

**立法會**  
*Legislative Council*

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**Panel on Home Affairs**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 10 November 2006**

**District Council Review in 2006**

**Purpose**

This paper provides background information on the District Council (DC) Review in 2006 and gives an account of past discussions of Members on the recommendations relating to home affairs arising from the Review.

**Background**

2. The current DC Review was initiated in the 2004 Policy Address. In his 2004 Policy Address delivered on 7 January 2004, the then Chief Executive (CE) stated that the Government would review the functions and composition of DCs at a suitable time.

3. In his Policy Address delivered on 12 January 2005, the then CE said that -

"This year, we will review the functions and other aspects of District Councils and enhance our support for them. We will attach importance to how the 18 District Officers may better play their role. We will help them resolve community problems in a practical manner, referring them if necessary to higher levels for expeditious resolution. I have asked the Principal Officials to fully support the District Officers to enable them to function more effectively. We will deliver on the "people-based" service culture, pay constant attention to public aspirations and respond actively."

4. In January 2005, a working group was set up jointly by the Home Affairs Bureau (HAB) and the Constitutional Affairs Bureau (CAB) to make preparation for the review.

5. In his inaugural Policy Address delivered on 12 October 2005, CE stated that -

"The role of District Councils will be expanded. The Government will allow each District Council to assume responsibility for the management of some district facilities, such as libraries, community halls, leisure grounds, sports venues and swimming pools. The executive departments will follow the decisions of the District Council in managing such facilities, within the limits of their existing statutory powers and resources available. I have asked the working party under the Home Affairs Bureau and the Constitutional Affairs Bureau to work out an implementation plan for this proposal in the context of the on-going review of the functions and structure of the District Councils. The working party will seek the views of District Council members in making its recommendations. The formal public consultation on the review will commence in the first quarter of next year."

6. Members may wish to refer to the background brief prepared by the Legislative Council (LegCo) Secretariat entitled "Review of the role, functions and composition of DCs" [LC Paper No. CB(2)1116/05-06(01) issued on 14 February 2006 for the meeting of the Panel on Constitutional Affairs (CA Panel) on 18 February 2006] for the historical development of DCs and the last review of the role and functions of DCs in 2001

### **DC Review in 2006**

7. According to the Administration, the following basic parameters have been adopted for the DC Review in 2006 -

- (a) the existing legal provisions relating to DCs, including Article 97 of the Basic Law (BL 97) which provides that DCs shall not be organs of political power, and section 61 of the District Councils Ordinance which sets out the functions of DCs (legal provisions relating to DCs are attached in **Appendix I**);
- (b) existing powers and responsibilities of the relevant statutory authorities responsible for the delivery of district services;
- (c) the need for a prudent and gradual approach to ensure no disruption to the delivery of public services at district level; and
- (d) the need for continued support to be provided by relevant Government departments in taking forward the DCs' advice or decisions in view of staffing implications.

8. On 27 April 2006, HAB and CAB jointly issued the Consultation Document entitled "Review on the Role, Functions and Composition of DCs" (the Consultation Document) which contained proposals on enhancing the role of DCs in the management of district facilities, strengthening communication with DCs and support for DC members as well as on the composition of DCs and other DC election-related matters.

9. On 28 September 2006, the Administration announced its plan for implementing recommendations arising from the DC Review, including a pilot scheme in four selected districts for DCs to participate in the management of district facilities starting from 1 January 2007 (the Pilot Scheme). Details of the recommendations and the Pilot Scheme are set out respectively in Annexes A and B to the LegCo Brief issued by HAB in September 2006 [File Ref: HAD HQ CR/13/2/1(C)].

### **Discussions held by the Panel on Constitutional Affairs and the Panel on Home Affairs on the DC Review in 2006 and the Consultation Document**

#### Meetings held

10. Following the CE's Policy Address on 12 October 2005, the CA Panel held two meetings on 18 and 20 February 2006 to discuss the role, functions and composition of DCs. A summary of the major views of deputations received by the CA Panel at its meeting on 18 February 2006 is in the Appendix to the minutes of the meeting [LC Paper No. CB(2)102/06-07 issued on 17 October 2006]. On 27 April 2006, the CA Panel received a briefing from the Secretary for Constitutional Affairs and the Secretary for Home Affairs (SHA) on the DC Review. The CA Panel further discussed the subject at its meeting on 15 May 2006. Members of the Panel on Home Affairs were invited to all these meetings to join the discussion.

