

立法會
Legislative Council

Ref : CB2/PL/CA

LC Paper No. CB(2)1908/07-08
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 18 February 2008, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present :

Dr Hon LUI Ming-wah, SBS, JP (Chairman)
Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHEUNG Man-kwong
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon Daniel LAM Wai-keung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP

- Members absent** : Hon Bernard CHAN, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon LEE Wing-tat
Hon KWONG Chi-kin
Hon Mrs Anson CHAN, GBM, JP
- Public Officers attending** : Items IV, V, VI and VIII
The Administration
Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs
Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs
Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary for Constitutional and Mainland Affairs
Mrs Vivian TING TSUI Wai-ming
Chief Electoral Officer for Registration and Electoral Office
- Item VII
The Administration
Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs
Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs
Mr Gary POON Wai-wing
Principal Assistant Secretary for Constitutional and Mainland Affairs
- Clerk in attendance** : Mrs Percy MA
Chief Council Secretary (2)3
- Staff in attendance** : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Watson CHAN
Head (Research & Library Services)

Ms. Elyssa WONG
Deputy Head (Research & Library Services)

Ms. Diana WONG
Research Officer 2

Mr Thomas WONG
Research Officer 4

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fonny TSANG
Legislative Assistant (2)3

Action

I. Confirmation of minutes of meeting

(LC Paper No. CB(2)953/07-08 - Minutes of meeting on 23 October 2007)

The minutes of the meeting held on 23 October 2007 were confirmed.

II. Information papers issued since the last meeting

(LC Paper No. CB(2)900/07-08(01) - A list of organisations and persons allowed to conduct exit poll for the 2007 District Council election provided by the Administration

LC Paper No. CB(2)900/07-08(02) - A letter dated 4 January 2008 from the Electoral Affairs Commission concerning exit polls conducted for the 2007 District Council election and the 2007 LegCo By-election provided by Hon Margaret NG

LC Paper No. CB(2)900/07-08(03) - A letter dated 5 December 2007 from the Administration concerning polling/counting staff for District Council elections provided by Hon Emily LAU

LC Paper No. CB(2)960/07-08(01) - Submission from Asia-Pacific Institute of International Relations proposing the electoral methods for the LegCo elections in 2012, 2016 and 2020)

2. Members noted that the above papers had been issued to the Panel.

Action

III. Items for discussion at the next meeting

(LC Paper No. CB(2)1054/07-08(01) - List of outstanding items for discussion)

Agenda for the next meeting

3. The Chairman said that in response to the request of the Administration, the item "Venue for Central Counting Station for the 2008 Legislative Council election" had been included in the agenda of the meeting. The item "Mechanism for amending the Basic Law" originally scheduled for this meeting would be deferred to the next meeting.

4. Secretary for Constitutional and Mainland Affairs (SCMA) proposed and members agreed to discuss the following items at the next meeting on 17 March 2008 -

- (a) Electoral Affairs Commission Reports on the 2007 District Council election (2007 DC election) and the 2007 Legislative Council Hong Kong Island geographical constituency by-election (2007 LegCo by-election);
- (b) 2008 voter registration campaign; and
- (c) Method for electing the Chief Executive in 2012 - Size and composition of the Election Committee and nominating arrangements.

5. In response to Ms Emily LAU, SCMA said that the Administration was reviewing the financial assistance for candidates for the 2008 LegCo election and would discuss with the Panel in due course.

Meeting on 21 July 2008

6. The Chairman informed members that the last Council meeting would be held on 9 July 2008 and by then the Panel would have reported on its work to the Council. He sought members' view on whether the regular meeting scheduled for 21 July 2008 was necessary. Members agreed that the meeting should be cancelled. Members also agreed that a meeting could be arranged in early July if necessary.

