

立法會
Legislative Council

LC Paper No. CB(2)1080/04-05
(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting
held on Friday, 14 January 2005 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 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 CHEUNG Hok-ming, SBS, JP
 - Hon WONG Ting-kwong, BBS
 - Hon Patrick LAU Sau-shing, SBS, JP
- Members attending** :
- Hon LEE Cheuk-yan
 - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
 - Hon CHAN Yuen-han, JP
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon WONG Kwok-hing, MH
 - Hon LEUNG Kwok-hung
 - Hon Ronny TONG ka-wah, SC
 - Hon Albert Jinghan CHENG

Members absent : Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon LAU Wong-fat, GBS, JP

Public Officers attending : Item IV

Mr Stephen FISHER
Deputy Secretary for Home Affairs (1)

Mr Alex CHAN
Assistant Secretary for Home Affairs (2)1

Item V

Mr Stephen FISHER
Deputy Secretary for Home Affairs (1)

Miss Joanna CHOI
Principal Assistant Secretary for Home Affairs (Special Duties)

Miss Julia HUI
Senior Statistician, Home Affairs Bureau

Miss Vivian CHAN
Assistant Secretary for Home Affairs (3)1

Item VI

Mr Eddie POON
Principal Assistant Secretary for Home Affairs
(Recreation and Sport)

Ms Kitty CHOI
Deputy Director of Leisure and Cultural Services
(Administration), Leisure and Cultural Services
Department

Miss Olivia CHAN
Acting Assistant Director (Leisure Services)2, Leisure
and Cultural Services Department

Mr Eddy YAU
Assistant Director (Leisure Services)3, Leisure and
Cultural Services Department

Attendance by invitation : Item IV

Law Reform Commission of Hong Kong (LRC)

Dr John BACON-SHONE
Chairman, LRC Privacy Sub-committee

Mr A F M CONWAY
Member, LRC Privacy Sub-committee

Mr Edwin C K LAU
Member, LRC Privacy Sub-committee

Mr Godfrey K F KAN
Secretary, LRC Privacy Sub-committee

Mr Stuart M I STOKER
Secretary, LRC

Hong Kong Press Council

Mr Leonard CHU
Vice-Chairman

Mr Kevin LAU
Executive Committee Member

Hong Kong Chinese Press Association

Mr HUE Pue-ying
Chairman

Miss Tanya CHOU
President

Hong Kong Journalists Association

Ms MAK Yin-ting
Hon. Secretary

Hong Kong Press Photographers Association

Mr SIN Wai-keung
Executive Member

Society for Truth and Light

Mr CHOI Chi-sum
General Secretary

Miss Jess CHAN Yin-ping
Project Officer

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

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

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I. Confirmation of minutes

[LC Paper No. CB(2)597/04-05]

The minutes of the last meeting held on 10 December 2004 were confirmed.

II. Information paper(s) issued since the last meeting

[LC Paper Nos. CB(2)453/04-05(01), CB(2)523/04-05(01), CB(2)615/04-05(01) and CB(2)642/04-05(01)]

2. Members noted that the following papers had been issued since the last regular meeting –

- (a) information provided by the Administration on the share taken up by disabled persons and ethnic minority members respectively in respect of membership of advisory and statutory bodies;
- (b) an e-mail from a member of the public expressing views on the opening hours of public swimming pools;
- (c) a progress report provided by the Administration on the Albert House case; and
- (d) supplementary information provided by the Administration on issues discussed at the Panel meeting on 9 November 2004.

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III. Items for discussion at the next meeting

[Appendixes I and II to LC Paper No. CB(2)595/04-05]

3. Members agreed that in addition to the item of “Appointment of the Chairperson of the Equal Opportunities Commission (EOC) by the Government and the work of the EOC” already scheduled for discussion at the next regular meeting on Friday, 4 February 2005 at 10:45 am, the Panel would discuss the financial proposals on the capital works projects of Dr Sun Yat-sen Museum and District Open Space in Area 35 Tsuen Wan (Phase II) at that meeting.

4. Members noted that the Administration was also ready to provide papers on the following issues and to brief members on them at the next regular meeting –

- (a) computer programme for calculation of interest and surcharge on arrears of maintenance; and
- (b) revision of fees and charges for services not directly affecting people’s livelihood under the purview of the Home Affairs Bureau (HAB).

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Members agreed that the Administration should first provide papers on the above issues for members to consider at the next regular meeting the need for discussion of the papers.

