

立法會
Legislative Council

Ref : CB2/PL/CA

LC Paper No. CB(2)2675/07-08
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 21 April 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 LEE Wing-tat
- 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
Hon KWONG Chi-kin
Hon Mrs Anson CHAN, GBM, JP

**Member
attending**

Hon SIN Chung-kai, 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

**Public Officers
attending**

: Items IV and VI

The Administration

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Permanent Secretary for Constitutional and Mainland Affairs
(Acting)

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 V

The Administration

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Permanent Secretary for Constitutional and Mainland Affairs
(Acting)

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

Mr John Bicknell
Deputy Regional Commander Hong Kong Island Region/Hong
Kong Police Force

Item VII

The Administration

Mr Stephen LAM Sui-lung
Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Permanent Secretary for Constitutional and Mainland Affairs
(Acting)

Ms Joyce HO Kwok-shan
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

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Confirmation of minutes of meeting
(LC Paper No. CB(2)1615/07-08 - Minutes of meeting on 21 January 2008)

The minutes of the meeting held on 21 January 2008 were confirmed.

Action

II. Information papers issued since the last meeting

(LC Paper No. CB(2)1437/07-08 - Electoral boundary maps of Geographical Constituencies in respect of the 2008 Legislative Council election

LC Paper No. CB(2)1595/07-08(01) - "Speaking points on Mechanism for amending the Basic Law" made by the Secretary for Constitutional and Mainland Affairs at the meeting on 17 March 2008)

2. Members noted that the above papers had been issued since the last meeting.

III. Items for discussion at the next meeting

(LC Paper No. CB(2)1617/07-08(01) - List of outstanding items for discussion

LC Paper No. CB(2)1617/07-08(02) - List of follow-up actions)

3. Secretary for Constitutional and Mainland Affairs (SCMA) proposed and members agreed to discuss the following items at the next meeting on 19 May 2008 -

- (a) Voter turnout publicity campaign for the 2008 Legislative Council (LegCo) election; and
- (b) Method for forming the LegCo in 2012.

IV. Proposed Guidelines issued by the Electoral Affairs Commission on Election-related Activities in respect of the Legislative Council Election

(LC Paper No. CB(2)1435/07-08 - Proposed Guidelines issued by the Electoral Affairs Commission on Election-related Activities in respect of the Legislative Council Election

LC Paper No. CB(2)1617/07-08(04) - Administration's paper on "Proposed Guidelines issued by the Electoral Affairs Commission on Election-related Activities in respect of the Legislative Council Election")

4. SCMA said that the coming LegCo general election would be held on 7 September 2008. The Electoral Affairs Commission (EAC) had issued the Proposed Guidelines on Election-related Activities in respect of the Legislative Council Election (the Proposed Guidelines) on 25 March 2008 for public consultation. The consultation period would end on 23 April 2008 and the final guidelines would be issued around early July 2008.

Action

5. Chief Electoral Officer for Registration and Electoral Office (CEO) said that the Proposed Guidelines were modelled on those used for the 2004 LegCo election, the 2007 District Council (DC) election and the 2007 LegCo by-election, with suitable adaptation. With reference to the Annex to the Administration's paper, CEO highlighted the major changes in the Proposed Guidelines, as compared with the guidelines issued in 2004.

Exit poll

6. Ms Emily LAU expressed disappointment that the EAC had not addressed the issue of exit poll in the Proposed Guidelines. As there was no measure to guard against disclosure of exit poll results, a candidate, his political party or election campaign team could make use of the information provided by a pollster to plan electioneering activities before the close of poll. This would create unfairness to other candidates and political parties which did not have access to such information. Ms LAU said that candidates standing for the next election would be forced to advise electors not to answer interviewers' questions on the polling day.

7. SCMA said that the issue of exit poll had been discussed at a Council meeting and a number of Panel meetings. Paragraph 15.4 of the Proposed Guidelines appealed to the media and organisations concerned to refrain from announcing the results of exit polls or making specific remarks or predictions on the performance of individual candidate or geographical constituency (GC) list before the close of poll in order not to affect the choice of electors. The Administration respected academic freedom and freedom of expression and had no intention to regulate the use of exit poll results.