Action

IV. Election expense limits for the 2008 Legislative Council election

(LC Paper No. CB(2)1054/07-08(02) - Background Brief prepared by the Legislative Council Secretariat on "Election expense limits for Legislative Council elections"

LC Paper No. CB(2)1054/07-08(03) - Administration's paper on "Election expense limits for the 2008 Legislative Council election"

LC Paper No. CB(2)1126/07-08(01) - Administration's paper on "2000 Legislative Council Election : Election Expense Limits and Declared Amount of Election Expenses"

LC Paper No. CB(2)1126/07-08(02) - Administration's paper on "2004 Legislative Council Election : Election Expense Limits and Declared Amount of Election Expenses")

7. SCMA introduced the paper which set out the options regarding the election expense limits for the 2008 LegCo election. In gist, the Administration had proposed two options for geographical constituency (GC) election: to increase the election expense limits of certain GCs, or to maintain the election expense limits at the existing level. As for the functional constituency (FC) election, the Administration proposed that the election expense limits should remain unchanged. The Administration had not formed a fixed view on these options and would like to listen to the views of members.

8. SCMA further said that in response to the request of Ms Emily LAU, the Administration had provided two papers on the election expenses limits and declared amount of election expenses for the 2000 and 2004 LegCo elections respectively (papers tabled at the meeting and issued to members vide LC Paper Nos. CB(2)1126/07-08(01) and (02) on 20 February 2008).

9. Mr Howard YOUNG said that the Liberal Party maintained the view that the election expense limits should be removed. On that basis, the Liberal Party would support an option which would adjust upward the limits having regard to inflation. He asked whether the Administration would consider adopting the practice of the United States (USA) by removing the cap on election expense limits.

10. SCMA explained that the option to increase the election expense limits for certain GCs was based on population increase for the relevant GCs rather than inflation. In fact, there was a cumulative deflation of 8.2% since 1998 but the Administration was aware that inflation was returning. In setting the election expense limits, the principle was that it should not be so low as to place unreasonable restrictions on electioneering activities, or so high to deter less well-off candidates from standing for election. The practice of Hong Kong to prohibit candidates placing advertisements on television would keep the election expense limits at a low level. The Administration considered that the existing arrangements were appropriate to the situation of Hong Kong.

Action

11. Ms Audrey EU said that the Civic Party did not support the increase of election expense limits. Ms Emily LAU expressed similar view. Ms LAU asked whether there was room to adjust the limits downward so as to ensure a level playing field for those who were less resourceful.

12. SCMA said that the Administration had considered the possibility of increasing the election expense limits, decreasing the election expense limits, and maintaining the status quo. The Administration had studied the past spending pattern of candidates and found that some spent close to the limits. The Administration hence considered it impractical to adjust the limits downward, having regard to the advent of the inflationary trend.

13. Mr LEE Cheuk-yan held the view that there was room to adjust the election expense limits downward as many candidates in the 2004 LegCo election spent below the limits. Mr LEE said that given that television was the most powerful and effective medium in promoting election, he wondered whether the Radio Television Hong Kong (RTHK) could sponsor free airtime to allow candidates to promote themselves.

14. SCMA said that the RTHK had made election-related programmes in the past. The editorial autonomy of the RTHK should be respected. He cautioned that once television advertising was opened up for election, it might lead to substantial increase in election expenses. He considered that the current arrangement whereby broadcasters were allowed to organise election forums in their programmes was adequate.

15. Mr CHEUNG Man-kwong and Dr YEUNG Sum said that the Democratic Party would accept a proposal that would adjust the election expense limits downward or maintain the status quo. They pointed out that independent candidates and some political parties had difficulty in raising funds for election. Mr CHEUNG found the proposal to increase the election expense limits in some GCs to as much as \$3 million unacceptable. Dr YEUNG supported the policy to disallow advertisements of a political nature on television, unless financial assistance or free airtime was provided to candidates on an equal basis.

16. Mr LAU Kong-wah said that the Alliance for the Betterment and Progress of Hong Kong preferred to maintain the status quo. If the limits were to be reduced at all, the rate of reduction should vary from GC to GC, depending on the characteristics of the GC concerned. Mr LAU enquired whether the Administration would consider providing other assistance, such as two rounds of free postage for election advertisements (EAs) instead of one, to candidates.

17. SCMA said that the one-round of free postage for EAs implemented for the 2004 LegCo election had taken into account other forms of assistance (i.e. a subsidy rate of \$10 per vote) provided to candidates. As Members were concerned about paper consumption in recent elections, the Administration had no intention to provide two rounds of free postage for EAs.

