

**立法會**  
**Legislative Council**

LC Paper No. CB(2)577/05-06  
(These minutes have been  
seen by the Administration)

Ref : CB2/PL/HA

**Panel on Home Affairs**

**Minutes of meeting**  
**held on Tuesday, 8 November 2005 at 10:45 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 Margaret NG  
Hon James TO Kun-sun  
Hon Emily LAU Wai-hing, JP  
Hon Andrew CHENG Kar-foo  
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
- Member attending** : Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon CHOY So-yuk, JP  
Hon Timothy FOK Tsun-ting, GBS, JP
- Public Officers attending** : Items IV and V  
  
Mr Stephen FISHER  
Acting Permanent Secretary for Home Affairs

Miss Amy YEUNG  
Acting Principal Assistant Secretary for Home Affairs (4)

Item IV only

Mr Stephen WONG  
Deputy Solicitor-General, Department of Justice

Mr Godfrey KAN  
Senior Government Counsel, Department of Justice

**Attendance by  
invitation** : Item VI

Office of the Privacy Commissioner for Personal Data

Mr Roderick B WOO  
Privacy Commissioner for Personal Data

Ms Brenda KWOK  
Chief Legal Counsel

Mr Christopher ROBERTS  
Policy Adviser

Mr K T CHAN  
Chief Personal Data Officer

Mr Joseph YOUNG  
Administration & Finance Manager

Ms Shirley LUNG  
Corporate Communications Manager

**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)211/05-06]

The minutes of the meeting held on 13 October 2005 were confirmed.

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

[LC Paper Nos. CB(2)77/05-06(01) and CB(2)83/05-06(01)]

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

- (a) extract from the minutes of the Legislative Council (LegCo) Members' meeting with Sham Shui Po District Council members on 9 June 2005 concerning discussion on illegal shop extensions on Government land; and
- (b) supplementary information from the Lands Department on implementing district/rural minor works projects through land acquisition procedure.

**III. Items for discussion at the next meeting**

[Appendices I and II to LC Paper No. CB(2)269/05-06]

Regular meeting in December 2005

3. Members agreed to discuss the following items at the next regular meeting to be held on Friday, 9 December 2005 at 10:45 am –

- (a) funding proposal on hosting the 2009 East Asian Games; and
- (b) proposed guidelines for conducting duty visits outside Hong Kong issued to the Equal Opportunities Commission (EOC) and the Office of the Privacy Commissioner for Personal Data (PCO).

Regular meeting in January 2006

4. Members agreed to discuss the implementation of the recommendations made in the Report of the Independent Panel of Inquiry on the Incidents Relating to EOC and the recommendations made in two other reports of the internal reviews conducted by EOC at the regular meeting on 13 January 2006. At the suggestion of the Deputy Chairman, members agreed that venue should be reserved for the meeting to start at 9:30 am, if necessary.

Clerk

Regular meeting in March 2006

5. At the suggestion of Ms Emily LAU, members agreed that the Panel should discuss the second report of HKSAR under the International Covenant on Civil and Political Rights (ICCPR) and to receive views from deputations on the report, before it was to be heard by the United Nations (UN) Committee on 20 and 21 March 2006.

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Items proposed by Miss CHOY So-yuk for discussion

6. Members noted that Miss CHOY So-yuk had proposed the following items for discussion by the Panel at a future meeting –

- (a) restriction imposed on the staff of the Home Affairs Department and District Council Secretariats from collecting fees for district activities; and
- (b) review of the coordinating role of District Officers at district level.

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7. At the suggestion of Ms Emily LAU, members agreed that the Administration should first provide information papers on these two issues to facilitate members' consideration of whether or not to include the issues in the list of outstanding items for discussion.

**IV. Hearing of the United Nations Committee on the Rights of the Child on the report of the Hong Kong Special Administrative Region under the Convention on the Rights of the Child and the concluding observations adopted by the Committee on the report**

[LC Paper Nos. CB(2)2706/04-05(01), CB(2)269/05-06(01) to (03), CB(2)312/05-06(01) and Report of the Hong Kong Special Administrative Region under the Convention on the Rights of the Child]

8. Acting Permanent Secretary for Home Affairs (PSHA(Atg)) invited members to note that the major comments raised by the United Nations Committee on the Rights of the Child (UNCRC) at the hearing on the Report of the Hong Kong Special Administrative Region (HKSAR) under the Convention on the Rights of the Child (CRC), as well as the HKSAR team's response during the hearing, were summarised in paragraph 3 of the Administration's paper. PSHA(Atg) informed members that the arrangements for the hearing had been different this time in that there had been no separate time session given to HKSAR or the Macau Special Administrative Region.