5. In response to Ms Emily LAU’s enquiry, the Clerk said that further to the discussion of the second report of the Hong Kong Special Administrative Region (HKSAR) under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the initial report of the HKSAR under the Convention on Rights of the Child (CRC) at the Panel meeting on 11 June 2004, there were no follow-up actions required to be undertaken with regard to these two reports. The Clerk further said that the hearings to consider the two reports by the respective United Nations (UN) committees would both be held in Geneva and members might wish to discuss the Concluding Observations issued after consideration of these reports by the UN committees.

IV. Reports on Privacy and Media Intrusion and Civil Liability for Invasion of Privacy published by the Law Reform Commission of Hong Kong

[The two privacy reports and LC Paper No. CB(2)595/04-05(01) & (02)]

6. The Chairman welcomed the representatives of the deputations, the Law Reform Commission (LRC) and the Administration to attend the meeting.

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Meeting with deputations

Hong Kong Press Council

[LC Paper No. CB(2)674/04-05(01)]

7. Mr Leonard CHU presented the views of the Hong Kong Press Council (the Press Council) as detailed in its submission. Mr CHU said that the Press Council opposed the recommendation of the LRC to establish a self-regulating commission (the Commission) by statute to deal with complaints of unjustifiable infringements of privacy perpetrated by the print media. Mr CHU said that the Press Council considered that industry self-regulation was preferable to statutory regulation. The Press Council was of the view that the Commission would not have the support of the press industry and the public, and would only give rise to concern that the Commission might be used by the Government to interfere with press freedom.

8. Mr CHU further said that to enhance the effectiveness of its work, the Press Council should be granted immunity from libel suits so that the Council could function more smoothly. Mr Kelvin LAU pointed out that the Press Council had once been sued by a non-member magazine for libel because the Council had criticised the magazine for breach of professional ethics and, fortunately, Hon Ronny TONG had given the Council free legal advice. The Press Council, however, had since been unable to take out insurance at a reasonable premium and this had posed a great problem to the Council's operations. Mr LAU further said that members of the Press Council served on it on a voluntary basis only and they should not bear the risk of being sued for libel in discharging their duties.

Hong Kong Chinese Press Association

[LC Paper No. CB(2)595/04-05(03)]

9. Mr HUE Pue-ying presented the views of Hong Kong Chinese Press Association (HKCPA) as detailed in its submission. Mr HUE said that HKCPA opposed the establishment of an independent Press Council for the Protection of Privacy (PCPP) as proposed by the LRC. HKCPA considered that industry self-regulation was more important than imposing punishment, and that any regulatory body for the press should be constituted by industry representatives. HKCPA was of the view that since the existing Press Council was able to function effectively and the standard of the media had been improving, there was no need to set up the proposed PCPP as the functions and duties of which were to a large extent similar to those of the Press Council. Mr HUE added that the Administration should seek to improve the operations of the Press Council and not to establish another organisation to replace the Council merely because there were imperfections in the Council's work.

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Hong Kong Journalists Association
[LC Paper No. CB(2)674/04-05(02)]

10. Ms MAK Yin-ting presented the views of Hong Kong Journalists Association (HKJA) as detailed in its submission. Ms MAK said that HKJA opposed the establishment of the proposed statutory PCPP for its possible adverse impact on press freedom. Ms MAK said that HKJA was worried that the remit of the proposed PCPP might be widened in the future to cover non-privacy matters. Ms MAK pointed out that HKJA did not see there was any urgent need for the introduction of statutory regulation of the press as the number of complaints on media intrusion remained small. HKJA also found that many of the 14 jurisdictions quoted by the LRC in its report to have established statutory press councils did not enjoy a high level of press freedom. Ms MAK pointed out that if the proposed statutory PCPP was to be set up and if the civil liability for invasion of privacy as currently proposed was also to be provided, press organisations might be liable to very serious fines in the future upon conviction, which could even lead to closing of small media organisations.

Hong Kong Press Photographers Association

11. Mr SIN Wai-keung said that Hong Kong Press Photographers Association (HKPPA) opposed the establishment of the proposed Commission as it was worried that the Government could interfere with the operations of the Commission through the appointment system of its members. Mr SIN said that HKPPA considered that a regulatory body for the press should only be established by the industry or the community. HKPPA was also of the view that with the introduction of the Journalists' Code of Professional Ethics, the establishment of the Press Council and organisations like the Society for Truth and Light which played a monitoring role, the problem of media intrusion in Hong Kong had improved a lot. Mr SIN further said that HKPPA hoped that the public would allow the industry more time to make further improvements and not to impose statutory regulation which might give rise to the curtailment of the freedom of speech and of the press.