Action

18. Mr CHEUNG Man-kwong supported the view of SCMA. He expressed concern about the number of EAs received by a household which had several registered electors, particularly if there was a large number of candidates contesting in a GC. In view of the large amount of paper to be consumed, free postage should be limited to one round. He pointed out that the money saved for not conducting another round of free postage in the 2004 LegCo election had been used to finance the subsidy rate of \$10 per vote for candidates. In other words, the Administration had not ploughed in new money to assist candidates in the last election. Mr CHEUNG requested the Administration to consider increasing the subsidy rate of the financial assistance scheme for candidates in the 2008 LegCo election.

19. SCMA said that the Administration would adopt a scientific approach, taking account of inflation, deflation and other relevant factors, in reviewing the subsidy rate of \$10 per vote for the 2008 LegCo election. The Administration would discuss the issue with the Panel in due course.

Admin 20. Ms Emily LAU and Ms Audrey EU considered that some of the postal requirements of EAs, such as folders to be closed by means of an adhesive tape, were unreasonable. They pointed out that some electors had thrown away the EAs upon receipt because of the difficulty of opening them. They urged that the requirements be reviewed. Chief Electoral Officer (CEO) said that she would reflect members' concern to the Postmaster General.

21. Some members, including Ms Emily LAU, Mr CHEUNG man-kwong and Mr LEE Cheuk-yan, enquired whether EAs could be sent on a household rather than on an individual basis in order to save paper. Mr LEE Cheuk-yan said that for electors residing in premises where a common address was used (e.g. an elderly home), EAs should be delivered to them on an individual basis.

22. Ms Audrey EU said that different members of a family could have their own choice of candidates. Hence, it might not be practical to use one mailing label for each household across the board. She suggested that registered electors should be allowed to opt whether to receive EAs by electronic means or hardcopy, and in the case of the latter, to choose receiving EAs either on an individual or on a household basis.

23. CEO responded that the Electoral Affairs Commission (EAC) was presently looking into the matter and would address the matter when the practical arrangements for the 2008 LegCo election were discussed at a future Panel meeting.

Action

V. Venue for Central Counting Station for the 2008 Legislative Council election

(LC Paper No. CB(2)1054/07-08(04) - Administration's paper on "Venue for Central Counting Station for the 2008 Legislative Council election")

24. SCMA informed members that -

- (a) the Chief Executive (CE) had appointed 19 July 2008 as the date from which the third term LegCo should stand prorogued;
- (b) the CE had appointed 7 September 2008 as the date for holding the general election for the fourth term LegCo; and
- (c) the nomination period for the 2008 LegCo election was from 19 July 2008 to 1 August 2008.

25. CEO introduced the paper. In gist, the Registration and Electoral Office (REO) had identified two possible venues for setting up the Central Counting Station (CCS) for counting the FC votes and for announcing the results of GC and FC elections. They were the Asia World-Expo (AWE) in Chek Lap Kok and the Hongkong International Trade & Exhibition Centre (HITEC) in Kowloon Bay. CEO informed members that the AWE had requested the REO to convey to the Panel that it could provide free shuttle service after midnight to facilitate candidates, their agents and members of the public to observe the count if the AWE was chosen as the CCS. On balance, the Administration considered that the HITEC, being easily accessible, had a comparative advantage over the AWE in serving as the venue for the CCS for the 2008 LegCo election. The Administration would like to listen to members' views on the matter.

26. Some members, including Ms LI Fung-ying, Dr YEUNG Sum and Mr James TIEN, preferred the HITEC over the AWE because it was convenient to candidates, their agents and members of the public. Ms Emily LAU expressed support for the AWE as it was more spacious. She recalled that the venue for the 2004 LegCo election was too congested.

27. SCMA said that in light of the experience gained in the 2004 LegCo election, the Administration intended to lease more space in the HITEC for the 2008 LegCo election. The following improvements would be made -

- (a) sorting/counting zones for FCs would increase from 4 000 m² in 2004 to 4 700 m² in 2008;
- (b) size of the media centre would increase from 1 600m² in 2004 to 1 800 m² in 2008;

Action

- (c) zones for delivery of ballot boxes would increase from 300 m² to 1 800 m²; and
- (d) rooms would be made available for rest.