9. Ms Emily LAU criticised the Administration's paper for failing to cover many concerns raised by UNCRC regarding the situation of children in HKSAR, which were set out in much greater detail in the Concluding Observations issued by UNCRC. She pointed out that UNCRC had raised, among others, the following concerns and recommendations in the Concluding Observations –

- (a) HKSAR should establish a human rights institution, which could be a specialised branch of the Office of The Ombudsman, for

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monitoring of children's rights and implementation of CRC (paragraph 17 of the Concluding Observations);

- (b) concern about the reduction in resources for social welfare and insufficient resources allocated for reducing poverty (paragraph 19 of the Concluding Observations);
- (c) HKSAR should ensure that its budgetary allocations to service areas, such as health and education for children, should keep pace with increases in Government revenue and were effectively reaching the most vulnerable groups (paragraph 21 of the Concluding Observations);
- (d) discrimination against refugee, asylum-seeking and undocumented migrant children in HKSAR (paragraph 31 of the Concluding Observations);
- (e) HKSAR should ensure active participation of children's organisations when developing policies and programmes affecting them and consider establishing a standing body to represent children's views in the political process (paragraph 41 of the Concluding Observations);
- (f) continued practice of corporal punishment within the family (paragraph 47 of the Concluding Observations);
- (g) separation of children from their parents caused by regulations regarding the right of abode (paragraph 50 of the Concluding Observations);
- (h) HKSAR should extend the application of the 1993 Hague Convention No. 33 to HKSAR as soon as possible (paragraph 53 of the Concluding Observations);
- (i) effectiveness of policies and programmes to assist child victims of violence (paragraph 55 of the Concluding Observations);
- (j) HKSAR should continue to strengthen its efforts to prevent youth suicide as well as expand preventive and therapeutic mental health service for adolescents and develop programmes to decrease tobacco smoking, alcohol consumption and drug abuse among adolescents (paragraphs 66–67 of the Concluding Observations); and
- (k) child poverty and the lack of an established poverty line (paragraph 72 of the Concluding Observations).

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Ms LAU urged the Home Affairs Bureau (HAB) to coordinate with policy bureaux concerned and work out a detailed response to the above concerns and recommendations.

10. PSHA(Atg) responded that paragraph 3 of the Administration's paper was a summary of the Administration's response to major comments raised by UNCRC members during the hearing. He pointed out that under the UN human rights reporting mechanism, HKSAR was only required to respond, in its next report, to the recommendations and concerns raised by UNCRC in its Concluding Observations. He also pointed out that the rights of children, particularly their economic, social and cultural rights, had to be implemented progressively. He added that in order to address members' concern, the Administration could provide an interim report on how it would address the concerns and recommendations raised by UNCRC to this Panel first.

11. Mr Albert HO said that HKSAR had both legal and moral obligations to implement CRC and the international community also expected HKSAR to immediately implement certain important recommendations made by UNCRC. He shared Ms LAU's view that the Administration's paper was too brief as it had only covered four major concerns raised by UNCRC. He said that he had intended to raise questions on child poverty but was disappointed that there were no representatives from relevant policy bureaux. He asked whether the Administration had a plan to take forward the recommendations made in several reports issued by the Law Reform Commission (LRC) some years ago, namely, the Report on Custody and Access, the Report on Guardianship of Children and the Report on International Parental Child Abduction.

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12. Deputy Solicitor-General responded that the relevant bureau would provide a response in the interim report as regards their progress in studying the LRC reports.

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13. In response to the Chairman, PSHA(Atg) said that the Administration could provide the interim report setting out the Administration's consolidated response to each concern and recommendation raised by UNCRC in respect of HKSAR by February 2006. At the suggestion of Ms Emily LAU, the Panel agreed that it should discuss the interim report at the regular meeting on 10 February 2006 with the attendance of representatives of all policy bureaux concerned. Moreover, members of related Panels would be invited to attend the meeting to join the discussion.

Clerk

14. Ms Margaret NG, Chairman of the Panel on Administration of Justice and Legal Services (AJLS Panel), requested the Clerk to refer the issues set out in paragraph 94 of the Concluding Observations, which were related to legal policy matters, to the AJLS Panel as soon as possible for consideration. PSHA(Atg) said that the Administration would also include its response to these issues in the interim report.