The Society for Truth and Light
[LC Paper No. CB(2)674/04-05(03)]

12. Mr CHOI Chi-sum presented the views of the Society for Truth and Light (the Society) as detailed in its submission. Mr CHOI said that the Society found that the problem of media intrusion in Hong Kong remained serious and an organisation which could effectively deal with public complaints on media intrusion was required to be set up. The Society also found that the non-participation of the three most widely read newspapers and all local magazines in the Press Council had posed a problem to the effectiveness of the Council's operations. The Society supported that the Government should grant the Press Council immunity from libel suits, or failing that, an alternative

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mechanism, including the proposed establishment of the Commission, should be explored.

Response of the LRC

13. Dr John BACON-SHONE of the LRC invited members to note the supplementary paper (LC Paper No. CB(2)595/04-05(01)) prepared by the LRC secretariat. At the Chairman's invitation to respond to the comments made by the representatives of the deputations, Dr BACON-SHONE made the following points –

- (a) The object of the LRC in its Media Intrusion project was to provide an effective remedy for victims of unwarranted media intrusion.
- (b) There was still a serious and significant problem of media intrusion in Hong Kong as shown by the numerous examples of such cases provided in Annex 2 of the Report on Privacy and Media Intrusion and by the findings of the public opinion survey commissioned by the Press Council in 2004. The cases in Annex 2 of the Report indicated that a substantial proportion of the victims were ordinary members of the public. The Press Council had done its best but its self-regulatory measures were inadequate.
- (c) The current proposals in the LRC Report on Privacy and Media Intrusion had addressed all the concerns raised on the preliminary proposals in the 1999 consultation paper.
- (d) Setting up the proposed self-regulatory Commission which would only have the power to order an offending publisher to publish the Commission's findings and decision would not violate press freedom in any way, particularly when the publisher concerned would be free to publish an article in its newspaper or magazine contradicting the Commission's findings.
- (e) There were key differences between the Press Council and the proposed Commission. For example:
 - (i) the Council did not deal with complaints about inaccuracy, which was a key aspect of privacy, but the Commission would accept these complaints;
 - (ii) the Council dealt with complaints about prurient, indecent or sensational articles but the Commission would not accept these complaints;

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- (iii) while the Commission would have jurisdiction over all magazines and the mass-circulation newspapers, the Council did not have jurisdiction over all magazines and the mass-circulation newspapers which accounted for 80% of readership; and
- (iv) the Council had no authority to order an offending newspaper to publish its findings, and the coverage of its findings was low.
- (f) The LRC did not claim that privacy was more important than press freedom. Insofar as the Government had a duty to protect individual privacy under the Basic Law, it was necessary to address concerns about this important right.
- (g) It might not be appropriate to invest the Press Council with statutory powers as it also dealt with complaints about indecency and morality which were issues beyond privacy.
- (h) There was the possibility of convergence with the existing Press Council. However, it was important to recognise that there were differences between the Press Council and the proposed Commission.
- (i) The proposal to set up a self-regulatory Commission would not have a negative impact on press freedom. It would only serve to provide a reasonable remedy for alleged victims of press intrusion.
- (j) In relation to civil remedies for invasion of privacy, since the LRC had recommended a number of safeguards to protect press freedom, such as the defence of public interest, the proposal should not have a negative impact on press freedom.

Discussion

14. Ms Emily LAU said that she agreed with the Society that anybody, regardless his background, could establish a media organisation and there were past incidents in which the public had expressed serious concern about the journalists' approach of reportage. Ms LAU said that however, she still hoped that the press could be allowed to regulate its conduct without outside interference and she did not want to see measures be introduced to restrict the freedom of media workers or muzzle the press. Ms LAU further said that any intervention of the Government would lead to doubts about the independence of the press. Referring to the LRC Report on Privacy and Media Intrusion, Ms LAU pointed out that only two jurisdictions which enjoyed a relatively high

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degree of press freedom were found to have established voluntary press councils with some state support. Ms LAU took the view that the Administration should not adopt the LRC's proposals when there was a lack of support in the press industry for the proposals.

15. Ms Emily LAU, however, agreed that the fact that the Press Council had no jurisdiction over magazines and the three most widely read newspapers remained a problem to be solved. Ms LAU suggested that the media groups and newspapers should draw up a common code of ethics. Moreover, the Press Council should demonstrate to the public that it had adopted such a code as the yardstick in dealing with complaints and an effective mechanism was also in place to deal with the offending newspaper or magazine. Ms LAU sought the deputations' views on her suggestion.

