historic buildings/walls within the Compound would be demolished before conclusion of the public consultation exercise.

59. DSHA(3) responded that the Central Police Station Historic Site had been declared as a monument under the Antiquities and Monuments Ordinance (Cap. 53) (the Ordinance) in 1995. The historic buildings in the site would definitely be preserved no matter what development works, whether commercial or cultural, was to be carried out there. The Chairman asked whether tender would be issued within six months. AC for T said that there was no concrete timetable for the tendering exercise from the time being as the Administration was still reviewing the tender arrangements.

Action

60. AC for T pointed out that in preparing for this Project, the Administration had fully consulted AAB and with its assistance, the Antiquities and Monuments Office (AMO) had drawn up a set of very stringent preservation requirements and guidelines to ensure that the historic setting and the integrity of the site would be well preserved. She added that a representative of AAB would also serve as a non-scoring member to advise on heritage aspect of the tender proposals received in the future.

61. Miss CHOY So-yuk said that she would move a motion debate urging the Government to conserve the Central Police Station Compound and formulate a comprehensive policy on antiquities and monuments at the Council meeting the following day. She asked whether it was possible for the Project to be put under the portfolio of HAB instead of being treated as a tourism project, since HAB should be responsible for the conservation of the site. She further said that she had earlier requested the Administration to arrange all LegCo Members to visit the Central Police Station Compound and she regretted that the Administration had not made such arrangements so far.

62. DSHA(3) explained that while EDLB had taken the lead to play a coordination role for the Project, HAB and AMO had been actively participating in the Project. She reiterated that since the Central Police Station Historic Site had been declared a monument under the Ordinance, conservation work would definitely be carried out at the site.

63. Ms Emily LAU asked why the Administration did not put on hold the Project until after it had completed the review and formulated the policy on conservation of built heritage. DSHA(3) responded that the mainstream view received in the three-month public consultation was that the Government should have innovative and sustainable adaptive re-use of conserved built heritage, and this principle was also the underlying principle of this Project. The Administration was of the view that the Project did not have any implications on the review and that it should not be implemented only after completion of the review.

64. Mr Albert HO also took the view that the Administration should put on hold the Project which involved heritage items of significant architectural and historical value until after it had completed the review. He pointed out that the Project was related to very important policy objectives, principles and strategies under consideration in the review. DSHA(3) said that the Administration was committed to completing a review on the built heritage conservation policy as soon as possible.

65. Mr Albert CHAN considered it most important to retain the original characteristics of a heritage item in its development. He considered that the Government did not show respect to the architectural or historical value of

Action

some heritage items. The use of the Central Police Station at Stanley as a supermarket was an example.

66. Dr Fernando CHEUNG said he agreed to the views expressed by the deputations, particularly the “Heritage First” Principle and the need to enhance the level of public participation in drawing up the relevant marking scheme and in the assessment of tenders. He suggested that tenderers should be required to explain in their proposals how they could ensure that vulnerable groups, including the poor, the elderly and people with a disability, would be able to enjoy the use of the heritage compound in the future. Mr Albert HO considered that the Administration should enhance the role played by DCs on built heritage conservation issues as DC members were familiar with the circumstances of local communities and were able to mobilise public participation at local level. He suggested that there should be representation of DC elected members on any official committees at which future plans of any built heritage conservation projects were decided on.

67. DSHA(3) responded that the Administration would take into full consideration all the suggestions of members when specifying the tender requirements for the Project. She explained that the Administration had always tried to ensure that all public places were made accessible by people with a disability. She added that in taking this Project forward, C&WDC had been thoroughly consulted and their views were also fully considered.

68. Ms Emily LAU said that while the Panel on Economic Services seemed to be supportive of the Central Police Station Compound Project, the Panel might have a different view. The Panel therefore might have to consider whether it should convene a joint meeting with the Panel on Economic Services to have a focused discussion on the Project. She considered it not appropriate to discuss the subject without a full representation of EDLB at the meeting. The Chairman pointed out that when the Panel on Economic Services last discussed the subject on 25 October 2004, representatives of the relevant bureaux including EDLB and HAB had attended the meeting. Moreover, members of this Panel had also been invited to that meeting.