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Members 15. The Chairman suggested that members could raise their specific concerns regarding the Concluding Observations to the Administration before the February meeting to facilitate its preparation of a detailed response. Ms Emily LAU requested the Administration to include its response to the Admin submission made by the Society for Community Organisation [LC Paper No. CB(2)312/05-06(01)] in the interim report.

**V. Establishment of a Children's Rights Forum**  
[LC Paper No. CB(2)269/05-06(04)]

The Administration's proposals

16. PSHA(Atg) informed members that HAB had decided to establish a Children's Rights Forum (the Forum) for the Administration to discuss matters concerning children's rights with non-governmental organisations (NGOs) and children's representatives, pending a decision to be made on whether a Commission on Children should be set up. PSHA(Atg) said that HAB had invited representatives from major organisations which focused on children's rights, as well as children representatives from the Children's Council and the Junior Chief Executives, to participate in the Forum, which would meet on a quarterly basis.

17. PSHA(Atg) informed members that HAB had also launched a Children's Rights Education Funding Scheme on a pilot basis under the Forum to provide funding to community organisations for organising public education projects to promote children's rights. He added that HAB had allocated \$500,000 to this funding scheme in the 2006-07 financial year.

The Children's Rights Forum

18. The Deputy Chairman asked about the mode of operation of the Forum. PSHA(Atg) responded that the Forum would hold open meetings and would upload its agendas and papers onto the Forum's website as far as possible. He added that members of the public and the media were welcome to attend its meetings, and the first one would be held on 30 November 2005. Ms Emily LAU expressed interest in attending the Forum and requested HAB to provide her with the relevant information papers prior to the Forum's meetings.

19. Ms Emily LAU asked whether HAB had consulted NGOs and organisations concerned before deciding to establish the Forum. PSHA(Atg) replied in the affirmative and confirmed that the NGOs and organisations consulted, though not entirely satisfied, had accepted the setting up of the Forum as an interim measure to provide a forum for the Administration to discuss matters concerning children's rights with parties concerned.

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20. Dr Fernando CHEUNG asked whether the views expressed by NGOs' or children's representatives would be conveyed to the policy bureaux concerned. PSHA(Atg) responded that representatives from the relevant policy bureaux would be invited to attend meetings at which issues which fell within the purview of their bureaux would be discussed. The secretariat to service the Forum would then follow up the progress of the issues discussed with those representatives and report back to the Forum. The representatives from the relevant policy bureaux could also be invited again to attend the Forum as and when required.

Children's Rights Education Funding Scheme

21. Referring to paragraph 9 of the Administration's paper, Mr WONG Ting-kwong expressed concern whether it took too long from the receipt of applications to the disbursement of funding. He further pointed out that while it took about four months for the processing and assessment of applications, successful organisations were allowed about only one month to start their projects after the disbursement of funding.

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22. PSHA(Atg) explained that the proposed annual processing schedule actually modelled on those of other existing Funding Schemes, such as the Equal Opportunities (Race) Funding Scheme. PSHA(Atg) said that the Administration could review the proposed schedule to see if it was possible to reduce the processing time, but the leeway was limited which would be about three weeks at most. Mr WONG Ting-kwong suggested that HAB should conduct the same review for the processing schedules of existing Funding Schemes under other Forums.

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Suggestion of setting up a Commission on Children

23. In response to the Deputy Chairman's enquiry about the way forward, PSHA(Atg) said that in the long term, the Administration was considering whether the Commission on Youth (COY) should be changed into a Commission on Children and Youth, or whether a Commission on Children, modelled on the Women's Commission and COY, should be set up.

24. Ms Emily LAU pointed out that the independent monitoring mechanism for children's rights as proposed by UNCRC was one which should be given the power and responsibility of examining policies, funding allocations and legislation to assess their impact on the well-being of children. She considered that setting up a Commission on Children modelled on COY would not serve such a purpose.

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25. PSHA(Atg) responded that actually organisations which focused on children's rights held different views on this matter. He said that some of them had been calling for the Administration to set up a Children's Council with powers and functions to be provided for by statute, while others had been calling for the appointment of a Commissioner for Children or setting up of a dedicated policy bureau on children's issues. PSHA(Atg) explained that all of these options, however, would involve significant institutional changes, and the Administration was of the view that the circumstances were not yet ready for adoption of any one of them.

