

Meetings The Committee held a total of 23 meetings and 15 public hearings in respect of the subjects covered in this Report. During the public hearings, the Committee heard evidence from a total of 15 witnesses, including one Head of Department. The names of the witnesses are listed in *Appendix 3* to this Report. A copy of the Chairman's introductory remarks at the public hearing on 10 December 2007, which was the first in the series of public hearings held by the Committee relating to the Director of Audit's Report No. 49, is in *Appendix 4*.

2. **Arrangement of the Report** The evidence of the witnesses who appeared before the Committee, and the Committee's specific conclusions and recommendations, based on the evidence and on its deliberations on the relevant chapters of the Director of Audit's Report, are set out in Part 4 below.

3. The audio record of the proceedings of the Committee's public hearings is available on the Legislative Council web site for the public to listen to.

4. **Communications between two witnesses and the Committee on the Committee's proceedings** In the course of the Committee's consideration of the Director of Audit's Report (Audit Report) on the Hong Kong Tourism Board (HKTB), Ms Clara CHONG, former Executive Director (ED) of the HKTB, and Mrs Grace LEE, former Deputy Executive Director (DED) of the HKTB, had raised concerns about the fairness of the Committee's proceedings in their responses to questions at the Committee's public hearings and in their solicitors' letters addressed to the Committee. This part of the Report gives an account of the issues raised by them and how the Committee had responded to them.

5. When liaising with the witnesses concerned regarding the arrangements of the public hearings, the Committee received letters dated 6 December 2007 from the former ED (in *Appendix 5*) and the former DED (in *Appendix 6*) respectively. In their letters, they requested, among other things, that as a matter of fairness, they be informed as to whether any allegations were going to be made against them at the hearings and, if so, the materials in support of the allegations.

6. In its respective letters to the former ED and the former DED, both dated 10 December 2007 (in *Appendices 7 and 8*), the Committee explained to them its functions and its established practice and procedure for performing such functions. In gist, the Committee stated in the letters that:

- (a) as a standing committee of the Legislative Council (LegCo), the Committee

oversaw the use of public expenditure through consideration of the Audit Reports laid before the LegCo on the Government's accounts and the results of value for money audits of the Government and those organisations which received funding from the Government. The Committee's consideration of the Audit Reports involved gathering evidence relevant to the facts contained in the reports, so that the Committee might draw conclusions and make recommendations in a constructive and forward-looking manner. The objective of the whole exercise was such that the lessons learned from past experience and the Committee's comments on the performance of the public officers or other personnel concerned would enable the Government to improve its control over the expenditure of public funds, with due regard to economy, efficiency and effectiveness; and

- (b) the holding of public hearings was part of the Committee's established process for gathering evidence relevant to the Audit Reports for the purposes stated above. The Committee was not concerned with allegations against any person. Hence, there was no question of making allegations against them at the hearings.

7. On 9 January 2008, when the Committee was still in the process of holding public hearings to receive evidence, the Committee received a letter from the former DED's solicitors (in *Appendix 9*). The solicitors stated in the letter, among other things, that different members of the Committee had made serious unsubstantiated allegations against the former DED at the public hearings, which were wholly unfair and inappropriate. They also stated that members of the Committee should refrain from making unsubstantiated allegations against the former DED, and they reserved their client's rights to take such actions/steps as might be necessary if allegations were continued to be made against their client. The letter also provided further information to supplement the verbal information given by the former DED at the Committee's public hearings.

8. The former ED also sent a letter dated 10 January 2008 to the Committee (in *Appendix 10*) stating, among other things, that she adopted the points made by the former DED's solicitors in their letter of 9 January 2008 in relation to the part on public hearings.

9. In response to the letter of the former DED's solicitors mentioned above, **Dr Hon Philip WONG Yu-hong, Chairman of the Committee**, made the following statement at the beginning of the public hearing on 10 January 2008. He said that:

- (a) according to the practice and procedure of the Committee, under normal circumstances, witnesses invited to attend before it at public hearings were

allowed to be accompanied by legal representatives if necessary. However, normally the legal representatives might not address the Committee. Hence, Mrs Grace LEE should not have expressed her opinions and provided information to the Committee through her solicitors. Instead, she should have forwarded such opinions and information to the Committee direct;

- (b) the Committee would not be affected by Mrs LEE's comments, as mentioned in her solicitors' letter, about members making allegations against her. It was in fact inappropriate for Mrs LEE to seek to influence or interfere with the Committee's way of gathering evidence by means of her solicitors' letter; and
- (c) the Committee was a standing committee of the LegCo. Members of the Committee were provided with the privileges and immunities stipulated in the Basic Law and the LegCo (Powers and Privileges) Ordinance. The Committee would continue to perform its functions in an open, fair and impartial manner, and hold public hearings to gather evidence, without being affected by any comments.