11. The views and concerns expressed at the meetings of the CA Panel on the recommendations relating to home affairs are summarised under the following topics -

- (a) role and functions of DCs (paragraphs 12 to 14);
- (b) enhancing work in districts (paragraphs 15 to 17);
- (c) funding provision for DCs (paragraphs 18 to 22);
- (d) new remuneration package for DC members (paragraphs 23 to 26); and
- (e) the Pilot Scheme (paragraphs 27 and 28).

### Role and functions of DCs

12. Some members expressed dissatisfaction that the Administration had only proposed to entrust DCs with advisory and consultative functions in district affairs. They considered that, with the dissolution of the municipals councils, DCs could perform the duties of the former municipal councils as described in BL 97, i.e. "District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation". These members suggested that the functions of DCs should be enhanced by involving DCs in the provision of district services and facilities, increasing funding provisions for DCs, improving the remuneration package of DC members, and providing an independent secretariat for DCs.

13. Hon CHAN Kam-lam, however, held the view that the devolution of power to DCs would have to comply with BL and should be progressive so as to avoid confusion.

14. The Administration explained that DCs would not merely play an advisory role because, apart from prioritizing works projects concerning their own districts, DCs would assume responsibility for the management of district facilities. Executive departments would consider DCs' views on the management and priorities in relation to the provision of district facilities, within the limits of the departments' statutory powers, resources available and prevailing Government policies. With the proposed setting up of a District Facilities Management Committee (DFMC) under each DC, DC members could actively involve in the management of some district facilities, and steer and oversee the work involved by way of consideration and endorsement of proposals on the operation and management of district facilities as well as proposals on activities to be undertaken at the facilities. The Administration considered it undesirable to set up an independent secretariat for DCs, as the small staff establishment could not provide much opportunity for career advancement and staff morale might be affected.

### Enhancing work in districts

15. Some members expressed concern over the delay in district work which might be caused by the creation of the proposed Steering Committee on District Administration (SCDA). They queried the demarcation of duties among District Officers (DOs), Heads of Departments (HoDs) and DC members, and the relationship between District Management Committees (DMCs) and SCDA.

16. The Administration explained that district matters in future would be dealt with at three levels -

- (a) DOs would continue to chair the respective DMCs which served as a forum for inter-departmental consultation on district matters and for co-ordinating the provision of services and facilities to ensure timely response to district needs;
- (b) SCDA, to be chaired by SHA or Permanent Secretary for Home Affairs (PSHA) and attended by the relevant HoDs, would resolve inter-departmental district management issues as well as formulate strategies and provide a steer to DOs and DMCs to enhance district work; and
- (c) SHA/PSHA would escalate important issues that could not be resolved by SCDA to the highest level, i.e. the Policy Committee co-chaired by the Chief Secretary for Administration and the Financial Secretary.

17. The Administration further explained that SCDA could look into cases where DCs/DFMCs were not satisfied with the relevant department's response concerning the management of district facilities. HoDs who had direct interface with the public would also be required to attend DC meetings once every two to three months, to listen to DC members' concerns about matters within their purview.

#### Funding provision for DCs

##### *Leisure and sports programmes and community involvement projects*

18. Some members expressed concern as to how the proposed annual provision of \$300 million for DC funds, to be earmarked for non-works items, such as leisure and sports programmes and community involvement projects, would be distributed among the 18 DCs.

19. The Administration explained that the allocation would be made on the basis of objective criteria, such as the population size, district size, number of facilities in a district, etc. Furthermore, a portion of the funds could be allocated to individual DCs for projects of a small scale, and the remaining portion be kept centrally in HAD for projects of a larger scale, say, costing over \$5 million. Hon Daniel LAM held the view that the funding provision to each DC should be based on the size of the district and not on its population size.