26. Dr Fernando CHEUNG considered that the setting up of the Forum fell far short of the expectations of NGOs and organisations concerned, and he did not see any practical functions it could serve. He said that at present, certain policies were adversely affecting the well-being of children and no improvement could be made if there was not a high-powered central body, or a Commissioner for Children, to take the matters up with the Policy Secretaries concerned to make the necessary improvements. He urged the Administration to provide a timetable for its review of the need for setting up a Commission on Children.

27. PSHA(Atg) reiterated that it would involve significant institutional changes should the Government decide to set up a high-powered central body, such as a dedicated policy bureau on children's issues, as such issues straddled a wide range of policy portfolios. As to the suggestion of creation of a Commissioner for Children pitched at a senior rank, PSHA(Atg) said that the Administration needed to further consider it taking into account the resources implications and the cost-effectiveness.

28. Dr Fernando CHEUNG considered that the setting up of an independent monitoring mechanism for children's rights did not mean that the Administration had to transfer the existing powers and responsibilities of various Policies Secretaries to the new independent mechanism and EOC was, in fact, an example of such a mechanism. He said that what he was asking for was the establishment of a human rights institution that fully met the requirements of the Paris Principles to promote and uphold children's rights, as proposed by UNCRC.

29. PSHA(Atg) reiterated that the Administration was considering changing COY into a Commission on Children and Youth since there was some overlap in the defined ages of the adolescent and of the child, or setting up a Commission on Children. He added that the Administration, however, noted that some NGOs as well as Ms Emily LAU did not accept these as what they wanted was a high-powered central body or a Commissioner for Children or, at least, a senior Government official who should be attached to the Office of the Chief Executive to promote children's interests.

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30. Mr Albert HO expressed strong objection that changing COY into a Commission on Children and Youth was the way out because he considered that there was fundamental difference in the nature of children's and adolescents' needs. Ms Audrey EU shared Mr HO's view. They pointed out that children needed much more care than adolescents and lacked the ability to form and express their own views on matters affecting them. They welcomed the establishment of the Forum but stressed that the Forum could not be a substitute of a Commission on Children.

31. Mr Albert HO pointed out that the independent monitoring mechanism for children's rights proposed by UNCRC was not necessarily one with executive powers. He said that it should be a central body to monitor the implementation of CRC and ensure that the Government policies were consistent with provisions of the Convention. He further said that since the Government had established the Commission for the Elderly and the Women's Commission, he did not see why a Commission on Children, with one of its responsibilities to be following up recommendations put forward by the Forum, could not be established. PSHA(Atg) responded that the Administration would take into consideration comments made by members.

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Coordinating role of HAB in human rights issues

32. Ms Emily LAU said that the Education and Manpower Bureau had recently allocated funding to conduct education campaigns on human rights, but controversy had arisen in the choice of the organizations receiving sponsorship. She considered that in future, any policy bureaux which intended to undertake activities in relation to human rights should first seek the advice of HAB since the Bureau assumed the coordinating role on human rights matters within the Government.

33. PSHA(Atg) responded that HAB would be happy to provide advice to any bureaux on matters relating to the implementation of the UN human rights treaties applicable to Hong Kong and the interpretations of their requirements. PSHA(Atg) pointed out that policy initiatives in such areas like education, welfare, health and so on, however, remained under the portfolios of the relevant bureaux and HAB was not responsible for coordinating their implementation.

**VI. Work plan of the Privacy Commissioner for Personal Data**  
[LC Paper No. CB(2)269/05-06(05)]

Briefing by the Privacy Commissioner for Personal Data

34. The Privacy Commissioner for Personal Data (the Privacy Commissioner) briefed members on the work plan for PCO for the 2006

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calendar year, which would seek to provide continuity to operations during a period of transitional leadership from the former Privacy Commissioner to him. The Privacy Commissioner pointed out that in the current year, PCO's ability to move beyond servicing its statutory obligations and commitments had been hampered by resource constraints, primarily related to funding and manpower as detailed in paragraph 5.2 of PCO's paper. The Privacy Commissioner pointed out that complaint cases lodged with PCO had increased steadily from 789 in the year ending March 2001 to 953 in the year ending March 2005. In the first six months of 2005-06, PCO had received 535 complaint cases, and the number of public enquiries also remained at a high level.