28. Mr James TIEN enquired about the counting arrangements for GC and FC votes and whether an electronic reader would be used to expedite the counting process, as in the case of the election of the Hong Kong deputies to the National People's Congress.

29. SCMA said that as explained at previous Panel meetings, decentralised counting arrangement would be adopted for the counting of GC votes in the 2008 LegCo election whereby polling stations would be converted into counting stations immediately after the close of the poll. As central counting arrangement would be adopted for the counting of FC votes in the 2008 LegCo election, FC ballot boxes from some 500 polling stations would be delivered to the CCS for counting. He further explained that an electronic reader was more effective in counting ballot papers on which electors were required to choose a number of candidates. As electors were required to choose one candidate on a ballot paper in LegCo election, it was more suitable to adopt manual counting.

30. Ms LI Fung-ying expressed concern whether improvements would be made to expedite the counting process for FC votes, such as whether counting should commence immediately after a ballot box was delivered to the CCS, instead of waiting for the delivery of all the ballot boxes, as candidates and their agents would be present to monitor the count.

31. CEO said that arrangements would be made to ensure that ballot boxes would be delivered to the CCS as soon as practicable. The counting procedure for FC votes would also be streamlined, in light of the experience gained in previous elections. The REO would need to strike a balance between counting efficiency and preserving the secrecy of votes.

32. Ms Emily LAU expressed concern that independent candidates and candidates of small political parties/groups did not have the resources to deploy a sufficient number of agents to monitor the count for GC votes at each and every polling station. She said that in order to enhance transparency of the counting process, the Administration should consider her suggestion of reading out the choice of candidates marked on the ballot papers while they were counted.

33. SCMA responded that Ms LAU's suggestion, which was raised at a previous Panel meeting, had already been relayed to the EAC for consideration. He said that as polling staff was familiar with the traditional counting arrangements, it might not be desirable to change the mode of operation.

Action

34. Mrs Selina CHOW asked about the target time for the EAC to announce the voting results.

35. SCMA responded that the counting arrangements for the 2008 LegCo election would follow those for the 2007 DC election, which was an improvement over the 2004 LegCo election. He said that the EAC would consult members on the proposed guidelines on election-related activities in respect of the 2008 LegCo election and would advise members of the approximate time required to announce the voting results in due course.

VI. Proposed research study on "Exit poll"

(LC Paper No. CB(2)1054/07-08(05) - Extract from the draft minutes of meeting on 21 January 2008)

36. Head of Research and Library Services Division (H(RL)) said that in response to members' request at the last meeting, the Research and Library Services Division (RLSD) had collected information on exit polls at elections in seven places in respect of the following aspects -

- (a) whether persons or organisations planning to conduct exit polls were required to make applications or declarations to the electoral regulatory authorities;
- (b) whether persons or organisations conducting exit polls were subject to any eligibility requirement, particularly whether candidates and political parties were permitted to conduct such polls;
- (c) whether exit polls were permitted at all polling stations;
- (d) whether regulations or guidelines were imposed on the conduct of exit polls;
- (e) whether exit poll results could be provided to candidates or political parties for their use before the close of poll, and if so, whether the expense for conducting such polls was counted as an election expense of the candidates or political parties concerned;
- (f) whether persons or organisations conducting exit polls were required to submit reports on exit poll results and use of the results to the electoral regulatory authorities; and
- (g) action to be taken against persons or organisations violating the regulations or guidelines on the conduct of exit polls and use of exit poll results, if any.

Action

R(HL) said that the RLSD had studied seven places and the preliminary finding was that most of the places did not have legislation or guidelines to regulate the conduct of exit polls and the use of exit poll results. The RLSD would provide an Information Note to the Panel at the next meeting.

37. Ms Emily LAU said that the Information Note should also cover the views of local opinion pollsters on the existing arrangements for exit polls in Hong Kong. Ms Audrey EU said the Information Note should address whether the seven places imposed any limits on election expenses and if so, whether expenses incurred in conducting exit polls were counted as part of the election expenses.