*Minor works and facility improvement projects in districts*

20. Some members were of the view that DCs should be given the power to initiate and plan minor works projects. They queried whether the proposed annual provision of \$300 million for the dedicated capital works block vote would be adequate. These members also considered that the Administration should provide adequate technical and professional support for DCs to perform their enhanced role in managing district works projects.

21. The Administration explained that while LegCo would continue to approve district-based works projects costing more than \$15 million, DCs in future could initiate and prioritise proposed works projects costing up to \$15 million, to be funded from a new dedicated capital works block vote. The new dedicated capital works block vote would replace three existing sources of funding for district minor works project, namely, the block vote on Minor Building Works and the Urban Minor Works Programme block vote under the Capital Works Reserve Fund, as well as DC funds for Minor Environmental Improvement projects.

22. The Administration considered that the proposed annual provision of \$300 million was adequate. Taking the year 2006-2007 as an example, 24 Minor Building Works projects costing about \$184 million were supported by DCs and endorsed by the Government as at May 2006. In addition, there were currently around 35 projects with a total cost of about \$13 million under the Urban Minor Works Programme being processed by HAD for implementation in 2006-2007. There were also around 175 projects with a total cost of about \$22 million under the Minor Environment Improvement Programme for implementation in 2006-2007. The Administration also undertook to strengthen the technical and professional support for the design, tender and supervision of the works projects initiated by DCs in future. It was proposed that DCs might opt for the established mechanism whereby the Architectural Services Department (Arch SD) would serve as the works agent for projects undertaken by the Leisure and Cultural Services Department, while works departments or contractors entrusted by HAD would implement the other minor works. DCs might also opt for direct engagement of contractors or consultants to carry out minor works projects in close collaboration with HAD and Arch SD.

New remuneration package for DC members

23. Some members expressed support for the new remuneration package for DC members. Some other members, however, were concerned that the increase of 10% in the remuneration package could not compensate for the additional workload entrusted to DC members. They considered that, in order to attract political talents to participate in district affairs, the issue of retirement benefits for DC members should be addressed.

24. The Administration explained that the remuneration package had been adjusted to take account of inflation or deflation in the last decade. The purpose of the adjustment was to ensure that DC members did not suffer pecuniary embarrassment for their time spent on community service. In considering any suggestions about the retirement benefits for DC members, the Administration would have regard to the arrangements for LegCo Members. Moreover, the Consultation Document had proposed a new non-accountable Miscellaneous Expenses Allowance of \$4,000 per month to cover items like entertainment expenses and minor purchases. The Administration noted that some DC members had proposed that half of the allowance be used to cover retirement benefits or medical expenses. The Administration was of the view that since the proposed allowance was a non-accountable one, there should be no difficulty in adopting the proposal.

25. Hon Howard YOUNG considered the proposed accountable Setting-Up Allowance of \$100,000 per term to cover the cost of setting up a ward office to be on the high side as some DC members might only rent offices in public housing estates and rent basic office equipment. He asked whether DC members could use the savings, if any, for other purposes, such as hiring an office assistant.

26. The Administration explained that, since the Setting-Up Allowance was intended as a non-recurrent item, redeployment of part of the allowance to cover recurrent staff expenses would not be appropriate. The Administration also pointed out that DC members who had already set up ward offices before 2008 would be eligible for only 50% of the allowance.

### The Pilot Scheme

27. In response to members' enquiries about the criteria for selection of districts for the Pilot Scheme, the Administration said that it intended to select districts with a good mix of facilities and characteristics. For example, it would select a district with old facilities versus a district with new facilities, a densely populated district versus a sparsely populated district, etc., to test the effect of the package of proposals.

28. Dr Hon YEUNG Sum questioned the need to conduct the Pilot Scheme, given that no major changes were being made to the DC structure. The Administration explained that a major change in the culture of the Government was envisaged, i.e. the executive departments being required to follow the decisions of DC as far as possible. As the proposed arrangements would have considerable impact on departmental operations, it would be prudent to start on a pilot basis and allow the DOs concerned to assess the additional manpower requirement. To facilitate implementation of the Pilot Scheme, official guidelines on the use of DC funds and handling of works projects to be undertaken by DCs would be prepared.

