

立法會

Legislative Council

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Finance Committee of the Legislative Council

**Minutes of the 13th meeting
held at the Legislative Council Chamber
on Tuesday, 12 June 2007, at 8:30 am**

Members present:

Hon Emily LAU Wai-hing, JP (Chairman)
Hon CHAN Kam-lam, SBS, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon CHOY So-yuk, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP

Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Dr Hon Joseph LEE Kok-long, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon TAM Heung-man

Members absent:

Hon Albert HO Chun-yan
Hon Fred LI Wah-ming, JP
Hon LAU Chin-shek, JP
Hon Albert CHAN Wai-yip
Hon MA Lik, GBS, JP
Hon CHIM Pui-chung
Hon Albert Jinghan CHENG

Public officers attending:

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| Mr Alan LAI Nin, GBS, JP | Permanent Secretary for Financial Services and the Treasury (Treasury) |
| Miss Amy TSE, JP | Deputy Secretary for Financial Services and the Treasury (Treasury) 1 |
| Mr Alfred FOK | Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch) |
| Mr Stephen LAM, JP | Secretary for Constitutional Affairs |
| Miss Denise YUE, GBS, JP | Secretary for the Civil Service |
| Mrs Cherry TSE, JP | Permanent Secretary for Constitutional Affairs |

Miss Jennifer MAK, JP
Ms CHANG King-yiu, JP

Deputy Secretary for the Civil Service
Permanent Secretary, Chief Executive's
Office
Principal Assistant Secretary for
Constitutional Affairs

Mr Gary POON

Clerk in attendance:

Ms Pauline NG

Assistant Secretary General 1

Staff in attendance:

Miss Becky YU
Mrs Mary TANG
Ms Alice CHEUNG
Mr Frankie WOO

Chief Council Secretary (1)1
Senior Council Secretary (1)2
Senior Legislative Assistant (1)1
Legislative Assistant (1)2

Action

The Chairman said that the current meeting was originally scheduled for 8 June 2007 but had to be deferred to give way to the extended Council meeting. Any unfinished business would be carried over to the next meeting scheduled to be held at 12:45 pm on the same day.

Item No. 1 - FCR(2007-08)15

**RECOMMENDATIONS OF THE ESTABLISHMENT SUBCOMMITTEE MADE
ON 22 MAY 2007**

2. The Chairman put FCR(2007-08)15 except EC(2007-08)2 to the vote. The Committee approved the proposal.

**EC(2007-08)2 Proposed re-organisation of policy bureaux with effect from
1 July 2007**

3. Mr TAM Yiu-chung said that Members of the Democratic Alliance for Betterment and Progress of Hong Kong were supportive of the proposed re-organization which would facilitate more effective operation of the Government to meet public aspirations.

4. In response to the Chairman's enquiry about the arrangements for the appointment of Principal Officials, the Secretary for Constitutional Affairs (SCA) said that following the passage of the Resolution to give effect to the transfer of statutory functions and the Central Government's appointments of Principal Officials, the Chief Executive (CE) would make the announcement.

Home Affairs Bureau (HAB)

5. Ms Margaret NG said that she had stated her position at the meeting of the Establishment Subcommittee on 22 May 2007 that the proposed transfer of the legal aid portfolio from the Administration Wing of the Chief Secretary for the Administration's Office to HAB was inappropriate. When the subject was discussed at the meeting of the Panel on Administration of Justice and Legal Services (AJLS Panel) on 28 May 2007, the Hong Kong Bar Association, the Law Society of Hong Kong as well as Hong Kong Human Rights Monitor had also provided submissions stating their position on the proposed transfer. Given the concern that the proposed transfer would undermine the independence of the Legal Aid Department (LAD), she questioned why the proposal had not undergone any public consultation. She said that Members of the Civic Party would object to the proposal. SCA assured members that the proposed transfer would not affect the operation of LAD or its delivery of legal aid services in accordance with the relevant legislation.

6. Ms Miriam LAU recalled that when the proposed transfer of the legal aid portfolio from the Administration Wing to HAB was discussed at the meetings of the AJLS Panel, divergent views were expressed by the legal profession. The Law Society of Hong Kong was neutral about the proposed transfer but supported that regular reviews should be conducted to ensure independence in the provision of legal aid. This was confirmed in its supplementary position paper submitted to the Panel. The Legal Aid Services Council (LASC) held a similar position and was not opposed to the proposed transfer. Members of the Liberal Party also supported that there should be independence in the provision of legal aid, and that regular reviews be conducted.