16. Ms MAK Yin-ting pointed out that the four major journalists' associations had already drawn up the Journalists' Code of Professional Ethics in 2000. She said that the problem actually laid with the implementation of the code. Ms MAK further suggested that the Administration should consider expanding the scope of legal aid to alleged victims in libel cases. She added that the court's decisions in such cases could help reveal more clearly what the bottom line in reportage work should be. Ms Audrey EU expressed support for the suggestion of expanding the scope of legal aid to cover defendants of libel cases.

17. Mr Kevin LAU said that the Press Council also hoped that its membership could cover the three most widely read newspapers. He suggested that the Panel should consider meeting with representatives of the three newspapers concerned to discuss the matter. Miss Tangya CHOU of HKCPA expressed support for Mr LAU's suggestion. Ms Emily LAU pointed out that based on past experience, it was a very sensitive matter for the Panel to invite media organisations to attend its meetings for discussion. Ms MAK Yin-ting considered that it would only be in line with the spirit of press freedom if individual media organisations were allowed to decide on their own whether or not to join the Press Council.

18. Mr CHOI Chi-sum said that to ensure effective regulation of the press industry, the Society supported the establishment of a mechanism, which had no power to impose punishment, to advise whether a newspaper or magazine had breached the code of professional ethics of the industry. Mr CHOI pointed out that many victims of media intrusion could not afford the cost and time to bring a civil action against an offending newspaper or magazine. Miss CHAN Ying-ping of the Society added that the absence of a licensing system for journalists also posed a problem to the press industry in achieving effective self-regulation.

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19. Responding to Dr John BACON-SHONE's comment in paragraph 13(e), Ms MAK Yin-ting said that in some situations, it was beyond a journalist's control in committing inaccuracy because it could be the interviewee to have deliberately given the journalist misleading information. Ms MAK considered that one would have to take various factors into consideration in handling complaints on inaccuracy of reportage. Mr Leonard CHU echoed Ms MAK's views. He pointed out that in some circumstances, it was not easy for a journalist to prove the accuracy of the information he had obtained and some people might deliberately provide inaccurate information to the media for achieving certain purposes.

20. Mr Albert HO said that he recognised that the LRC was an independent organisation and he had no doubt that the current proposals were drawn up in response to aspirations of the community. He, however, supported that there should be self-regulation as far as possible and he was wary about any proposal to create a new organisation unless there was no other choice. Mr HO requested Dr John BACON-SHONE to further explain the concept of convergence. Mr HO also asked if it was a possible way forward for the Press Council to be conferred with more powers by statute in order to achieve better self-regulation and, at the same time, to be required to involve outside parties in such areas of work like conducting disciplinary hearings and adjudicating complaints.

21. Dr John BACON-SHONE said that he did not have a specific model of convergence in mind. He further said that while he recognised the virtues of the Press Council, the weaknesses of the Council should not be overlooked. Dr BACON-SHONE pointed out that self-regulation was clearly the ideal as stated in the LRC Report on Privacy and Media Intrusion, but freedom came with responsibility. He said that when members of the press industry had been given the chance to self-regulate but had failed to respond to it, it was necessary to come up with proposals to rectify the situation. Dr BACON-SHONE said that issues which required to be addressed included how to protect the Press Council from libel suits without detracting from its responsibility, and how to persuade non-member newspapers and magazines to take part in the Press Council so that they would be bound by the Council's decisions. He added that if a publisher was required to publish the findings against him whether or not he was a member of the proposed Commission, there would be more incentive for publishers to participate in the self-regulatory process. Dr BACON-SHONE said that the LRC had recommended different categories of membership to take account of the significant differences in the levels of circulation. It was necessary to balance the rights and responsibilities of mass-circulation with those of newspapers with low circulation.

22. Dr John BACON-SHONE further said that the LRC's responsibility was to come up with recommendations and it would be up to the Administration to

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decide what to do with the recommendations. He added that it was beyond the LRC's responsibility to suggest improvements to the existing Press Council which had a wider remit than privacy alone.

23. Ms MAK Yin-ting said that what Mr Albert HO proposed was actually similar to the LRC's proposal, i.e. turning the Press Council into a statutory body and conferring statutory powers on it. Ms MAK pointed out that Mr HO's proposal was a dangerous idea because the remit of the existing Press Council covered not only privacy and inaccuracy but also indecency, which was even broader than that of the proposed Commission which would only deal with privacy-related matters. Ms MAK added that there was no clear standard even within the industry regarding indecency.