35. The Privacy Commissioner said that PCO would continue to promote the message of privacy compliance in the business sector and to enhance public understanding of personal data privacy through educational programmes. He informed members that PCO intended to publish comprehensive case notes of complaint cases that had reporting values, so that data subjects and data users alike might have a better understanding of the requirements of the Personal Data (Privacy) Ordinance (the Ordinance). The Privacy Commissioner added that in 2006, PCO would also conduct a review of the benefits derived from its continued participation in the work of the APEC Electronic Commerce Steering Group - Data Privacy Subgroup and the Privacy Agencies of New Zealand and Australia.

Resource constraint

36. Ms Emily LAU said that the problem of resource constraint applied to all Government Departments. She considered that HAB should, nevertheless, provide sufficient resources to PCO to ensure the smooth implementation of the Ordinance. Ms LAU welcomed PCO's plan to publish comprehensive case notes of complaint cases that had reporting values. In this connection, she considered that the case of Yahoo! Hong Kong's disclosure of an e-mail subscriber's personal particulars had significant reporting values as demonstrated in the wide international attention it had drawn. Ms LAU said that the Panel on Information Technology and Broadcasting (ITB Panel) had held a special meeting on 1 November 2005 to discuss the protection of personal information of e-mail account subscribers and questions had been raised regarding PCO's interpretation of the definition of personal data under the Ordinance. Ms LAU considered that should PCO be able to take this case to prove to the public the protection rendered to Hong Kong people's personal data privacy under the Ordinance, it would surely attract wide publicity and this would be conducive to enhancing public understanding of personal data privacy.

37. Ms Emily LAU further said that since the Privacy Commissioner probably would have to further discuss the definition of personal data with LegCo Members, this Panel should consider whether the subject should

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continue to be followed up by the ITB Panel, or holding a joint meeting with the ITB Panel for discussion of the subject. The Privacy Commissioner informed members that at the request of the ITB Panel, PCO had undertaken to conduct a review on the interpretation of the meaning of personal data as applied to Yahoo case. He said that the review was underway and PCO would submit a paper to the ITB Panel as soon as possible to address questions raised regarding the definition of personal data.

38. Referring to paragraph 5.2.2 of the PCO's paper, Ms Emily LAU expressed concern about the departure of four officers (including two senior officers) from PCO within the last four months and its impact on the operation of PCO. She asked about the reasons of the staff's departure and the number of the remaining senior officers in PCO.

39. The Privacy Commissioner said that the negative media reports concerning PCO months ago had led to non-renewal of the employment contract with the Deputy Privacy Commissioner, one of the two senior officers who had left PCO. He said that the other senior officer had left because he had been recruited by another organisation and it was the staff's personal decision to resign, but he believed that the decision also had to do with the recent scandals relating to PCO, which had affected the staff morale. The Privacy Commissioner said that he would try to fill up these two senior posts as soon as possible, whereas the other two vacancies should not create great problems to PCO. He added that he would ensure that the staff turnover of PCO would not affect service continuity.

40. Ms Emily LAU further asked whether HAB had provided any support or assistance to PCO in coping with the recent scandals and staff turnover. The Privacy Commissioner responded that HAB's responsibilities to PCO were only to provide funding for it and to monitor its spending of money.

41. Mr Albert HO requested the Privacy Commissioner to explain what measures were taken by PCO to cope with the continued reduction in resources to strike a balance in its budget. Mr HO also expressed concern as to whether PCO needed to scrap any services or suspend any new services due to resource constraints.

42. The Privacy Commissioner said that PCO would maintain the same level of services and there was no plan to streamline its manpower. He informed members that PCO had managed to achieve savings for the year by removing its offices from the Convention Centre to 248 Queens Road East after the current tenancy expired in March 2006, as the rental per square foot for the new office premises would be much cheaper than the existing office premises. He added that the reprovisioning cost would be met by PCO.

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Administration and finance of PCO

43. The Deputy Chairman also said that the problem of resource constraint applied to all Government Departments given the budgetary deficit of the Government. She considered that PCO should sustain its efforts in enhancing the efficiency and cost-effectiveness of its work. She also asked whether PCO had conducted an internal review of its procedures for approving overseas duty visits following the recent scandals in this respect.

44. The Privacy Commissioner responded that there was well-established mechanism governing the finances of PCO, which had to submit reports on its use of funding to HAB on a regular basis. As regards the media reports on the former Deputy Privacy Commissioner concerning his conduct of overseas duty visits, the Privacy Commissioner said that he did not want to comment as the incident was still under investigation. He added that the mechanism in place in PCO for approving overseas duty visits was basically sound, but he had still reviewed and strengthened the procedures after he had taken office.