7. Ms Margaret NG said that while not all members of the legal profession were opposed to the proposed transfer, none of them had indicated support for it. The Hong Kong Bar Association was strongly opposed to the proposed transfer and had issued a second position paper reiterating its objection. Following the announcement of the proposed re-organization, the Administration held a meeting with LASC to discuss the proposed transfer of the legal aid portfolio from the Administration Wing to HAB. Although no strong objections were raised at the meeting, concerns had been raised on the impact of the proposed transfer on the independence of the provision of legal aid. LASC had requested for a review of the independence of LAD, but this had not been accepted by the Administration. She sought the Administration's views on the matter. SCA said that the proposed transfer was a part of the proposed re-organization plan and he hoped that it would have the support of members. He reiterated that the proposed transfer would not affect LAD's discharge of its statutory duties and its operation.

8. Mr LEUNG Yiu-chung asked if there were any problems that had necessitated the transfer of the legal aid portfolio from the Administration Wing to HAB. He enquired about the pros and cons of the current and proposed arrangement as he remained to be convinced about the need for the proposed transfer. SCA said that it was not that there were any inadequacies in the current arrangement, but that since legal aid involved the provision of services to the community, the Government

considered it more appropriate to place the said portfolio under HAB. In any case, there would not be any change in the provision of legal aid which was governed by legislation.

9. Mr CHEUNG Man-kwong said that while Members of Democratic Party (DP) supported the proposed re-organization of policy bureaux, they also had reservation on the proposed transfer which might undermine the independence of LAD. They considered it necessary that a comprehensive review should be made on the role of LAD before deciding on the transfer. SCA said that the transfer of legal aid portfolio to HAB was appropriate and this would facilitate the tapping of community feedback on legal aid services through HAB's social network.

10. Dr YEUNG Sum said that DP Members did not want to procrastinate over the proposed re-organization of policy bureaux, but were dissatisfied that the Administration had, in the absence of any public consultation, proposed to transfer the legal aid portfolio from the Administration Wing to HAB. As there were principles which had to be adhered to in order to ensure the independence of LAD, they had requested a meeting with the Chief Secretary for the Administration (CS) on the subject. Despite that CS had agreed to review the independence of LAD, and that LAD issued a statement on 4 June 2007 confirming that the review would be performed within the year, DP Members maintained the view that the legal aid portfolio should be retained within the Administration Wing pending the review. SCA said that the public could rest assured that there would be no changes in the operation of LAD following the proposed transfer. He hoped that members would support the proposed re-organization of policy bureaux in its entirety. Dr YEUNG said that DP Members would vote against the proposed re-organization in view of the Administration's persistence in the proposed transfer of legal aid portfolio to HAB regardless of the objections from members and the legal profession.

11. While supporting the proposed re-organization, Mr Frederick FUNG shared members' views on the need to ensure independence in the provision of legal aid, which should not be placed under the purview of HAB or any other bureau/department. He added that the Hong Kong Association of Democracy and People's Livelihood was supportive of the Accountability System which was similar to the ministerial system which it advocated. He was pleased that the Administration had taken on board the Association's views on the establishment of the Environment Bureau and a more dedicated bureau to take charge of welfare services. SCA assured members that the Principal Officials under the Accountability System would continue to be accountable to the CE as well as to the community at large. In relation to Members' remarks on the LASC's request, he added that the Administration noted LASC's views and its request for a review on the status of the legal aid services, but a decision had yet to be reached.

12. Miss TAM Heung-man said that Members of the Civic Party were opposed to the proposed transfer of the legal aid portfolio from the Administration Wing to HAB as this might undermine the independence of LAD.

Labour and Welfare Bureau (LWB)

13. Dr Fernando CHEUNG pointed out that the proposed placing of labour and welfare portfolios under the new LWB would not only involve internal changes but also external changes because some 90% of welfare services were outsourced. While the welfare sector was generally supportive of the proposed re-organization which would relieve the heavy burden of the Health, Welfare and Food Bureau, it held the view that there should be adequate consultation as the proposal would lead to fundamental changes in terms of provision of services and funding allocations. SCA said that with the establishment of the new LWB, the policy interface between the labour and the welfare portfolios would be enhanced, and it was hoped that the public could benefit from improved welfare and labour services.

14. Miss CHAN Yuen-han supported the proposed re-organization which placed the inter-related policy portfolios of labour and welfare under LWB. She was however concerned about the wide scope of responsibilities of the Secretary for Labour and Welfare (SLW) who would have to take charge of both labour and welfare portfolios. The Secretary for the Civil Service (SCS) said that with the proposed re-organization, SLW would be able to give more focused attention to labour and welfare issues whereas previously, the labour portfolio together with a number of policy areas related to economic development were placed under the portfolio of the Secretary for Economic Development and Labour while welfare issues were only one of the three main policy areas under the Secretary for Health, Welfare and Food. The establishment of the new LWB and the reinstatement of the Commissioner for Labour (C for L) post, at the D6 level, demonstrated that additional resources would be allocated to labour and welfare issues.

