

立法會

Legislative Council

LC Paper No. CB(2)1468/04-05
(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting held on Monday, 21 March 2005 at 9:00 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
 - Dr Hon Philip WONG Yu-hong, GBS
 - 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 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 Margaret NG
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon WONG Kwok-hing, MH
 - Hon Alan LEONG Kah-kit, SC
 - Hon LEUNG Kwok-hung
 - Hon Ronny TONG Ka-wah, SC
- Member absent** :
- Hon Timothy FOK Tsun-ting, GBS, JP

Public Officers : Item IV
attending

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

Mr Donald TONG
Deputy Director (Administration & Development),
Food and Environmental Hygiene Department

Mrs Christine FUNG
Chief Executive Officer (Planning), Food and
Environmental Hygiene Department

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

Mrs Karen YUEN
Chief Executive Officer (Planning)1, Leisure and
Cultural Services Department

Mr Peter KAN
Chief Executive Officer (Planning)2, Leisure and
Cultural Services Department

Mrs Celina KWOK
Chief Project Manager, Architectural Services Department

Item V

Mr Stephen FISHER
Deputy Secretary for Home Affairs (1)

Mrs Angelina CHEUNG
Assistant Director of Home Affairs (4), Home Affairs
Department

Mr TSE Man-shing
Assistant Director of Home Affairs (Administration),
Home Affairs Department

Mr TANG Hung-ki
Chief Officer (Licensing Authority), Home Affairs
Department

Mrs Ella TAM LO Nam-wah
Deputy Director of Information Services (2) (Acting)

Mr Bob TONG
Chief Executive Officer (Licensing), Television and
Entertainment Licensing Authority

Item VI

Dr Patrick HO
Secretary for Home Affairs

Mr Stephen FISHER
Deputy Secretary for Home Affairs (1)

Mrs Hedy CHU
Principal Assistant Secretary for Home Affairs (3)

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

Attendance by invitation : Item VI

Equal Opportunities Commission

Mr Raymond TANG Yee-bong
Chairperson

Mr Michael CHAN Yick-man
Director (Planning and Administration)

Association for the Advancement of Feminism

Miss CHOI Wing-sze
Organiser

Women Coalition

Ms WU Mei-lin
Representative

Hong Kong Human Rights Monitor

Ms Cyd HO
Chairperson

Mr LAW Yuk-kai
Director

Civil Human Rights Front

Mr CHONG Yiu-kwong
Convenor

Civil Rights for Sexual Diversities

Mr Roddy SHAW
Chairperson

Hong Kong Human Rights Commission

Mr TSOI Yiu-cheong
Member

Society for Community Organization

Mr WONG Chi-yuen
Community Organiser

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

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I. Confirmation of minutes
[LC Paper Nos. CB(2)1080/04-05 and CB(2)1081/04-05]

The minutes of the meetings held on 14 January and 4 February 2005 were confirmed.

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

[LC Paper Nos. CB(2)852/04-05(01), CB(2)857/04-05(01), CB(2)874/04-05(01), CB(2)905/04-05(01), CB(2)912/04-05(01), CB(2)1012/04-05(01), CB(2)1033/04-05(01) and CB(2)1098/04-05(01)]

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

- (a) letter from the Housing and Building Management Committee of Yau Tsim Mong District Council;
- (b) submission from Hong Kong Council of Social Service on legislating against racial discrimination;
- (c) Administration's letter dated 8 February 2005 on the second report of the Hong Kong Special Administrative Region under the International Covenant on Civil and Political Rights;
- (d) Administration's paper on "Community Hall at the Housing Site in Area 103, Tin Shui Wai";
- (e) email from a member of the public on issues relating to owners' corporations (OCs);
- (f) amendments to the Guidelines on Election-related Activities in respect of Village Representative Elections;
- (g) submission on requiring OCs to purchase third party risks insurance on a mandatory basis; and
- (h) Administration's paper entitled "Forthcoming United Nations hearings of reports submitted by the Hong Kong Special Administrative Region under the international human rights treaties".

III. Items for discussion at the next meeting

[Appendices I and II to LC Paper No. CB(2)1083/04-05]

3. Members agreed to discuss the following items at the next regular meeting to held on Friday, 8 April 2005 at 10:45 am –

- (a) regulation of property management companies by legislation and formation of OCs of buildings with more than one Deed of Mutual Covenant; and

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- (b) promotion of cultural and creative industries.

IV. Provision of leisure and cultural services facilities

[LC Paper Nos. CB(2)1083/04-05(01) to (06)]

4. At the invitation of the Chairman, Deputy Director of Leisure and Cultural Services (Administration) (DDLCS(A)) briefed members on the salient points of the Administration's paper provided for the meeting.