8. Some members, including Mr Albert HO, Mrs Anson CHAN, Mr LEUNG Kwok-hung, Mr Martin LEE, Dr YEUNG Sum, Ms Audrey EU and Mr LEUNG Yiu-chung, expressed discontent that SCMA had used academic freedom as an excuse to evade the problem. They said that pan-democratic Members respected academic freedom and had no intention to infringe that freedom. It was apparent that some organisations had disclosed exit poll results before the close of poll to facilitate certain candidates to plan electioneering activities. The Administration should tackle the problem to ensure fairness in an election.

9. Dr YEUNG Sum suggested that the EAC should require persons or organisations conducting exit polls to sign an undertaking not to disclose exit poll results to any party before the close of poll. He said that Dr Robert CHUNG Ting-yiu had requested the EAC to clarify whether or not using exit poll results for the purpose of electioneering before the close of poll would breach the guidelines but the EAC had not responded. If the reply was negative, Dr CHUNG intended to disclose exit poll results to the media so that all political parties and candidates could access the information on an equal basis before the close of poll.

Action

10. Mr LEUNG Yiu-chung suggested that the EAC should prohibit the use of exit poll results for any purpose on the polling day. He asked why disclosure of exit poll results was not regarded as announcement of exit poll results. He also asked about the sanction against persons or organisations breaching the guidelines governing exit polls.

11. In response to members, SCMA made the following points -

- (a) in the past few months, the opposition camp had striven to tighten the control on the conduct of exit polls possibly due to the lack of resources on their part. He cautioned that any law which sought to legislate against certain persons or organisations conducting exit polls and the use of exit poll results would be subject to challenge;
- (b) the research conducted by the LegCo Secretariat indicated that most countries did not regulate the conduct of exit polls or the use of exit poll results. As regards the purpose of exit polls and the use of the results, it was an internal matter for the persons or organisations conducting exit polls;
- (c) for the purpose of better control of the conduct of exit polls, it was proposed that persons or organisations intending to conduct exit polls had to provide information relevant to the application to the Registration and Electoral Office (REO) at least 10 days before the polling day, instead of seven days as in previous elections. Before the grant of approval, the person or organisation allowed to conduct an exit poll would be required to sign an undertaking to abide by the guidelines governing the conduct of exit poll;
- (d) media and organisations conducting exit polls should not announce the results of exit poll before the close of poll. Announcement meant making remarks in public such as in a press conference, or issuing a public statement or press release. In past elections, media and organisations had abided by the guidelines governing the conduct of exit polls. If the EAC was aware that any media or organisation had failed to comply with the guidelines, it could make a reprimand or censure in a public statement which would include the names of the parties concerned; and

Adm

- (e) he would relay members' views to the EAC.

12. Ms Audrey EU expressed dissatisfaction at SCMA's reply. She doubted whether organisations which deployed resources to conduct exit polls for the purpose of planning electioneering activities had ever included the expenses incurred as part of the election expenses. She pointed out that if the

Action

Administration considered announcing exit poll results before the close of poll might create unfairness in an election, then there was all the more a need to regulate against the early disclosure of exit poll results in private.

13. SCMA responded that candidates were required by law to prepare a detailed account of the election expenses incurred in an election. The Basic Law provided that Hong Kong people should enjoy the freedom of expression. It was inappropriate to restrict any party to conduct exit polls and the use of exit poll results. All the candidates and political parties were required to follow the relevant electoral law and guidelines when participating in an election.

14. Mrs Anson CHAN suggested that a condition should be imposed on persons or organizations conducting exit polls, i.e. to prohibit them to announce exit poll results in public or disclose them in private before the close of poll. SCMA responded that there was no legal justification to impose such a condition.

Election advertisements (EAs)

15. Mr Ronny TONG referred to paragraph 8.51 of the Proposed Guidelines and asked whether a candidate, who delivered a speech off the cuff to the media, was required to send a copy of the speech to the Returning Officer (RO).

16. SCMA clarified that speeches orally delivered by a candidate during election meetings or ad hoc visits would not be treated as EAs unless copies of the speech were provided to the audience or media.