**Relevant motions and questions moved/raised at Council meetings since the first LegCo**

29. A list of the relevant motions/questions relating to past and current reviews of the role, functions and composition of DCs moved/raised by Members at Council meetings since the first LegCo is in **Appendix II**. The Official Records of Proceedings of relevant Council meetings are available on the LegCo website at <http://www.legco.gov.hk>.

**Relevant papers**

30. A list of relevant papers and minutes of meetings is in **Appendix III**.

Council Business Division 2  
Legislative Council Secretariat  
8 November 2006



## Legal Provisions Relating to District Councils

### Basic Law

Chapter IV of the Basic Law sets out the political structure of the Hong Kong Special Administrative Region. Section 5 of that Chapter contains two Articles on district organisations. Article 97 of the Basic Law provides -

*"District organizations which are not organs of political power may be established in the Hong Kong Special Administrative Region, to be consulted by the government of the Region on district administration and other affairs, or to be responsible for providing services in such fields as culture, recreation and environmental sanitation."*

Article 98 provides -

*"The powers and functions of the district organizations and the method for their formation shall be prescribed by law."*

### District Councils Ordinance

2. The District Councils Ordinance (Cap. 547) (the Ordinance) provides for the number, composition and functions of DCs. Schedule 2 to the Ordinance specifies that there shall be 18 DCs. As regards the composition of DCs, section 9(1) of the Ordinance (Cap. 547) stipulates that a DC is to consist of -

- (a) elected members;
- (b) appointed members; and
- (c) ex-officio members, if it is a DC established for a District in which there is one or more Rural Committees, with the Chairman of each Rural Committee serving as ex-officio members of the DC while holding office as Chairman of Rural Committee.

3. The numbers of elected, appointed and ex-officio members on each DC are specified in Schedule 3 to the Ordinance.

4. According to section 61 of the Ordinance, the functions of a DC are -
- (a) to advise the Government -
    - (i) on matters affecting the well-being of the people in the District;
    - (ii) on the provision and use of public facilities and services within the District;
    - (iii) on the adequacy and priorities of Government programmes for the District; and
    - (iv) on the use of public funds allocated to the District for local public works and community activities;
  - (b) where funds are made available for the purpose, to undertake -
    - (i) environmental improvements within the District;
    - (ii) the promotion of recreational and cultural activities within the District; and
    - (iii) community activities within the District.

## Appendix II

### Relevant motions/questions relating to reviews of the role, functions and composition of District Councils moved/raised at Council meetings

Meeting date	Motion/Question
13.1.99	Written question raised by Hon LEE Wing-tat on "Occupation of District Board Members"
10.2.99	Written question raised by Hon Eric LI on "Appointment of District Board Members to Advisory Committees"
19.1.00	Prof Hon NG Ching-fai moved a motion on "Enhancing the Functions of District Councils". The motion was carried.
29.3.00	Written question raised by Hon LEE Wing-tat on "Proposal to Grant Subsidies to District Council Members for Procuring Information Technology Equipment And Services"
22.11.00	Hon IP Kwok-him moved a motion on "Increasing Support to District Council Members". The motion was negated.
31.10.01	Hon IP Kwok-him moved a motion on the "Report of the Working Group on District Council Review". The motion was carried.
10.4.02	Written question raised by Hon IP Kwok-him on "Accounting Procedures Relating to Claims of Allowance by District Council Members"
3.7.02	Oral question raised by Hon IP Kwok-him on "Compensation for District Council Members Who Are Injured Because of Discharge of Duties"
9.10.02	Written question raised by Hon IP Kwok-him on "Standard of Facilities Provided for Conference Rooms of District Councils"
22.1.03	Written question raised by Hon IP Kwok-him on "District Councillors Being Harassed After Lodging Complaints About Local Problems"
11.6.03	Written question raised by Hon CHOY So-yuk on "Inviting Immediate Family Members of Members of LegCo and District Councils to Attend Official Functions"