5. Referring to the Administration's paper, Mr Albert CHAN expressed disappointment at the delay in the implementation schedule in respect of the leisure and cultural services (LCS) projects of the two former Municipal Councils (ex-MCs). He said that the previous Subcommittee to Follow Up the Outstanding Capital Works Projects of the Former Municipal Councils (the Subcommittee) had held discussions with the Administration for over three years urging the Administration to take forward the ex-MC projects as originally planned and scheduled. He said that the occurrence of the Tin Shui Wai family tragedy in April 2004 had also revealed the pressing need for timely provision of community facilities in Tin Shui Wai to meet residents' needs. He further said that although the Chief Executive (CE) had stated in his Policy Address 2005 that the Administration noted people's concern about the planned ex-MC projects, the implementation of these projects had not been much expedited as shown in the Administration's paper.

6. Referring to Annex 1 to the paper, Mr Albert CHAN said that the "District Open Space Area 107 Tin Shui Wai" project and the "Tin Shui Wai Public Library cum Indoor Recreation Centre" project were long awaited by local residents, and the former Regional Council had actually scheduled the latter for commencement in 2001 and for completion in 2005. Mr CHAN further said that despite the availability of a vacant site in Tin Shui Wai south for the provision of a public library, the Administration had been spending some \$7 million each year to rent premises at a private shopping mall in Tin Shui Wai to serve as a temporary library. As regards Tin Shui Wai north, Mr CHAN was dissatisfied that the Administration was going to provide only a temporary 7-a-side soccer pitch first, pending the completion of the "District Open Space Area 107 Tin Shui Wai" project. He pointed out that there were about 200 000 residents in Tin Shui Wai north and yet no sports facilities were provided there. He added that it was also unacceptable that the Administration, instead of providing sports facilities to meet urgent needs, was going to spend \$66 million for the development of open space in Tin Shui Wai mid-south at the end of 2005. He criticised the Administration for failing to prioritise the implementation of LCS projects in accordance with the pressing needs of the local communities.

7. DDLCS(A) responded that the Administration had given due regard to

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the needs for LCS facilities in the new towns, such as Tin Shui Wai, with significant population growth in recent years. Thus, of the 25 LCS projects for priority implementation, three were proposed for Tin Shui Wai and Yuen Long. She said that the “District Open Space Area 107 Tin Shui Wai” project, including the provision of a 7-a-side soccer pitch which would be funded by additional resources allocated under the minor works programmes, was aimed at meeting the needs of residents in Tin Shui Wai north.

8. DDLCS(A) pointed out that the “Local Open Space in Areas 25, 25A and 25B, Tin Shui Wai” project referred to by Mr Albert CHAN had been proposed after thorough consultation with the DC concerned. She explained that in accordance with planning guidelines and standards, there was a serious shortage of open space in Tin Shui Wai. She added that the Administration would further consult the DC concerned on the priorities of the LCS projects for Tin Shui Wai and Yuen Long.

9. On the provision of public library facilities in Tin Shui Wai, DDLCS(A) said that the Administration had planned to re-deploy resources to provide a mobile library for Tin Shui Wai north. As to Tin Shui Wai south, the Administration intended to seek funding approval for the “Tin Shui Wai Public Library cum Indoor Recreation Centre” project in 2006 in order to proceed with the early implementation of the project. She added that the Administration was going to consult the DC concerned in due course.

10. Mr Albert CHAN pointed out that the design of the public library cum indoor recreation centre in question had already been approved by the former Regional Council and was originally scheduled for commencement in 2001 and for completion in 2005. He expressed strong dissatisfaction with the late completion dates planned for the “District Open Space Area 107 Tin Shui Wai” project, the “Tin Shui Wai Public Library cum Indoor Recreation Centre” project, and the “Public Library and Indoor Recreation Centre, Area 3 Yuen Long” project, which were tentatively scheduled for completion in mid 2010, late 2011 and late 2014 respectively. He reiterated that there was a pressing need for provision of sports facilities in Tin Shui Wai north and he urged the Administration to advance, in particular, the commencement date for the “District Open Space Area 107 Tin Shui Wai” project. He also considered it necessary to expedite the implementation of the “Tin Shui Wai Public Library cum Indoor Recreation Centre” project in order to save the public money spent on renting private premises for provision of a temporary library in Tin Shui Wai south.

11. Mr Albert CHAN further said that although there was a shortage of open space in Tin Shui Wai, what was much needed in the district was active open space and not parks or passive open space. He pointed out that in fact, the location of the “Local Open Space in Areas 25, 25A and 25B, Tin Shui Wai” project was very near to Tin Shui Wai Park. He considered that the

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Administration should accord priority to developing active open space in Tin Shui Wai.

12. Mr Albert CHAN further suggested that the Administration should change its mode of consultation with DCs on the provision of district LCS facilities. He considered that the Administration should inform a DC of the annual budget for provision of such facilities in the district concerned and seek the DC's advice on what LCS facilities should be provided within the budget.

13. DDLCS(A) responded that the Administration had accorded high priority to implementing the "District Open Space Area 107 Tin Shui Wai" project and the "Tin Shui Wai Public Library cum Indoor Recreation Centre" project, for which the Administration would seek funding approvals in 2005 and 2006 respectively. She said that the usual timetable for construction of a capital works project was three years. However, the Administration would try to advance the completion dates for these works projects by taking forward the preparatory works as far as possible before the funding was allocated in the Resource Allocation Exercises.