24. Mr Ronny TONG said that he appreciated that the worry of the media was that the Commission would dictate what the code of self-regulation would be and the media had no confidence in who would lead the Commission in drawing up the code. Mr TONG suggested that in order to allay the concern of the industry, the code of regulation should be drawn up first before the Commission was to be set up. Mr TONG pointed out that if the scope of the code of regulation was acceptable to the industry, he did not see why members of the industry would still not accept setting up the Commission. Mr TONG further suggested that as the first step, the Administration should set up a steering committee which should include representatives from the industry to draw up the code of regulation and see how it would affect the industry.

25. Miss TAM Heung-man took the view that the findings of opinion polls set out in the LRC's supplementary paper which indicated that the public in general considered that the media did not respect accuracy did not necessarily mean that the public supported setting up the proposed PCPP.

26. Mr LEUNG Kwok-hung took the view that the Press Council's request for immunity from libel suits was inappropriate as he did not see why the Press Council should be given such a privilege. Mr LEUNG considered it most important for the Administration to ensure that everybody could freely express their opinions. Mr LEUNG said that the most effective way of protection of privacy was to give every one a chance to rebut when he fell victim to media intrusion and for that purpose, the Government should open up more broadcasting spectrums for people's use. Mr LEUNG further said that if the community relied on the Government to regulate the press, it would only end up in dictatorship. Mr LEUNG also expressed concern whether there was adequate protection rendered to journalists when they complained about the conduct of the media organisations for which they worked.

27. Mr CHOI Chi-sum said that the present problem was that those who could not afford expensive litigation costs and could not defend themselves in expensive litigations had to tolerate media intrusion, whereas large media

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organisations could freely criticise anybody or publish inaccurate statements about an individual. Mr CHOI reiterated that the proposed Commission did not have any powers to impose punishments, such as heavy fines, and was only intended to advise whether a newspaper or magazine had breached the code of professional ethics of the industry. Mrs Selina CHOW pointed out that the Consumer Council was an example of being granted immunity to legal actions when they named any unscrupulous shops.

28. Mrs Selina CHOW said that the current situation was out of balance as individuals could not seek any remedies when they fell victim to media intrusion. Mrs CHOW said that while press freedom had to be protected, the media should bear responsibility for their reportage work and it was unacceptable that there was even not an effective mechanism for ordinary people to lodge complaints about media intrusion.

29. Ms Audrey EU said that she had reservations about giving any organisation the privilege to enjoy immunity from libel suits. Ms EU also considered that self-regulation for the press industry had not proved to be effective over the years and the need for imposing a mandatory membership of the Press Council on members of the press industry might have to be considered. Ms EU said that the proposed creation of a new civil tort for privacy might be too big as an initial step since it was very difficult, in her view, to define “privacy”. She considered that as a practical first step to enhancing protection of privacy, punitive sanctions should be imposed on specific acts committed by the media which, in her view, were pure intrusion of privacy and were unnecessary, such as publishing photos of corpses in suicide cases and of children of celebrities, who were below 18 years of age, dating or going to entertainment places. Ms EU sought the views of the deputations and the LRC on her suggestion.

30. Ms MAK Yin-ting said that Ms EU’s suggestion would entail the need for legislation and conferment of statutory powers on the regulatory body concerned. Ms MAK took the view that there was no short cut to resolving the problems under discussion and the community should, instead, allow time for improvements to be made. Ms MAK added that HKJA had made suggestions in its submission on how to achieve protection of privacy, which she hoped could be adopted as the starting point.

31. Dr BACON-SHONE explained that the LRC had decided that the proposed Commission should not have the power to impose fines on offending publications because it was very hard to decide on the amount of a reasonable fine when the sales volumes of newspapers and magazines varied widely. Dr BACON-SHONE pointed out that for large media organisations, they did not mind paying fines as they might factor such fines into their operating costs. The LRC considered that the proposed “naming-and-shaming” approach, which required an offending publication to carry a report of the Commission’s

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critical findings would have a greater impact.

32. In response to Ms Audrey EU's concern about the proposed creation of a new tort for invasion of privacy, Dr John BACON-SHONE said that the court would apply an objective test in determining whether there was an invasion of privacy, and the subjective views of the alleged victim would not be determinative. Mr Ronny TONG concurred with Dr John BACON-SHONE. Mr TONG pointed out that there were well-established principles in the community for defining what constituted invasion of privacy. He considered that the press industry should not be too worried about the current proposal. Mr TONG further said that it was necessary to tackle the problem that some media organisations had tried to expose people's privacy in order to achieve political aims. Mr TONG added that there were no significant differences between the proposed new civil torts and the existing torts of defamation.