Meeting date	Motion/Question
3.12.03	Dr Hon YEUNG Sum moved a motion on "Appointing Least Number of District Council Members". The motion was negated.
4.2.04	Written question raised by Hon Emily LAU on "Second Term District Council Members"
1.12.04	Written question raised by Hon LAU Wong-fat on "Review of Function and Composition of District Councils"
16.3.05	Written question raised by Hon CHIM Pui-chung on "Review on the Functions of District Councils"
11.5.05	Written question raised by Hon Emily LAU on "District-based Advisory Committees"
23.11.05	Written question raised by Hon LAU Wong-fat on "District Councils Promoting Poverty Alleviation Work at District Level"
30.11.05	Written question raised by Hon MA Lik on "Constitutional Concern of Including Appointed District Council Members As Members of the Selection Committee for Selecting the Chief Executive in 2007"
11.1.06	Written question raised by Hon LAU Wong-fat on "Appointing District Councillors to Statutory and Consultative Bodies"
8.2.06	Written question raised by Hon LAU Wong-fat on "Training Programmes for District Council Members"
22.2.06	Written question raised by Hon Frederick FUNG on "Review of the Functions and Structure of District Councils"
1.3.06	Written question raised by Dr Hon YEUNG Sum on "Implementation of Measures Proposed in 2001 to Enhance the Role and Functions of District Councils"
22.3.06	Written question raised by Hon Martin LEE on "Appointed Members of District Councils and of Area Committees"
26.4.06	Written question raised by Hon Martin LEE on "Funding for Projects Undertaken by District Councils"
	Written question raised by Hon CHEUNG Man-kwong on "Role and Functions of District Councils"

<b>Meeting date</b>	<b>Motion/Question</b>
24.5.06	Written question raised by Dr Hon YEUNG Sum on "Implementation of Measures to Enhance the Role and Functions of District Councils"

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## Relevant papers and minutes of meetings on District Council Review in 2006

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
18.2.06	Panel on Constitutional Affairs	Background brief prepared by the LegCo Secretariat on "Review of the role, functions and composition of the District Councils"	CB(2)1116/05-06(01) <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0218cb2-1116-1e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0218cb2-1116-1e.pdf</a>
		Minutes of meeting	CB(2)102/06-07 <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060218.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060218.pdf</a>
20.2.06	Panel on Constitutional Affairs	Administration's paper on "Review on the Role, Functions and Composition of District Councils"	CB(2)1138/05-06(02) <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0220cb2-1138-2e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0220cb2-1138-2e.pdf</a>
		Minutes of meeting	CB(2)1712/05-06 <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060220.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060220.pdf</a>
27.4.06	Panel on Constitutional Affairs	Consultation Document on "Review on the Role, Functions and Composition of District Councils"	Issued vide CB(2)1863/05-06 on 27 April 2006 <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-consultation-e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-consultation-e.pdf</a>
		Leaflet provided by the Administration on "Enhancing work in districts, Strengthening District Councils"	Issued vide CB(2)1863/05-06 on 27 April 2006 <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-leaflet-e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-leaflet-e.pdf</a>

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
		Paper provided by the Administration for the Panel on "Review on the Role, Functions and Composition of District Councils"	CB(2)1863/05-06(01) <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-1863-1e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-1863-1e.pdf</a>
		Paper provided by the Administration for the power point presentation on "District Council Review"	CB(2)1863/05-06(02) <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-1863-2e-scan.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-1863-2e-scan.pdf</a>
		Minutes of meeting	CB(2)2328/05-06 <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060427.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060427.pdf</a>
15.5.06	Panel on Constitutional Affairs	Letter dated 28 April 2006 to the Administration on "Review of the Role, Functions and Composition of District Councils" (English version only)	CB(2)2009/05-06(01) <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0515cb2-2009-1e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0515cb2-2009-1e.pdf</a>
		Administration's response on "Review on the Role, Functions and Composition of District Councils"	CB(2)2009/05-06(02) <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0515cb2-2009-2e.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0515cb2-2009-2e.pdf</a>
		Minutes of meeting	CB(2)2873/05-06 <a href="http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060515.pdf">http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060515.pdf</a>