14. DDLCS(A) pointed out that the Administration had thoroughly consulted the DC concerned in 2003 and 2004 on the "Local Open Space in Areas 25, 25A and 25B, Tin Shui Wai" project and the 7-a-side soccer pitch project in Tin Shui Wai north. She said that the relevant DC had expressed support for giving priority to implementing these projects having regard to the prevailing resources constraints and other relevant factors. She added that the Administration would consider consulting the relevant DC again on the need to re-prioritise the implementation of these projects, taking into consideration Mr Albert CHAN's view that there was a more urgent need for provision of sports facilities in Tin Shui Wai north.

15. In response to The Deputy Chairman, DDLCS(A) said that the Administration had no plan to provide a permanent public library in Tin Shui Wai north but it would give thought to the suggestion in its long-term plan.

16. Mr LAM Wai-keung expressed strong dissatisfaction with the Administration's failure to live up to its promise made when it abolished the two former MCs that it would implement the ex-MC projects as planned and scheduled by the two former MCs. He pointed out that there was a serious delay in the implementation of these 25 LCS projects for priority treatment and it was unacceptable that the Administration still had to waste time to consult the relevant DCs on these projects again instead of commencing their construction as early as possible. Citing Tung Chung as an example, Mr LAM said that the population there would very soon increase to some 100 000 and yet no public swimming pool was provided there. He took the view that there should be no delay in the implementation of those outstanding ex-MC capital works projects which had been upgraded to Stages 1, 2 and 3 by the former

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Provisional Urban Council or to Categories I, II and III by the former Provisional Regional Council before the abolition of the former MCs, because the upgrading already reflected that there were recognised urgent needs for the implementation of those projects.

17. Mr Patrick LAU asked why the commencement dates for the 25 LCS projects had to be so late ranging from 2008 to 2011 since the Administration had supposedly undertaken the necessary early stage planning of the projects already. Referring to paragraph 12 of the paper, he expressed concern as to what the Administration was going to do with the 70 projects proposed to be put under further review.

18. DDLCS(A) responded that the Administration would bid for the necessary resources in the 2005 and 2006 Capital Works Resource Allocation Exercises for 15 of the LCS projects proposed for priority implementation. She further briefed members on the technical issues involved in the early stage planning of these projects and the substantial planning and coordination needed to address such issues. She explained that some of these projects would have greater complexity if sea-bed engineering works were involved or environmental impact assessments needed to be conducted.

19. Mr Patrick LAU remained unconvinced that the early stage planning of these LCS projects had to take such a long time and suggested that the Administration should provide information on what major difficulties were anticipated in taking forward these projects so that the Legislative Council (LegCo) could consider whether any procedures could be streamlined to expedite the implementation of the projects. Ms Emily LAU also considered that there was a need to expedite the implementation of the ex-MC capital works projects. She proposed to set up a subcommittee to follow up the outstanding capital works projects of the former MCs. She also suggested that the Panel Chairman should consider moving a motion on the subject for debate at a Council Meeting, if the Subcommittee came up with recommendations on the implementation of these projects. She added that it was necessary to make clear what the Administration had promised on the implementation of these projects when it abolished the former MCs and whether it was really necessary for the Administration to conduct a new round of consultations with DCs again on these projects.

20. Principal Assistant Secretary for Home Affairs (Recreation and Sport) (PASHA(R&S)) responded that while the Administration would strive to take the 25 LCS projects forward at full speed, it was necessary for it to comply with the necessary administrative procedures for the implementation of these projects. He added that the Administration welcomed any views and suggestions from members as to how these procedures could be streamlined in order to expedite the implementation of the 25 LCS projects. DDLCS(A) clarified that the Administration was not starting everything from scratch in

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taking forward these LCS projects. Regarding those projects for which the necessary advance works had already been undertaken, the Administration would start from that point onward in following up those projects. She added that the Administration was also obliged to consult the DC members on these projects at the various stages of planning works.

21. Mr Albert CHAN requested to put on record that it was not entirely accurate for the Administration's representatives to say that due to administrative procedures, the implementation of the 25 LCS projects could not be expedited. He pointed out that while the "District Open Space Area 107 Tin Shui Wai" project was scheduled for commencement in 2008, the Administration had now decided to first provide a 7-a-side soccer pitch in Tin Shui Wai north in 2006 to cater for pressing needs. He said that this had reflected that whether or not the implementation of any of the 25 LCS projects could be expedited all depended on how the Administration prioritised the projects.

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22. The Chairman suggested that while the Administration should look at all previous records which would shed light on what the Administration had undertaken regarding the implementation of the outstanding ex-MC capital works projects, the LegCo Secretariat could also retrieve the relevant records of the former Subcommittee for members' reference. He also requested the Administration to provide information on the capital and recurrent costs required for the implementation of all those outstanding ex-MC capital works projects which had been upgraded to Categories I, II and III / Stages 1, 2 and 3 before the abolition of the former MCs. He said that the provision of the requisite information would facilitate further discussion of the subject.