38. Mr CHEUNG Man-kwong said that the scale of an election and the election expenses limits would have a bearing on whether regulation on exit polls was necessary in an overseas country. If an election campaign was as large as the presidential election in the USA where no election expense limit was imposed, a candidate or his political party could by all means conduct exit polls and use the results to plan his electioneering activities. Hence, it would not be meaningful for the RLSD to study the regulations on exit polls of the countries concerned without paying regard to their electoral arrangements. Mr CHEUNG pointed out that given the low limits imposed on election expenses in Hong Kong, if a third party conducted an exit poll on its own means and disclosed the results to certain candidates for the purpose of assisting them in canvassing votes during an election, it would be unfair to the other candidates. The Administration should consider treating the expenses incurred for conducting exit polls as part of the election expenses.

39. SCMA said that he would relay Mr CHEUNG's concerns to the EAC. He assured members that the elections in Hong Kong would continue to be transparent, open and fair. Under the existing guidelines issued by the EAC, the media and concerned organisations should refrain from announcing the results of exit polls before the close of poll in order not to affect the choice of electors.

40. Dr YEUNG Sum said that members were not concerned about the "announcement" of exit poll results "after the close by poll", but the "disclosure" and use of the results to and by relevant parties "before the close of poll". He said that it was necessary to review the existing legislation or guidelines to regulate exit polls in order to ensure a level playing field. SCMA said that he would relay Dr YEUNG's concern to the EAC.

41. In response to Mr LEUNG Kwok-hung, SCMA said that the list of organisations/persons approved to conduct exit polls at the polling stations concerned would be uploaded to the website of the EAC in each election. The list would also be displayed at the respective polling stations on the polling day. As regards the complaints received on exit polls conducted for the 2007 DC election and the 2007 LegCo by-election, he believed that the EAC would give its response in the two reports to be submitted to the CE next month, which would be discussed by the Panel at the next meeting.

Action

VII. System of declaration of investments and interests by Principal Officials under the Accountability System

(LC Paper No. CB(2)1054/07-08(06) - Extract from the minutes of meeting on 25 July 2007

IN02/07-08 - Information Note on "Registration and disclosure of the occupation of the spouses of principal officials in selected places" prepared by the Research and Library Services Division

LC Paper No. CB(2)592/07-08(08) - Administration's paper on "System of Declaration of Investments and Interests by Principal Officials under the Accountability System")

42. SCMA briefed members on the current system regarding declaration of investments and interests of principal officials (POs) which was governed by the Code for POs under the Accountability System (the Code). Under the current declaration system, POs were required to declare their investments and properties, and investments and properties held in the name of their spouse and other persons if the PO had a beneficial interest. POs were required to report to the CE any private interests that might influence, or appear to influence, their judgement in the performance of their duties. Accordingly, if a PO considered that the job position held by his/her spouse would give rise to a potential conflict of interest, he should report such situation to the CE.

43. R(HL) made reference to the Appendix to the Information Note, and briefed members on the findings of the RLSD's study on whether principal officials in USA, Australia, the United Kingdom (UK), New Zealand and Canada were required to register the occupation of their spouse, and if so, whether the information was disclosed to the public.

44. Mr CHEUNG Man-kwong noted that in USA, the occupation of Secretaries' spouses were disclosed to the public. However, in Canada, the interests of Ministers' spouses (such as their occupation) did not need to be disclosed to the public. UK adopted a middle-of-the-road approach by requiring ministers to disclose the occupation of their spouses to the public, if it was thought that there might be a conflict of interest. Mr CHEUNG considered that the UK approach was more balanced as it protected the right of ministers' spouses to develop their career while allowed public monitoring when warranted. He requested the Administration to consider adopting UK's approach in Hong Kong.

45. Mr Howard YOUNG enquired which party in the UK would judge whether the occupation of the spouses of ministers would give rise to a conflict of interest. R(HL) said that footnote 7 of paragraph 4.1 of the Information Note had explained that "[u]nder the Ministerial Code, 'it is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict or the perception of a conflict, taking account of advice received from their Permanent

Action

Secretary and the Independent Adviser on Minister's interest', who, appointed by the Prime Minister, is responsible for giving confidential advice on request from Ministers and investigating allegations of breaches of the Code at the request of the Prime Minister. The Code states that the Prime Minister is 'the ultimate judge of the standards of behaviour expected of a Minister', who remains in office for so long as he or she retains the confidence of the Prime Minister".