The Administration's views on the privacy reports published by the LRC

33. Responding to the Chairman, Deputy Secretary for Home Affairs (1) (DSHA(1)) said that the Administration was of the view that protection of privacy and the freedom of the press were Hong Kong's core values and a balance between the two would have to be struck. DSHA(1) further said that the Administration was carefully analysing the proposals of the LRC and would submit to the Panel the Government's position on the two LRC reports in a few months' time. In response to Mr Andrew CHENG, DSHA(1) said that the Administration would conduct its study on the basis of the two LRC reports and would listen to the industry and parties concerned in deciding whether or not to accept the proposals of the LRC.

34. The Chairman thanked the representatives of the deputations for attending the meeting and requested the Administration to report to the Panel the Government's position on the two LRC's reports as soon as possible.

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V. Survey on public attitudes towards sexual minorities

[LC Paper No. CB(2)595/04-05(04)]

35. At the Chairman's invitation, DSHA(1) briefed members on the salient points of the Administration's paper on this item.

36. Ms Emily LAU raised the following questions and concerns on the commissioning of a survey on public attitudes towards homosexuals –

- (a) whether the Administration intended to introduce legislation to prohibit discrimination against people with different sexual orientations;

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- (b) whether the advisory group referred to in paragraph 10 of the Administration's paper would comprise persons with different sexual orientations; and
- (c) the estimated costs of conducting the survey.

Ms LAU said that the problem of discrimination against people with different sexual orientations seemed to be quite serious as she noted that these people had been rejected to hold activities to promote equal opportunities on the ground of different sexual orientations at some shopping malls even though they were willing to pay for renting the venues. Ms LAU pointed out that many people supported legislation to prohibit discrimination against people with different sexual orientations. She hoped that the commissioning of the survey would not delay the work. She also urged the Administration to follow up the proposals made in the final report of the former Subcommittee to study discrimination on the ground of sexual orientation.

37. DSHA(1) said that the advisory group would comprise three members who were independent professionals to advise on the questionnaire design. They would try to ensure that the questionnaires were not biased and the survey was fair and objective. DSHA(1) further said that the Administration had already identified these three persons and after the Administration had made the formal appointments, their names would be announced. The Chairman expressed concern that the sexual orientations of the three persons to be appointed might affect the objectivity of the advisory group. DSHA(1) responded that the Administration was of the view that a person's sexual orientation would not affect the person's work and independence. DSHA(1) added that the three persons were persons of repute and they had not openly expressed any views on sexual orientations. Ms Emily LAU, however, shared the Chairman's concern. She suggested that the advisory group should include persons of different sexual orientations in order to ensure that the group would not be biased. DSHA(1) said that the Administration would consider the suggestion.

38. DSHA(1) informed members that the estimated cost of conducting the survey was about \$180,000 and he briefed members on the coverage of the survey as set out in paragraph 9 of the paper. DSHA(1) further said that the findings of the survey might form the basis of a public consultation exercise to be launched in the future if necessary.

39. DSHA(1) pointed out that there were diverse views in the community on the need for the introduction of legislation to prohibit discrimination against people with different sexual orientations. DSHA(1) said that the survey would also include asking people whether they supported introducing such legislation. DSHA(1) explained that the Administration would have to conduct comprehensive consultation before deciding on the way forward as this subject

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was different from other anti-discrimination legislations and could give rise to religious and moral controversies.

40. Ms Emily LAU further asked why it was necessary to assess public awareness of different sexual orientations. DSHA(1) explained that the last survey conducted in 1995 had found that some people were actually not familiar with the subject or with terms such as transsexuals, heterosexuality and bisexuality, etc. DSHA(1) added that the response to questions in this area could also reflect how far the public had improved in their awareness of different sexual orientations in the past ten years and the effectiveness of the Administration's efforts made in promoting public awareness in this regard.

41. Dr Fernando CHEUNG considered that this was a wrong approach for the Administration to consider the need for enacting legislation to protect basic human rights on the basis of public opinions. Dr CHEUNG pointed out that the Government was obliged to uphold the principle that no one should be discriminated against in employment, access to various public services and in other fields on the grounds of sex, religion or sexual orientation, etc. and the Government should do so by legislation if circumstances warranted. Dr CHEUNG added that the Government should not try to make use of the survey to defer introducing legislation against discrimination on the ground of sexual orientation.