23. Mr Albert CHAN expressed support for setting up the subcommittee as proposed by Ms Emily LAU to review the priorities of these projects in the light of pressing needs, and to identify projects which should be given high priority for consideration by the Public Works Subcommittee and the Finance Committee.

24. Mr WONG Yung-kan said that he was a member of the former Subcommittee. He pointed out that compared with the original plan submitted to the Subcommittee, there was a delay in the schedule of implementation of some of these 25 projects. He added that while he also supported early implementation of these projects, he was not in favour of setting up the proposed subcommittee as he was worried that further discussions might cause further delay. In response, DDLCS(A) reiterated that the Administration would take all possible steps to compress the lead time required in order to expedite the implementation of these 25 LCS projects.

25. Mr CHEUNG Hok-ming said that children and young people in Tin Shui Wai had long suffered from a lack of recreation and cultural facilities in

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the district and they could not easily use such facilities in other districts as they could not afford the costly traveling expenses. He said that since CE had particularly mentioned “Tin Shui Wai” in his Policy Address 2005, the residents there had high expectations of early delivery of LCS facilities. He requested the Administration to accord high priority to the LCS project planned for Tin Shui Wai north to meet pressing needs. He further said that it was unacceptable that the earliest commencement date for these 25 LCS projects was as late as 2008. He pointed out that the large majority of these projects had already gone through thorough consultations with the relevant DCs. He asked the Administration to further explain what administrative procedures were involved for the implementation of these projects.

26. Chief Project Manager of the Architectural Services Department briefed members on the procedures involved in seeking funding approvals for these 25 LCS projects. She explained that in general the lead time required for projects like the provision of a park was shorter whereas that for projects involving construction of building, such as in the case of provision of a public library or swimming pool, would be longer because more planning work and longer construction process would be involved.

27. Members noted that –

- (a) projects related to environmental hygiene facilities fell under the purview of the Panel on Food Safety and Environmental Hygiene; and
- (b) the Rules of Procedure and the House Rules did not provide for two or more Panels to jointly appoint a subcommittee to study a subject which straddled the policy areas of the Panels concerned.

After discussion, members agreed to set up a subcommittee under the Panel to follow up only the outstanding ex-MC LCS projects.

V. Revision of fees and charges for services not directly affecting people’s livelihood under the purview of Home Affairs Bureau
[LC Paper No. CB(2)776/04-05(02)]

28. At the Chairman’s invitation, Deputy Secretary for Home Affairs (1) (DSHA(1)) briefed members on the salient points of the Administration’s paper.

29. In response to Mr Patrick LAU, DSHA(1) said that the Government had frozen most fees and charges since 1998 as an exceptional measure to alleviate the financial burden on the public in times of economic difficulty. He explained that in line with the “user pay” principle, it was the Government’s policy that fees in general should be set at levels sufficient to recover the full

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cost of providing the services. He informed members that a costing exercise at 2004-05 price level had been carried out to review the costs of the fee items. Based on the outcome of the costing review, 234 fees were proposed to be revised, with 199 increases and 35 reductions. DSHA(1) said that the Administration proposed that for fee reductions, the fees should be reduced to the full cost level in one go. However, fee increases would be implemented on an incremental basis in accordance with the guidelines provided by the Financial Services and the Treasury Bureau, as set out in paragraph 6(a) to (c) of the paper.

30. Referring to item 5.1 in the Annex to the paper, the Deputy Chairman and Mr LEE Kwok-ying expressed concern about the high full cost level for the issue of a certificate of registration of a corporation, i.e. \$5,881 at 2004-05 price level. They asked whether there was room for reducing the costs.

31. DSHA(1) said that the information was provided by the Land Registry (LR) which was responsible for the issue of a registration certificate of an OC. He explained that as an OC was required to be formally set up under the law, it had to submit the relevant supporting documents in order to apply for registration. LR had the responsibility to cross-check all these documents submitted and to make sure that they were legally in order. DSHA(1) said that such work involved a lot of manpower and was also time-consuming. Assistant Director of Home Affairs (4) (ADHA) added that LR had indicated that 60% of the full cost was staff cost whereas the rest was office expenditure. She pointed out that LR had actually implemented initiatives, such as computerisation, to reduce costs. She said that the Home Affairs Department (HAD) would follow up with LR to see if there was room for further reduction in the full cost level for this item.

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32. ADHA further said that early this year the Hong Kong Housing Society (HKHS) had launched a comprehensive scheme for building management and maintenance which would last for 10 years. Under the scheme, HKHS would subsidise each OC \$3,000 which could make up for the fee for the issue of a registration certificate.