45. Administration & Finance Manager (A&FM) of PCO supplemented that under the revised policy for conducting overseas duty visits, officers who could arrange their own accommodation, such as by staying at their relatives' homes during their visits, could not apply for the accommodation allowance. In addition, officers would have to declare the bonus points accumulated on the air tickets purchased for their duty visits and such information would be recorded by PCO. A&FM said that before these bonus points expired, they would be made use of to exchange for air tickets required for future duty visits conducted by the same PCO officer. The Privacy Commissioner added that PCO had made reference to the Government rules in fine-tuning the procedures, which were now made even more stringent than the Government rules.

46. Ms Emily LAU said that she noted that HAB had recently proposed to EOC and PCO that, in future, the approval of the Secretary for Home Affairs would have to be sought before these two organisations were to embark on any overseas duty visits. She asked the Privacy Commissioner whether any decisions had been reached on the matter.

47. The Privacy Commissioner responded that while he agreed that it was justifiable for the Government to be concerned about the use of public funds, he would not accept it if the Government proposed any measures which would adversely affect the autonomy of PCO. He added that PCO was still in the course of discussing the matter with HAB.

Complaint handling

48. Referring to paragraph 6.2 of PCO's paper, the Deputy Chairman asked how many of the 535 complaint cases received within the first six months of

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2005-06 had completed investigation. Chief Personal Data Officer (CPDO) of PCO said that as at September 2005, PCO had finished handling 537 out of a total of 730 complaint cases which comprised the 535 received cases and 195 brought forward cases, and was in the course of handling the remaining 193 complaint cases.

PCO

49. Referring to the same paragraph, Mr Patrick LAU requested the Privacy Commissioner to elaborate on the PCO's plan to take a more robust approach towards offenders of the direct marketing provisions of the Ordinance by prosecuting repeat offenders, or in cases of a serious nature. CPDO said that in the current financial year, PCO had referred a total of three complaint cases relating to direct marketing to the Police for investigation and prosecution. The Police, after consulting the Department of Justice, had decided not to take prosecution in one of the cases. He further said that the Police was looking into the other two cases and had decided to institute prosecution in one of the cases. At the request of the Chairman, CPDO agreed to provide the total number of complaint cases relating to direct marketing in the current year to this Panel later.

*[Post-meeting note : PCO subsequently submitted that the total number of such complaint cases received during the period from April 2005 to September 2005 was 46.]*

50. Mr Patrick LAU considered that PCO should strengthen publicity on those data protection principles which were applicable in relation to direct marketing activities as there was growing public concern about the nuisance caused by such activities. CPDO explained that while it was not unlawful for people to conduct promotional activities for their products by making calls, these people had to do so by observing the relevant requirements of the Ordinance. CPDO further briefed members on those requirements and pointed out that, if people who conducted direct marketing activities failed to observe the relevant requirements, data subjects could complain to PCO which would conduct investigation. The Privacy Commissioner added that PCO also intended to publicise the rights of data subjects under the Ordinance and it would discuss with organisations, such as the Consumers' Council, to work out ways to tackle the problem.

51. Mr Albert HO suggested that PCO should not restrict its role only to handling complaints but should also take measures to enhance the understanding of the public of the requirements of the Ordinance, and an example of the frequently asked questions was whether it was regarded as an infringement of privacy in case the watchman of a building asked a visitor to produce his Hong Kong Identity Card. He also asked whether any assistance would be provided by PCO in case a person was rejected by the Police to access information in the custody of the Police, such as details of investigation involving that person and others, on the ground of protection of privacy of the

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other parties concerned. Mr HO considered that in such a case, PCO, when approached for assistance, should examine whether the data subject had reasonable grounds in applying for access to the relevant information and, where circumstances warranted, PCO should explain the requirements of the Ordinance to the Department concerned and request it to release the requisite information to the data subject.

52. The Privacy Commissioner responded that PCO had all along been playing the role of a mediator in handling cases of suspected breach of the Ordinance by taking active measures to resolve the disputes involved. He pointed out that actually many such cases had arisen from misunderstanding of the provisions of the Ordinance. He added that PCO had also issued codes of practice and pamphlets which were aimed at enhancing the understanding of the public about the work of PCO and the requirements under the Ordinance.

53. There being no other business, the meeting ended at 12:50 pm.

Council Business Division 2  
Legislative Council Secretariat  
7 December 2005