15. While supporting in principle the need to re-organize policy bureaux with a view to rationalizing and re-distributing their work, Mr WONG Kwok-hing said that he had reservation about the proposed reinstatement of C for L post at D6 level, whose duties were currently performed by the Permanent Secretary for Labour (PSL). He called for a review of the responsibilities of the reinstated post as the existing concurrent appointment of the post of PSL/C for L at D8 level had been more effective as illustrated in the recent labour dispute of the Tak Shun Company when the incumbent PSL/C for L was able to call on the assistance of the Permanent Secretary for Housing, who was of the same rank, in resolving the dispute. The concurrent appointment of PSL/C for L had been instrumental in bringing forth changes in labour policies, particularly with regard to wages in arrears. He was concerned that the reinstatement of the C for L post, pitched at D6 level, would not be able to command the needed changes in labour policies. SCS said that Mr WONG's concern was more related to the need for coordination and cooperation among bureaux rather than the ranking of officers. As the head of the Labour Department, C for L would strengthen communication with other departments and bureaux and co-ordinated the needed policy changes. In addition, SLW and Permanent Secretary for Labour and Welfare (PSLW) would advise and steer C for L in the implementation of policies as and when necessary.

16. Dr Fernando CHEUNG said that the Administration should have conducted adequate consultation with stakeholders before putting forward the proposed re-organization plan. He noted that unlike other bureaux with two policy portfolios, such as the Transport and Housing Bureau as well as the Commerce and Economic Development Bureau which had two Permanent Secretaries, LWB had only one. Noting from the job description of the PSLW post that the focus was mainly on the labour rather than the welfare portfolio, he was concerned that the welfare portfolio would not be given the needed attention. SCS said that the Administration had to limit the additional directorate posts to be created under the proposed re-organization plan. As such, the only additional directorate post for LWB would be the Administrative Assistant to SLW at D2 level. The other new post of PSLW, to take charge of both labour and welfare policies, would be provided through the deletion of the Permanent Secretary for Economic Development post. Referring to enclosure 7(b) to EC(2007-08)2 which set out the job description of PSLW, SCS assured members that equal attention would be given to both the labour and welfare portfolios. In response to the Chairman's enquiry on the cost of providing an additional Permanent Secretary for LWB, SCS said that the annual remuneration and staff on-cost for a Permanent Secretary at D8 level would be around \$3 million, but there would also be additional expenditure for supporting staff.

Environment Bureau (ENB)

17. Ms Audrey EU said that one of her concerns about the proposed re-organization of policy bureaux was the incorporation of sustainable development within ENB. She pointed out that sustainable development issues were previously taken care of by the Sustainable Development Unit under the auspices of the Director of Administration. As sustainable development was a complex portfolio straddling different policy areas, including urban redevelopment and demographic planning, it would require a balanced consideration taking into account environmental concerns and economic development. As the scope of sustainable development was much wider than that covered by ENB, it should not be included in ENB. She questioned the rationale behind the proposed changes and urged the Administration to reconsider the inclusion before moving the Resolution on the proposed re-organization. Expressing similar concerns, Dr KWOK Ka-ki said that the recent development projects had failed to meet public aspirations, and the problem would be intensified with the inclusion of development-related heritage conservation under the auspices of Development Bureau (DEVB). He said that it was wrong to place policy portfolios of environmental protection and sustainable development separate and apart from DEVB.

18. In response, SCA said that while the sustainable development portfolio would be placed under ENB, the sustainability implications of policy proposals or development projects would be assessed by individual bureaux before these were put forward to the Executive Council. ENB would work closely with other bureaux, including DEVB, to ensure a consistent and vigorous adoption of the principle of "sustainable development" in all policy formulation. Meanwhile, demographic policies would still be placed under the remit of the Director of Administration.