33. In response to Dr Fernando CHEUNG, DSHA(1) said that the costing mechanism for LRS facilities to be delivered through the Private Sector Finance approach had yet to be worked out. In reply to the Deputy Chairman's enquiry about charges for renting community centres/halls, DSHA(1) confirmed that the proposed fee reductions, if agreed, would take immediate effect. Assistant Director of Home Affairs (Administration) supplemented that while the new charges would be imposed as soon as practicable, there would be no refund for any payments made under advance bookings.

34. Members raised no further questions on the other items in the paper.

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VI. Report of the Independent Panel of Inquiry on the Incidents Relating to the Equal Opportunities Commission

[Report of the Independent Panel of Inquiry on the Incidents Relating to the Equal Opportunities Commission (EOC), LC Paper Nos. CB(2)1003/04-05(01), CB(2)1083/04-05(07) and (08) and CB(2)1140/04-05]

35. The Chairman welcomed the deputations, representatives of the Equal Opportunities Commission (EOC) and the Administration to attend the meeting.

36. Members noted that apart from the discussion papers provided by the Administration and EOC as well as submissions made by some of the deputations attending the meeting, the following submissions/papers had been issued –

- (a) submission made by Ms Anna WU [LC Paper No. CB(2)1128/04-05(01)];
- (b) submission made by Mr Patrick YU [LC Paper No. CB(2)1122/04-05(01)], including two private letters [LC Paper No. CB(2)1123/04-05(01) and (02)] the circulation of which was restricted to Members only;
- (c) submission made by ex-staff of EOC [LC Paper No. CB(2)1140/04-05(01)], which was tabled at the meeting and subsequently issued to Members under restricted cover; and
- (d) background brief prepared by the LegCo Secretariat.

Meeting with deputations

*Association for the Advancement of Feminism
[LC Paper No. CB(2)1178/04-05(01)]*

37. Miss CHOI Wing-sze presented the views of Association for the Advancement of Feminism (the Association) as detailed in its submission. She said that the Association considered that the Panel of Inquiry lacked independence since its members were appointed by the Secretary for Home Affairs (SHA) who was a target of investigation and the panel's secretariat support was also provided by staff of the Home Affairs Bureau (HAB). The Association found that another inadequacy of the panel was that it had no legal power to compel attendance of witnesses or the giving of evidence. The Association considered that the questionnaires used by the panel for obtaining evidence and information were biased and it was inadequate for the panel to conclude that the issue of the termination of the appointment of Mr Patrick YU

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as Director (Operations) of EOC was an “employment matter” simply based on the information provided by Mr Michael WONG. The Association considered that the whole inquiry process was like operating in a black box and the findings lacked credibility. The Association was of the view that as many important questions remained unanswered, LegCo should conduct an independent inquiry into the EOC controversy by appointing a select committee.

Women Coalition

[LC Paper No. CB(2)1182/04-05(01)]

38. Ms WU Mei-lin presented the views of Women Coalition as detailed in its submission. She said that Women Coalition shared the views of the Association and it would like to add that it was doubtful as to the completeness of evidence that the Panel of Inquiry had managed to obtain since it had no legal power to compel the giving of evidence and witnesses in giving evidence to the panel had not been granted legal immunity. Ms WU said that Women Coalition considered that in order to restore EOC’s credibility, it was necessary to enhance transparency in the system for the appointment of the EOC Chairperson, such as by opening the system up and accepting nominations made by human rights concern groups and non-governmental organizations (NGOs). Women Coalition further proposed that LegCo should conduct an independent inquiry into the EOC controversy by appointing a select committee.

Hong Kong Human Rights Monitor

39. Ms Cyd HO said that there had been a conflict of interests for SHA, being a target of investigation, to be the one to appoint members of the Panel of Inquiry and this had rendered the findings of the inquiry lacking in credibility. She further said that the inquiry process also lacked transparency since it had not conducted public hearings and the submissions made by witnesses had also not been made public. She pointed out that the basis on which the conclusions of the inquiry had been drawn was not clear and could not be examined by the public. She added that Hong Kong Human Rights Monitor supported the appointment of a select committee by LegCo to conduct an independent inquiry into the EOC controversy, especially details of the private gathering attended by SHA, Mr Michael WONG and other parties the night before Mr WONG’s resignation from the post of the EOC Chairperson, to see what role the Government had played in the EOC controversy.

40. Ms HO and Mr LAW Yuk-kai elaborated on the following suggestions of Hong Kong Human Rights Monitor –

- (a) the criteria for the appointment of the EOC Chairperson should be made public and confirmation of such appointments should be

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subject to the endorsement of LegCo;

- (b) a fund should be set up for EOC and funding allocations should be made in accordance with a set of pre-approved procedures in order to ensure that the Government could not affect EOC's operations by reducing allocation of resources for it;
- (c) the statutory powers and functions of EOC should be enhanced and it should be empowered to intervene in a case once the court order was issued;
- (d) meetings of EOC and relevant documents should be made public and the transparency of EOC's work should be enhanced as far as possible; and
- (e) the Government should be guided by the Paris Principles in making appointments to EOC to ensure its independence and representativeness.