42. DSHA(1) responded that the Administration had yet to ascertain whether there was adequate support of the public and of the Legislative Council (LegCo) for the introduction of such legislation, and the survey aimed at gauging public opinions and arousing public discussions on the subject. DSHA(1) stressed that public support was essential to the smooth implementation of a piece of legislation. On the promotion of human rights, DSHA(1) said that HAB was responsible for such work and the Sexual Minorities Forum formed under HAB was to understand and address concerns raised by the sexual minorities.

43. Dr Fernando CHEUNG suggested that the Administration should provide channels to seek the views of the sexual minorities on the survey and such views should be taken into account in the questionnaire design. DSHA(1) responded that the Administration was planning to do so and the subject would be included for discussion at meetings of the Sexual Minorities Forum. In addition, the Administration would discuss with non-governmental organisations and religious groups to seek their views as well.

44. Miss TAM Heung-man said that she had lived in the United Kingdom (UK) for 16 years and she found that people in UK in general had much greater awareness of different sexual orientations and were also more tolerant of the sexual minorities than people in Hong Kong. Miss TAM asked whether the Administration had evaluated the effectiveness of the projects approved under

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the Equal Opportunities (Sexual Orientation) Funding Scheme (the Scheme).

45. DSHA(1) responded that a report was required to be submitted after completion of each of the projects under the Scheme and these reports also included evaluations of the projects. DSHA(1) added that consideration could be given to commissioning a university to conduct an objective assessment on the effectiveness of the initiatives taken in the past in promoting awareness of different sexual orientations and equal opportunities on such ground.

VI. Capital works project on Tseung Kwan O Sports Ground

[LC Paper No. CB(2)595/04-05(05)]

46. Mr Albert CHAN asked whether the provision of the proposed Tseung Kwan O Sports Ground (TKOSG) was a standard district facility or whether it was built just for holding the athletic events of the 2009 East Asian Games (EAG). Mr CHAN said that since the 2009 EAG was a major sports event for Hong Kong, there must be detailed overall venue arrangements and the Administration should provide such information to the Panel for consideration. Mr Patrick LAU shared Mr CHAN's concern and requested information on projected numbers of athletes and spectators as well as the overall planning of venues for hosting the event. Mr LAU added that although he had no strong views on the development of the TKOSG, the Administration should let LegCo Members know the overall picture of venue planning for staging the event.

47. Assistant Director (Leisure Services)3 (AD(LS)3) said that the TKOSG was originally planned as a district sports ground in Tseung Kwan O for the use of the local community and schools. In November 2003, Hong Kong succeeded in bidding for the right to host the 2009 EAG. After consultation with Sai Kung District Council (SKDC) and the Hong Kong Amateur Athletic Association, the Administration proposed to upgrade the project scope of the TKOSG to make it suitable for holding major international athletic events in future, including the track and field events of the 2009 EAG. AD(LS)3 said that SKDC had expressed full support for the proposal. AD(LS)3 further said that the TKOSG was not a standard district facility. After upgrading and with its secondary sports ground, the TKOSG would be up to the required standards for hosting international athletic events.

48. Acting Assistant Director (Leisure Services)2 (AD(LS)2(Atg)) said that although the competition events for the 2009 EAG would not be finalised by the East Asian Games Association until at a later stage, the Administration considered that the planning of venues should start early and had already conducted an assessment on venues. AD(LS)2(Atg) explained that the Administration found that with the proposed upgrading and renovation works to be done for existing facilities and venues, they would be able to cater for the needs of the 2009 EAG. AD(LS)2(Atg) added that the Administration aimed at

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reporting to LegCo in about six months' time with a more updated picture on the detailed works required and the capital costs involved which were still being worked out.

49. Responding to Mr Patrick LAU, AD(LS)2(Atg) said that based on the experience of past EAGs conducted in other places, it was expected that there would be about 2 000 athletes and 200 overseas guests participating in the 2009 EAG. Besides, there would be about 300 working staff members and during the nine- to 10-day event period, there would be about a total of 230 000 spectators including about 80 000 spectators for the opening and closing ceremonies to be held at the Hong Kong Stadium. AD(LS)2(Atg) further said a stadium with 5 000 seats would be sufficient for holding the track and field events because the events would be held at different times on different days. AD(LS)2(Atg) added that there was no requirement for provision of an athletes' village for EAG.

50. Mr Albert CHAN said that he would not support the current proposal unless he was provided with information on the overall venue arrangements.