19. Referring to the submission from the Hong Kong Chinese Civil Servants' Association (HKCCSC), Ms Audrey EU noted that Environmental Protection Officers (EPOs) were concerned about the diminished promotion prospects arising from the upgrading of Permanent Secretary for the Environment (PSE)/Director of Environmental Protection (DEP) post from D6 to D8. With the proposed upgrading of the post, they would unlikely have a chance to aspire to be promoted to DEP (to be pitched at D8 level) since this was not their promotional rank. In this connection, HKCCSC had requested that the concurrent appointment of the PSE/DEP post should be split so that the DEP post would be reinstated and pitched at professional D4 level, to be filled by a professional grade staff reporting to PSE, and the Administration had agreed to review the situation. Ms EU opined that as a matter of principle, the post of DEP should be filled by a professional grade staff as the post was the statutory authority under the Environmental Impact Assessment Ordinance (Cap. 499) (EIAO). Professional advice was required in assessing the environmental impacts of designated projects. As such, she questioned why the review of the DEP post as agreed by the Administration could not be made within the present exercise.

20. In response, SCS said that since the amalgamation of the Environmental Protection Department (EPD) with the Environment, Transport and Works Bureau (ETWB) in 2005, efforts had been made to avoid duplication of work, resulting in the reduction in the number of posts and more effective discharge of duties. As the Administration had agreed to review the organization of EPD in the latter half of the year, it failed to see the need to split the PSE/DEP post and reinstate the DEP post at D4 level at this stage.

21. Ms Audrey EU said that what concerned her most was not the promotional prospect of EPOs but the need for professionals in the environmental protection field to take charge of EPD in the implementation of environmental policies. She said that the DEP post should not be filled by an Administrative Officer who did not have any professional qualifications in environmental protection and who would be deployed to other posts after a period of about two to three years. She also questioned how a non-professional could perform the statutory role of conducting environmental impact assessments under EIAO. She pointed out five green groups had put forward a joint submission requesting for the post of DEP to be filled by professional grade staff. SCS reiterated that since the amalgamation in 2005, the post of PSE/DEP had all along been filled by Administrative Officers. In the review of the organization of EPD, the Administration would take into account the actual experience since the amalgamation.

22. Ir Dr Raymond HO said that the re-organization of government structure was quite common in many overseas countries. He considered it opportune to re-organize the policy bureaux in Hong Kong in the light of experience following the introduction of the Accountability System a few years ago. There was a need to re-distribute the responsibilities of policy bureaux since some of them, such as ETWB, were overly burdened with too many policy portfolios. The proposed re-organization had resulted in the establishment of ENB to take charge of the policy portfolios of sustainable development, energy and the environment. He was however concerned about the diminished promotion prospect for departmental grade staff following the

upgrading of the PSE/DEP post from D6 to D8. SCA said that one objective of the proposed re-organization was to strive for a more even distribution of work among different bureaux. It was considered appropriate that ENB should take charge of the related policy portfolios of sustainable development, energy and the environment. Apart from the implementation of environmental protection measures, the new Secretary for the Environment would be responsible for discussing with the two power companies the terms of the post-2008 Scheme of Control Agreements. SCS said that she would take steps to review the organization of EPD within the coming months.

23. Given the technicalities associated with the implementation of environmental policies, Miss CHOY So-yuk said that she had earlier discussed with the Administration on the need to review the ranking and reinstatement of the DEP post so that professional grade staff of EPD, whose highest promotion rank was D3, could aspire to be promoted to DEP. Noting that a review of the establishment of EPD would be made soon, she enquired about the latest development in this respect and the time frame for reaching a decision. Dr KWOK Ka-ki held the view that the proposed re-organization had not been well thought out. By way of illustration, the review of the ranking of the DEP post to address the concern of professional grade staff should have been conducted well before the proposal was put forward. He questioned why the DEP post could not be filled by professional grade staff of EPD.

24. In response, SCS said that no undertaking could be made on the ranking and reinstatement of the DEP post before the completion of the review of the organization of EPD. She agreed to discuss the issue with the staff and senior management of EPD and to take into account the concerns of professional grade staff regarding their promotion prospects in the review. The relevant Panel would be consulted on the outcome of the review and funding would be sought from the Finance Committee on any additional directorate posts to be created in the establishment of EPD.

25. Miss CHAN Yuen-han said that she had been approached by HKCCSC regarding EPOs' concerns about the diminished promotion prospects. She hoped that the review to be conducted would be able to resolve the issue. She believed that EPO grade staff with the necessary professional qualifications were better equipped to implement environmental policies. SCS said that while professional grade staff might be considered more suitable for posts which required professional expertise, this was not the case for posts which were mainly involved with the formulation of policies.

Commerce and Economic Development Bureau (CEDB)

26. Ir Dr Raymond HO said that there was a need to include "industry" and "technology" in the title of the future CEDB to reflect the importance of industrial and technological development in Hong Kong. SCA said that the Administration had proposed to merge the portfolios of the Commerce, Industry and Technology Bureau with that of the Economic Development and Labour Bureau in respect of matters relating to tourism, consumer protection and competition policy. In recognition of

the expanded remit, the new bureau would be re-titled to CEDB which would cover, among others, matters relating to the development of industries and technologies.