Civil Human Rights Front
[LC Paper No. CB(2)1178/04-05(02)]

41. Mr CHONG Yiu-kwong presented the views of Civil Human Rights Front as detailed in its submission. He said that Civil Human Rights Front found that the report of the Panel of Inquiry had evaded a number of key issues including –

- (a) whether there had been any secret agenda in the appointment of Mr Michael WONG as the EOC Chairperson;
- (b) what were the grounds on which Mr WONG's application for continued receipt of double benefits after appointment as the EOC Chairperson had been approved;
- (c) why Mr WONG had resigned the day after his private meeting with SHA and other parties on the night of 5 November 2003; and
- (d) how to reconcile what Dr Raymond WU had told the press and this Panel at its meeting previously regarding his participation in drafting the "six allegations" and the conclusion drawn by the Panel of Inquiry that 'none of the five individuals who participated in the gatherings on 4 and 5 November 2003 had seen or read any document containing the "six allegations" before publication of the article'.

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Civil Human Rights Front considered that LegCo should appoint a select committee to conduct an independent inquiry into the EOC controversy.

Civil Rights for Sexual Diversities
[LC Paper No. CB(2)1182/04-05(03)]

42. Mr Roddy SHAW presented the views of Civil Rights for Sexual Diversities as detailed in its submission. Referring to the number of complaint cases lodged against EOC and its senior management by EOC's own staff over the years and a previous case alleging unauthorised divulgence of personal data by EOC, Mr SHAW said that Civil Rights for Sexual Diversities disagreed that the six allegations were "either unsubstantiated or exaggerated" as concluded by the Panel of Inquiry.

43. Mr SHAW pointed out that EOC's credibility had been affected by the controversy concerning it, as demonstrated by the significant decline in the caseload of EOC from 2003 to 2004. Civil Rights for Sexual Diversities called on LegCo to appoint a select committee to conduct an independent inquiry into the EOC controversy in order to restore EOC's credibility.

Hong Kong Human Rights Commission
[LC Paper No. CB(2)1129/04-05(01)]

44. Mr TSOI Yiu-cheong presented the views of Hong Kong Human Rights Commission as detailed in its joint submission with Society for Community Organization (SOCO). He said that to restore EOC's credibility, LegCo should conduct an independent inquiry into the EOC controversy and require the Government to strictly observe the six-year rule in making appointments of new EOC members.

45. Referring to the Administration's response to the recommendations of the Panel of Inquiry [Annex to LC Paper No. CB(2)1083/04-05(07)] where stated that EOC was not a national institution and the Paris Principles therefore did not strictly apply to EOC, Mr TSOI proposed extending the ambit of EOC to monitor the implementation of the provisions of all the human rights treaties applicable to Hong Kong or establishing an human rights institution that fully met the requirements of the Paris Principles. Mr TSOI added that there was also a need to enhance transparency of the appointment process of the EOC Chairperson and members. He said that Hong Kong Human Rights Commission suggested that the public should be allowed to nominate candidates for consideration and information on the background of such candidates should be made public. Moreover, LegCo should have the opportunity to meet with the selected candidate for the post of the EOC Chairperson and confirmation of his/her appointment should be subject to endorsement of LegCo.

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*Society for Community Organization
[LC Paper No. CB(2)1129/04-05(01)]*

46. Mr WONG Chi-yuen presented the views of SOCO as detailed in its joint submission with Hong Kong Human Rights Commission. He pointed out that there were various problems in the inquiry process of the Panel of Inquiry and urged LegCo to appoint a select committee to conduct an inquiry into the EOC controversy.

Discussion

47. Dr Fernando CHEUNG shared the view that the findings of the inquiry conducted by the Panel of Inquiry lacked credibility as there had been a conflict of interests arising from SHA being the one to appoint the members of the panel and appointing staff of HAB to serve the panel. He agreed with the deputations that the inquiry process lacked transparency, and it was not fair that the panel had denied Ms Anna WU's rights to inspect documents which pertained to her and to cross-examine witnesses. He considered that the panel was not independent and the inquiry had failed to fulfill the purpose of restoring the credibility of EOC. He proposed that this Panel should recommend to the House Committee (HC) the appointment of a select committee by LegCo to conduct an inquiry into the EOC controversy.

48. SHA made the following points in response to the comments of the deputations and Dr Fernando CHEUNG on the appointment of the Panel of Inquiry and its inquiry process –

- (a) On 9 January 2004, the Government informed this Panel that it had decided not to appoint a commission of inquiry to inquire into the EOC controversy. In response to HC's request on 13 February 2004 for the setting up of an independent panel of inquiry to look into the controversy concerning EOC, the Administration wrote to the HC Chairman on 19 February 2004 informing Members that SHA would appoint an independent panel of inquiry to inquire into the appointment and termination of employment of Mr Patrick Yu as Director (Operations) of EOC and related issues as well as incidents which had affected EOC's credibility and to make recommendations on measures to restore such credibility. At its meeting on 20 February 2004, HC supported the appointment of an independent panel of inquiry by SHA. In May 2004, SHA announced the appointment of the Panel of Inquiry.
- (b) HAB had only made arrangements to provide secretariat and administrative support to the panel. However, once the panel had been established, the panel (including its secretariat) had worked

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independently and the Government had not intervened into its work.