51. In response to the Chairman, AD(LS)2(Atg) said that the Administration would submit its funding proposal for the 2009 EAG to the Panel for consultation in mid 2005. AD(LS)2(Atg) further said that the Administration hoped that the Panel could first agree to the current proposal in principle.

52. Responding to the Chairman, Deputy Director of Leisure and Cultural Services (Administration) (DDLCS(A)) said that the additional cost required for upgrading the proposed TKOSG was about \$70 million. DDLCS(A) explained that the Wanchai Stadium was considered not suitable for the track and field events of the 2009 EAG because there were no facilities which were essential for international events, such as media rooms, VIP facilities and other ancillary facilities, and it had no secondary sports ground also. In response to the Chairman's further enquiry, AD(LS)2(Atg) said that there would be vehicle parking spaces 60 private cars and 10 coaches at the TKOSG, and 900-odd vehicle parking spaces in the vicinity. AD(LS)2(Atg) added that the sports ground would be well served by public transportation including the Mass Transit Railway.

53. Mr Andrew CHENG said that he would not definitely oppose the current proposal. Mr CHENG, however, expressed dissatisfaction with the Administration's lack of an overall strategy on sports development in Hong Kong and long term planning for recreational and sports venues. Mr CHENG said that the Administration should resolve existing venue problems, such as that the Hong Kong Stadium had a large seating capacity but it had no track and field facilities. Mr CHENG further suggested that the Administration should first provide information on the overall planning of venues before submitting the current proposal to the Public Works Subcommittee (PWSC).

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Mr LEUNG Kwok-hung also considered that LegCo could approve the current proposal only if it was provided with the full details including the overall budget for organising the 2009 EAG. Mr WONG Ting-kwong said that it was possible for Hong Kong to host international events, such as the Asian Games, in the future. He agreed that there was a need for the Administration to conduct long-term comprehensive planning of sports development in Hong Kong.

54. Principal Assistant Secretary for Home Affairs (Recreation and Sport) (PAS(HA)(R&S)) explained that the timetable for construction of the TKOSG was very tight. PAS(HA)(R&S) said that even if the construction works could be started in December 2005, it could only be completed in December 2008 and some time was also required for the commissioning tests. Responding to Mr Andrew CHENG's comments on the Hong Kong Stadium, PAS(HA)(R&S) said that the Administration was already planning the development of a multi-purpose stadium complex in South East Kowloon. However, in the light of the recent Court ruling, the reclamation projects within the Harbour area would be reassessed and the overall planning of South East Kowloon was under review. PAS(HA)(R&S) further said that subject to the outcome of the review, the Administration would work out a revised timetable for the multi-purpose stadium project in South East Kowloon.

55. Mr Timothy FOK declared that he was the chairman of the EAG Planning Committee. Mr FOK appealed to members for their support for the development of the proposed TKOSG as the timetable for its construction was very tight and the TKOSG would have to be used for the track and field events of the 2009 EAG. Mr FOK added that the selection of sports venues for the 2009 EAG would depend on the competition events which had yet to be finalised. Mr LAM Wai-keung expressed support for the current proposal which would enhance Hong Kong's athletic venue facilities and he appreciated that the Administration had been able to take into full account the views of persons in the district in taking forward the project.

56. DDLCS(A) pointed out that it was quite sure that track and field events would be chosen for the 2009 EAG. She said that since there was a practical need to provide a sports ground in TKO, the Administration had seized the opportunity to propose upgrading the project scope of the TKOSG to make it suitable for holding major international events, including the track and field events of the 2009 EAG. DDLCS(A) explained that the Administration was working out a detailed plan on the necessary renovation works to be carried out for existing major sports venues and improvements for other smaller venues. DDLCS(A) said that the Administration would submit a more updated picture on the detailed works required and the capital costs involved to LegCo in mid 2005.

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57. Mr Albert CHAN and Mr Andrew CHENG remained of the view that the Administration should first provide an overall plan of venue arrangements for the 2009 EAG instead of submitting the current proposal in isolation. The Chairman said that members shared a common view that since the current proposal was linked to the 2009 EAG, the Administration should first provide members with more detailed information on the overall venue arrangements planned for the EAG. He requested the Administration to take on board members' suggestions and requests.

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[*Post-meeting note* : a supplementary paper on the overall venue arrangements for hosting the 2009 EAG provided by the Administration was issued vide LC Paper No. CB(2)730/04-05 on 21 January 2005.]

58. The meeting ended at 1:20 pm.

Council Business Division 2
Legislative Council Secretariat
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