27. Mr SIN Chung-kai wished to state for the record his regret about the exclusion of "technology" from the title of the new CEDB. Expressing similar concern, Mr Andrew LEUNG said that the exclusion of "industries" from the title of the new bureau had indeed reflected the Government's negligence of industrial and technological developments. He asked if there was any difficulty in re-naming CEDB to "Commerce, Industry, Technology and Economy Bureau" at this stage. SCA assured members that the CEDB would continue to attach importance to policies relating to industries and technologies. It would be impracticable for the name of the new policy bureau to reflect all its policy areas, and the proposed name of the new policy bureau was appropriate. The Resolution to give effect to the transfer of statutory functions among the re-organized bureaux would be moved by the Administration on 13 June 2007.

Aligning the terms of employment of the Director of CE's Office (DCEO) with those of a Director of Bureau (DoB)

28. Miss TAM Heung-man enquired if there were any major changes in responsibilities of DCEO which prompted the proposed alignment of the terms of employment of DCEO with those of a DoB. SCA explained that similar to all Ds of B, DCEO was a non-civil service and political appointment position created in 2002 under the Accountability System. DCEO was the CE's Chief of Staff and his major roles included working with Principal Officials in policy formulation and setting policy priorities to ensure full implementation of CE's Policy Address and decisions; enhancing communication with the Executive Council and the Legislative Council; and liaising with political parties and groups, various sectors of the community and district personalities to secure their support for Government's work. As DCEO was a political appointee performing the role and responsibilities akin to that of Principal Officials under the Accountability System, the Administration proposed to bring the terms of employment on a par with those of a DoB. SCA further said that the proposed alignment would involve an additional cost of about \$400,000 per year.

Attendance of Principal Officials at Panel and Subcommittee meetings

29. Ms Audrey EU recalled that when the Accountability System was introduced in 2002, members were told that one of the purposes of the System was to strengthen cooperation between the Executive and the Legislature. However, there was a decreasing trend of Principal Officials attending Panel meetings over the past years. With the exception of SCA and SCS, the attendance rates of Principal Officials were very low and some of them were less than 10%. The average attendance rate was found to be about 25%. She enquired whether, with the proposed re-organization of policy bureaux, the attendance rates of Principal Officials could be improved and if so, whether any undertaking could be provided in this respect. Mr Frederick FUNG shared members' concerns about the low attendance rates of Principal Officials, particularly at the meetings of the Subcommittee to Study

the Subject of Combating Poverty. He considered that the attendance rate was a positive way of demonstrating accountability. Apart from attending Panel and Subcommittee meetings, there should be more exchanges of views between members and DoBs on an informal basis.

30. In response, SCA said that Principal Officials attached great importance to the communication with the Legislature and would endeavour to attend Panel meetings, taking into account the relative importance of the subjects to be discussed. Members' request for more frequent attendance of Principal Officials at Panel meetings would be reflected to the Administration.

31. Ms Audrey EU did not agree with SCA that the attendance of Principal Officials at Panel meetings should depend on the relative importance of the subjects to be discussed. She said that the low attendance of the Principal Officials at Panel meetings was not only of concern to members but also to deputations and members of the public attending the meetings. Referring to recent discussions on the regulation of "Health Maintenance Organizations" at the meetings of the Panel on Health Services, Ms EU pointed out that no further progress could be achieved because the Secretary for Health, Welfare and Food (SHWF) had failed to attend the meetings.

32. Dr Fernando CHEUNG expressed regret that SHWF had only attended two meetings of the Panel on Welfare Services within the 2006-07 legislative session, i.e., the briefings on Policy Address and Budget. There were many occasions where a decision could not be reached at the Panel meetings in the absence of SHWF. There was hence a need to strengthen communication between the Administration and Legislature. SCA took note of Members' views and undertook to relate them to the other Principal Officials.

33. Mr LEUNG Kwok-hung said that the proposed re-organization had not addressed the needs of the community in respect of environmental protection, urban planning as well as housing policies. He also disapproved of the proposed transfer of the legal aid portfolio to HAB. It was regretted that the Administration had not made efforts to consult the stakeholders because it had already canvassed sufficient number of votes in support for the proposed re-organization.

34. As members could not finish discussion of the item within the two-hour time slot, the Chairman adjourned the meeting at 10:30 am. She said that any unfinished business would be carried over to the next meeting scheduled for 12:45pm on the same day.