- (c) SHA had fully co-operated with the panel by providing relevant information and attending its interviews. It was most important that the inquiry had been carried out in an independent and impartial manner and that no differential treatment had been given to parties concerned during the inquiry process. Moreover, every party concerned had been given an opportunity to address and comment on any matters affecting them and to make suggestions to the panel.

49. The Deputy Chairman said that she supported the appointment of a select committee by LegCo to follow up the EOC controversy. Referring to the Administration's and EOC's papers provided for the meeting, the Deputy Chairman raised the following concerns –

- (a) how to reconcile EOC's view that "EOC should be guided by the Paris Principles in performing its functions to the fullest extent permitted by its enabling legislation" and the Administration's view that "the Paris Principles did not strictly apply to EOC"; and
- (b) when the Administration could come to a decision on recommendations no.11, no.15 to no.19, and no.23 made by the Panel of Inquiry regarding pluralism and the EOC Chairperson.

50. DSHA(1) responded that the Administration's position was that the Paris Principles related to the status and functioning of national institutions for the promotion and protection of human rights. Although Hong Kong was not a sovereign state, the Administration respected and honoured the Paris Principles. DSHA(1) pointed out that EOC conformed quite closely to the requirements of the Paris Principles in respect of independence, autonomy, pluralism, powers of investigation, etc. except that its mandate was still restricted to the scope of the three anti-discrimination ordinances and had not been extended to other human rights yet. He further said that other than EOC, the Ombudsman and the Office of the Privacy Commissioner for Personal Data were also statutory bodies formed to investigate and report on grievances relating to human rights protection. He pointed out that in Hong Kong, the institution that most nearly embodied the Paris Principles was EOC. He said that if the racial discrimination legislation was enacted, it was likely that EOC would be appointed as the implementation body for the new legislation. He added that the Administration had to carefully consider the suggestion of setting up a human rights institution that fully conformed to the Paris Principles in the light of future developments in human rights work.

51. As regards the concern in paragraph 49(b) above, DSHA(1) responded

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that the Administration had accepted a large majority of the recommendations made by the Panel of Inquiry. He explained that as for those the implementation of which would involve legislation, the Administration had to further consider the implications before taking a decision on them.

52. Ms Emily LAU pointed out that the depositions were of a unanimous view that the findings of the inquiry conducted by the Panel of Inquiry lacked credibility mainly because its members had been appointed by SHA who had been a target of investigation. She said that as Ms Anna WU had pointed out in her submission, the panel had failed to conduct its inquiry through due process or in a fair and transparent manner. She sought the views of SHA on the depositions' suggestion that LegCo should appoint a select committee to inquire into the EOC controversy in order to do justice to all parties concerned and restore EOC's credibility. She added that the United Nations Committee on Economic, Social and Cultural Rights was also highly concerned about whether the operations of EOC were free from Government intervention.

53. SHA responded that he hoped that the society could treasure the important work delivered by EOC which had been making very important contributions to the promotion and protection of human rights in Hong Kong. He considered that should the EOC controversy continue to be probed, the Commission's credibility, staff morale and operations would be further affected. He pointed out that the tenure of office of most of the current EOC members was due to expire in end of May 2005 and the Administration was going to make a new round of appointments then. He hoped that EOC could be given a chance to concentrate on its work and rebuild its credibility. He added that however, if LegCo decided to appoint a select committee to conduct its own inquiry, the Administration would render full cooperation and support to the inquiry work.

54. Referring to EOC's response to the recommendations of the Panel of Inquiry [Annex I to LC Paper No. CB(2)1083/04-05(08)], Mr Raymond TANG, Chairman of EOC, said that EOC had accepted almost all the recommendations relating to the operation of EOC made in the report of the Panel of Inquiry and some of the recommendations were being implemented already. He informed members that apart from these recommendations, there were recommendations for improvements made in two other reports of the internal reviews conducted by EOC. He said that taking all these together, there were a total of 139 recommendations, which had reflected that longstanding problems did exist in EOC and they needed to be addressed. He considered that the EOC controversy should come to an end with the release of the report of inquiry so that the staff of EOC could concentrate on their work. He also clarified that the decline in caseload as mentioned by some of the depositions was only due to changes in the approach of calculation of caseload. He explained that there were complainants who made multiple complaints arising from the same incident. Instead of counting the number of complaints, EOC had changed to

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calculate caseload on the basis of the number of complainants. He pointed out that throughout 2002 to 2004, the number of complaints received by EOC actually had remained more or less the same.

55. Ms Cyd HO of Hong Kong Human Rights Monitor commented that the inquiry process had been conducted behind closed door and there had been no monitoring of the inquiry process by the public. She considered that the report of the Panel of Inquiry could not help address queries of the public about what role the Government had played in the EOC controversy and whether there was Government intervention in EOC's operations. She requested Mr Raymond TANG to actively consider the suggestions made by the deputations with regard to enhancing the transparency of EOC's work. She also asked whether the files relating to the inquiry would be made public 30 years later in accordance with the established procedure.