46. Ms Emily LAU said that Hong Kong should adopt a system which was as transparent as possible. Noting from paragraph 4(b) of the Administration's paper that POs were required to declare the occupation and employer of their spouse only in their internal declaration to the CE, she requested the Administration to consider requiring POs to disclose the information to the public as well.

47. SCMA said that the approach adopted by Hong Kong was similar to that of New Zealand where ministers would provide information about their spouse's interests, such as his/her occupation, to the Prime Minister but not the public. He would relay the research findings and members' views for consideration within the Administration. A response would be given to the Panel in due course.

Admin

VIII. Usage of electoral register

(IN05/07-08 - Information Note on "Usage of electoral register" prepared by the Research and Library Services Division)

48. Deputy Head of RLSD (DH(RL)) highlighted the usage of electoral register in Australia, Canada, UK and Ireland as set out in the Information Note.

49. SCMA informed members that the Administration maintained its position that information on an electoral register should not be used for a purpose other than a purpose related to the specified election.

50. Ms Emily LAU said that according to the Information Note, electors' names and addresses in Canada could be used by parties and members of the House of Commons for making communications with electors for purposes such as soliciting contributions and recruiting members. In Australia, electors' information could be released to a prescribed authority, or an organisation which conducted medical research or provided health screening programmes with proper approval from the relevant government departments. Ms LAU held the view that it was about time to relax the usage of electoral register by amending the law so that Members of LegCo could make use of the information contained therein to communicate with their constituents after election.

Action

51. SCMA responded that at this stage, the Administration had no plan to introduce any legislative amendment to the relevant electoral law because –

- (a) under section 41 of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541, sub. Leg. B), an extract from any published register of electors should only be used "for any purpose related to an election". The provision sought to facilitate the planning and conduct of election-related activities on the one hand, and the need to protect personal data and the privacy of electors on the other; and
- (b) if legislative amendments were introduced to allow Members to use the information contained in an electoral register for purposes other than a purpose related to an election, individuals interested in running for future elections might be concerned that this would give undue advantage to incumbent LegCo Members.

52. Ms Emily LAU said that the concerns raised by SCMA might also exist in other countries. She asked the RLSD whether persons other than candidates were allowed to use the information contained in an electoral register in other countries.

53. DH(RL) informed members that in Canada, electors' names and addresses in an electoral register could be used by political parties, parliamentary members and candidates for making communication with their electors. A political party which supported certain candidates in a constituency could request the electoral regulatory authority to provide electors' information of that constituency. By 15 November every year, the electoral regulatory authority would provide parliamentary members an updated electoral register. As for candidates in an election, they could apply to the electoral regulatory authority for provision of electors' information of their own constituency to facilitate the conduct of election-related activities. In response to Ms LAU, DH(RL) said that she did not have information on when the electors' information could be made available to candidates. She would provide supplemental information after the meeting.

(Post-meeting note: The Information Note on "Access to the electoral register" prepared by RLSD was issued to Members vide LC Paper No. CB(2)1921/07-08 on 14 May 2008.)

54. Some members, including Ms Audrey EU, Mr Ronny TONG and Mr LEUNG YIU-chung, expressed support for relaxing the usage of the electoral register to enable Members to communicate with their constituents after election. Ms Audrey EU pointed out that all the places studied by the RLSD allowed the use of electoral register for purposes other than a purpose related to an election. She

Action

urged that the Administration's policy should keep pace with time. She further said that the concern of SCMA about undue advantage of incumbent Members over candidates in the event that the information contained in an electoral register was made available to the former but not the latter could be resolved, e.g. by allowing candidates to obtain an extract from the electoral register by application one year before an election. Mr TONG said that it was the case world-wide that the ruling party and its leader, and incumbent parliamentary members would have undue advantage over other contestants in an election. He suggested that one of the ways to address the concern about protection of personal data of constituents was to ask them to indicate, when registered as electors, whether they agreed that the information contained in an electoral register should be used for communication with candidates and Members. Ms EU suggested that since the REO intended to seek registered electors' views on whether to receive EAs on a household basis or on an individual basis, the REO could make use of this opportunity to ascertain their views on the matter.