Two motions moved respectively by Mr Albert CHAN and Miss CHOY So-yuk on the Central Police Station Compound Project

69. Mr Albert CHAN moved the following motion which was seconded by Mr Albert HO –

“That the Government should put on hold the tendering procedure for the tourism project at the Central Police Station and Victoria Prison.”

70. The Chairman remarked that members should consider whether it was appropriate for the Panel to deal with the motion which was moved without

Action

notice. He also drew members' attention to the fact that most members of the Panel had left the meeting already and that members of the Panel on Economic Services had not participated in the discussion.

71. Mr Albert HO considered that it was in order for the Panel to deal with the motion since the motion proposed was directly related to this agenda item and that this Panel could have its own views on the issue of the Central Police Station Compound Project. He further considered that it was in order for the Panel to deal with the motion as a quorum was present.

72. Miss CHOY So-yuk said that the Central Police Station Compound Project was a complex issue. She considered that the wording of Mr Albert CHAN's motion was too brief as it lacked details on actions to be taken by the Government after it had put on hold the tendering procedure. She added that she would also move a motion debate on the subject the following day and all LegCo Members could express their views during the motion debate.

73. Mr WONG Yung-kan expressed dissatisfaction with the moving of the motion without notice and at a time when most members had left the meeting already. He also expressed reservations about the motion moved by Mr Albert CHAN as he considered that the Administration, instead of putting on hold the tender procedure, should make improvements to the tender arrangements in the light of the views and comments received.

74. Dr Fernando CHEUNG said that he supported Mr Albert CHAN's motion because he felt that the Administration had no intention to change anything although the public had recently raised grave concerns about the Project. Mr WONG Kwok-hing said that he was not a member of this Panel but was in support of the motion moved by Mr Albert CHAN.

75. As a majority of members present agreed that the motion should be proceeded with, the Chairman ordered that the Panel would deal with the motion moved by Mr Albert CHAN. Miss CHOY So-yuk said that in that case, she would move a separate motion. The wording of the motion moved by Miss CHOY was in the **Appendix**.

76. The Chairman put Mr Albert CHAN's motion to vote. Five members voted in favour of the motion. Mr WONG Yung-kan reiterated his reservations about the motion. No members voted against the motion. The Chairman declared that the motion was carried.

77. Mr Albert HO proposed a motion that the Panel should put on hold dealing with Miss CHOY So-yuk's motion since the wording of the motion was exactly the same as that of the motion to be moved at the Council meeting the following day. Ms Emily LAU seconded the motion. The Chairman put Mr Albert HO's motion to vote. Five members voted in favour of the motion,

Action

and two members voted against it. The Chairman declared that the Panel would put on hold dealing with Miss CHOY's motion.

78. The Chairman thanked the representatives of the deputations and the Administration for attending the meeting.

79. There being no other business, the meeting ended at 1:00 pm.

Council Business Division 2
Legislative Council Secretariat
9 December 2004

Appendix

"That, as the Central Police Station, Victoria Prison and the former Central Magistracy Compound is of great historic and cultural value, this Council urges the Government to adopt the following measures to review afresh the direction for its development:

- (a) to preserve the historic character and features of the Compound, since monuments form part of the collective memory of the people of Hong Kong;
- (b) to actively work out a sustainable mode of operation of the Compound, subject to the principle of allowing public access and enjoyment of the Compound;
- (c) to consult the public widely on the use of the Compound before conducting an open tender exercise for the heritage tourism project at the Compound, and to establish a monitoring body with public participation to monitor the tendering work and the development of the project; and
- (d) to put proper conservation of the Compound as an overriding factor for assessing the tender proposals for the project;

furthermore, the Government should also expeditiously formulate, in an open and highly transparent manner, a comprehensive policy on the preservation of antiquities and monuments to ensure that buildings which have been declared as monuments are duly maintained and conserved, and the original environment and atmosphere of their surroundings are preserved; at the same time, the Government should, through publicity and education, actively enhance the public's knowledge and awareness of antiquities and monuments and their preservation, and should study the feasibility of developing heritage tourism with a view to promoting a local community economy that has cultural characteristics, and to creating job opportunities."