56. In response to the Chairman, DSHA(1) said that all the files of the Panel of Inquiry had already been sealed and delivered to files registries of the Government. Release of these files would follow the established practice and procedure. He further said that the panel was bound by requirements under the Personal Data (Privacy) Ordinance in its disclosure of information. It was obliged not to disclose information received from parties concerned unless their consent to do so had been given. DSHA(1) said that the panel had managed to obtain information by a combination of written inquiries and interviews. He explained that as the nature of the panel was non-statutory, it could not compel parties concerned to respond to its inquiries or attend interviews. In response to Dr Fernando CHEUNG, DSHA(1) said that since every written submission might involve other parties concerned, it might not be possible for the Government to seek the consent of every party concerned to disclose the relevant submission.

57. Miss CHOY So-yuk opposed the appointment of a select committee by LegCo to inquire into the EOC controversy as she considered that LegCo had already conducted very detailed discussions on the relevant issues and most of the parties concerned had attended the relevant open meetings to provide information. Mr WONG Yung-kan considered that should the EOC controversy go on endlessly, the operations of EOC would be further adversely affected.

58. Referring to a submission made by "ex-staff of EOC" which was tabled at the meeting, Mr LEUNG Kwok-hung said that he had forwarded the submission to this Panel after he had met with the two complainants who claimed that they had been unfairly dismissed by EOC solely because they had expressed opinions different from their seniors'. Mr LEUNG said that the complainants had also pointed out that a substantial amount of the legal expenses of EOC had been spent on litigations between EOC and its ex-staff arising from employment matters. He also noted that there had been a lot of

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complaints lodged against EOC after its establishment. He considered that both SHA and EOC should respond to all these issues. He further invited members to note that the submission had raised a number of queries about internal problems of EOC. He requested EOC to respond to all of them.

59. SHA responded that that the Government only had responsibility in handling the following four EOC-related matters –

- (a) to recommend candidates for the post of EOC Chairperson for consideration by CE;
- (b) to recommend candidates for the posts of EOC members for consideration by CE;
- (c) to provide adequate funding for the EOC's operation; and
- (d) to consider EOC's advice relating to three anti-discrimination ordinances, including proposals for legislative amendments.

SHA added that as a statutory body, EOC had the full authority to handle matters of staff employment and dismissal independently.

60. Mr Raymond TANG said that EOC would respond to those queries listed out in the submission as far as possible. He said that however, EOC was not in a position to respond to some of the queries which were related to on-going litigation between EOC and its ex-staff.

61. In response to Mr LEUNG Kwok-hung's further enquiry about the pre-conditions for removal of an EOC Chairperson from office, SHA said that it was stated in the law that CE could declare the post of the EOC Chairperson vacant only on the following grounds as specified in the law –

- (a) the EOC Chairperson had been absent from three consecutive meetings of EOC without the permission of EOC;
- (b) he/she was incapacitated by physical or mental illness; or
- (c) he/she was otherwise unable or unfit to discharge the functions of a chairperson.

62. Referring to the submission under discussion, Mr Patrick LAU noted that a judge had once commented that EOC was "bureaucratic" as cited in the submission. Mr Raymond TANG responded that although he was relatively new to EOC, he had noted that there seemed to be little communication amongst staff and he had already initiated more internal meetings to enhance communication.

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63. Mr Albert HO said that the report of the Panel of Inquiry seemed trying to play down many fundamental problems and lacked in-depth analysis of the causes of the problems under investigation by the panel. He considered that it was necessary to find out the roots of problems pertaining to EOC in order for parties concerned to make improvements. He said that since the deputations were of a unanimous view that LegCo should appoint a select committee to conduct an inquiry, he considered that LegCo had a duty to conduct the inquiry.

64. After discussion, Dr Fernando CHEUNG moved the motion that the Panel should recommend to HC that LegCo should appoint a select committee with the following terms of reference –

“To inquire into the incidents which have affected the credibility of the Equal Opportunities Commission and related issues, to examine the accountability of the persons concerned in that regard and to make recommendations on the restoration of credibility of the Equal Opportunities Commission.”

The motion was seconded by Ms Emily LAU.

65. The Chairman put Dr CHEUNG’s motion to vote. Four members voted in favour of the motion and eight members voted against it. The Chairman declared that the motion was negatived.

66. There being no other business, the meeting ended at 12:25 pm.

[*Post-meeting note*: submissions received from the EOC Concern Group and a member of the public after this meeting were issued vide LC Paper Nos. CB(2) 1182/04-05(02) and (04) respectively on 8 April 2005. Revised submissions subsequently made by the EOC Concern Group and that member of the public were issued vide LC Paper Nos. CB(2)1182/04-05(02)(revised) and CB(2)1182/04-05(04)(revised) respectively on 3 May 2005.]