55. SCMA responded with the following points -

- (a) at present, a person to which an extract of an electoral register was made available must use the information on the register for a purpose related to an election. Otherwise, it was against the law;
- (b) since incumbent LegCo Members were already at an advantageous position vis-à-vis other contestants in an election, it would be inappropriate to give them an added advantage by making use of an electoral register for a purpose not related to the specified election;
- (c) the proposal to relax the usage of electoral registers would have implications on other election-related activities. For instance, if a potential candidate was allowed to obtain information from an electoral register one year before an election, whether the candidate should be regarded as having declared his candidacy and whether expenses incurred for his electioneering activities should be counted as election expenses from thereon. One had to look at the impact of the proposal in a comprehensive manner;
- (d) different places adopted different practices for the usage of electoral register. Countries such as Denmark and Singapore forbade the use of the electoral register after election; and
- (e) he would relay members' views to the EAC.

56. Mr CHEUNG Man-kwong said that he could understand the Administration's concern about the risk of infringing the privacy of electors and Members' concern about the need to communicate with their constituents. There was a way to strike a right balance, for instance, by allowing incumbent Members

Action

to make use of the information on an electoral register within two years after an election so that they could keep their constituents informed of their work by a newsletter. The Administration should also consider providing free postage for the newsletter given the financial burden on Members.

57. SCMA responded that Mr CHEUNG's proposal would give incumbent Members an unfair advantage over potential candidates, not only in terms of the use of information contained in an electoral register, but also the financial assistance provided.

Admin

58. Mr TAM Yiu-chung said that sending newsletter by post to electors of a GC posed not only financial but also manpower burden on Members. On the other hand, if the Housing Authority, owners' corporations and management companies of residential estates allowed Members to distribute the newsletter into the mail box of each flat, it would save a lot of money. He appealed to the Administration for assistance to make this possible. SCMA said that he would relay Mr TAM's suggestion to the Home Affairs Department for consideration.

59. Mrs Selina CHOW said that there was indeed a need for Members to communicate with their constituents and for the Administration to protect the privacy of constituents. She considered that Mr Ronny TONG's suggestion to allow electors to have a choice was a viable option. She pointed out that Ireland kept two versions of electoral register, namely the full register and the edited register. The former was for election use while the latter was available for sale and could be used for commercial purposes. Electors could opt for not listing their personal information on the edited register. She urged that the Administration should not be too conservative in handling the matter and could consider adopting the approach of Ireland.

60. Dr YEUNG Sum concurred with Mrs CHOW. He said that the usage of electoral registers could be relaxed under certain conditions.

Admin

61. SCMA responded that the EAC, an independent statutory body set up for the purpose of regulating the conduct of elections, was responsible for making election-related ordinances and subsidiary legislation. The existing policy and legislation governing election was made after thorough and in-depth discussions with Members and should not be amended without justification. The EAC would have regard to the views of political parties, Members, and members of the public in deciding whether amendments should be made to the relevant law. He would relay members' views expressed at the meeting for the consideration of the EAC.

62. Ms Emily LAU said that Miss Mandy TAM had difficulty in reaching out to her constituents in the coming LegCo election because the professional bodies representing her constituents had been uncooperative. Ms LAU said that although she personally did not support "small circle" election under the FC system, the unfair treatment received by Miss TAM should be addressed.

Action

63. SCMA responded that the High Court had already delivered a judgement on the case of Miss Mandy TAM and the relevant parties should act accordingly.

Admin

64. Ms Audrey EU asked when the Administration would respond to the views expressed by members at this meeting. SCMA said that he would relay members' views to the EAC after this meeting. The EAC would need time to consider them as 3.3 million registered electors would be affected. He was not in a position to tell when the EAC would give a response to members. In his view, the matter was not urgent as extracts of the electoral register would be made available to candidates in the 2008 LegCo election. Meanwhile, members would have the opportunity to give further views on the matter when the two EAC reports relating to the 2007 DC election and the 2007 LegCo by-election, and the proposed guidelines for the 2008 LegCo election were discussed by the Panel.

65. The meeting ended at 5:20 pm.

Council Business Division 2
Legislative Council Secretariat
16 May 2008