10. After the Committee had finished conducting public hearings and was in the process of holding internal deliberations and preparing its Report, the Committee received a letter dated 3 March 2008 from the former DED (in *Appendix 11*) and a letter dated 4 March 2008 from the former ED (in *Appendix 12*). In their letters, they both stressed that given the Committee's position stated in its letter of 10 December 2007 that the Committee was not concerned with allegations against any person, it would be wholly unfair to them if any adverse findings or criticisms were made against them in the Committee's final Report.

11. In its letters of 6 March 2008 to the former DED and the former ED respectively (in *Appendices 13 and 14*), the Committee responded to the points made by them in the letters mentioned in the last paragraph and reiterated its position on the matter. In summary, the Committee stated that:

- (a) the former DED had quoted the Committee's letter of 10 December 2007 out of context. The said letter purported to address the points made in the former DED's letter of 6 December 2007 in which she requested the Committee, among other things, to inform her whether there would be any allegations made against her at the then forthcoming public hearings and, if so, the materials in support of the allegations. It was in that context that the Committee wrote to explain to her that the purpose of the Committee's hearings was not to deal with allegations against any persons, but to gather evidence relevant to the facts contained in the Audit Reports so that the Committee might formulate the conclusions and recommendations to be included in its Report. As a matter of fact, there was no allegation against any person before the Committee at that time;

- (b) as the former DED had been informed already, the objective of the whole exercise of the Committee's examination of the Audit Reports was that the lessons learned from past experience and the Committee's comments on the performance of the public officers or other personnel concerned would enable the Government to improve its control over the expenditure of public funds. If in the course of its examination, the Committee observed the existence of any irregularities or deficiencies in the governance, management, or utilisation of public resources in a publicly-funded organisation, it had the duty to comment on them, as well as on those persons whom should be held responsible;
- (c) witnesses attending public hearings were given every opportunity to respond to questions asked of them and to state their views. They were also given access to all relevant documents and records which would be referred to at public hearings and the records of the public hearings. In formulating its conclusions and recommendations, the Committee would take into consideration all information provided by all witnesses both at the public hearings or through other means, together with all other evidence received by the Committee;
- (d) the Committee would, as always, continue to perform its functions in an open, fair and impartial manner. It would not allow itself to be subject to any interference, nor would it tolerate any attempt to interfere with its performance of its functions, which included the making of its Report upon the Audit Report on the HKTB; and
- (e) the letters from the former DED and the former ED might be perceived as an attempt to interfere with the Committee's performance of its functions. The Committee considered any such attempt totally inappropriate and unacceptable.

12. On 3 April 2008, the Committee received another letter from the solicitors acting on behalf of the former DED and the former ED (in *Appendix 15*). The letter stated, among other things, that given that any adverse findings or comments in the Committee's Report might seriously affect their clients' reputation and legal position, in order to properly advise their clients on the necessary steps to be taken to protect their position and as a matter of fairness, they requested the Committee to provide its draft Report to their clients before it was released to the public. The solicitors also stated that this would give their clients an opportunity to take proper advice on their positions.

13. In its letter of 21 April 2008 (in *Appendix 16*), the Committee informed the solicitors acting on behalf of the former ED and former DED that the Committee, after careful consideration of their reasons for making the request for the Committee's draft Report and the circumstances relevant to it, decided not to accede to the request.

14. **Acknowledgements** The Committee wishes to express its gratitude to all the persons who were invited to give evidence for attending the public hearings and for providing information. In addition, the Committee is grateful for the assistance and constructive advice given by the Secretary for Financial Services and the Treasury, the Legal Adviser and the Clerk. The Committee also wishes to thank the Director of Audit for the objective and professional manner in which he completed his Reports, and for the many services which he and his staff have rendered to the Committee throughout its deliberations.