17. Ms Emily LAU referred to paragraph 8.36 of the Proposed Guidelines and queried why the erection of buntings on railings on public pavements was not allowed. Mr Albert HO said that if no enforcement action was taken against those breaching the guideline, it would be unfair to candidates who were law abiding.

18. SCMA responded that the Home Affairs Department (HAD), the REO and the Lands Department would enforce the guideline on buntings. CEO explained that the size of EAs displayed at railings and fences had all along been specified in the EAC guidelines. As the erection of buntings on railings on public pavements might obstruct the view of drivers and pedestrians thus causing danger, the guideline was amended with a view to ensuring road safety.

19. The Deputy Chairman said that buntings on railing had been commonly used by candidates because they were inexpensive and effective. He pointed out that given that buntings were narrow, they should not affect road safety. He urged the EAC to re-consider its proposal to impose a ban on buntings. CEO said that she would relay members' concern to the EAC.

Adm

Action

20. Mr Alan LEONG said that section 102 of the EAC (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) stipulated that before a candidate displayed, distributed or otherwise used an EA, he must allocate a number in a separate series to each type of EA, and make a declaration in a specified form to state the quantity of each type of EA he proposed to so use. The declaration and two copies of EA must be deposited with the relevant RO before the EA was displayed, distributed or used. Section 34(4) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) required a person, not later than seven days after publishing a printed EA, must deposit two copies of the advertisement with the relevant RO. It was an offence if a candidate did not comply with the requirements relating to printed EA. Mr LEONG asked whether a candidate could submit the EAs to the RO by electronic means. If a person had placed an EA on the e-platform of a candidate, he asked whether the candidate concerned was required to deposit copies of that advertisement with the RO; and if so, whether the copies could be deposited after the publication of the EA.

21. SCMA responded that paragraph 8.50 of the Proposed Guidelines provided that if a candidate had difficulty in depositing with the RO for his constituency an original copy of a declaration and two copies of an EA before its display, distribution or otherwise use, he could first submit to the RO for the constituency by fax the declaration together with a copy of each EA or by e-mail with an image or a digital photo of each EA. The original copy of the declaration form and two copies of each such EA could be deposited with the RO thereafter.

22. CEO supplemented that a candidate must, within 24 hours during weekdays (i.e. Monday to Friday) or within 48 hours during weekends (i.e. Saturday to Sunday) after sending the fax or e-mail, submit to the RO for the constituency the original copy of the declaration form and two copies of each such EA. In the event that an EA was placed on the e-platform of a candidate by another person, the candidate could deposit the original copy of the declaration form and two copies of an EA with the RO within the specified time limit after publication.

Electioneering activities

23. Noting that short message service (SMS) was proposed to be included in the guidelines governing electioneering calls, Mr Ronny TONG asked about the measures to regulate SMS, especially when the messages sent by SMS to electors were misleading or false.

24. SCMA responded that SMS was included in paragraph 9.17 of the Proposed Guidelines because many electors considered canvassing votes by sending SMS messages annoying. Candidates or their supporters sending misleading or false SMS messages would be disapproved by electors and this would be reflected in their choice of candidates on the polling day. Candidates were advised against sending messages by SMS to electors who found such approaches objectionable or acting in any other way that might antagonise them.

Action

If the EAC received complaints about the content of SMS messages, it would refer the case to enforcement agencies as appropriate.

25. Mr CHEUNG Man-kwong said that some functional constituency (FC) Members had regularly communicated with their electors by SMS messages. A FC Member standing for the next LegCo election might canvass votes by sending SMS messages to his electors on the polling day. Mr CHEUNG asked whether such act would breach the guideline.

26. SCMA explained that paragraph 9.17 of the Proposed Guidelines sought to remind candidates and their supporters not to antagonise electors who found receiving SMS messages from strangers objectionable. If sending SMS messages was a routine way of communication between a FC Member and his constituents, his electors were likely to accept such form of communication during election. CEO supplemented that the guideline on SMS sought to protect the privacy of electors. An extract of the Final Register which contained the name, gender, and residential address of electors of the relevant constituency, but not their telephone numbers, was supplied to candidates by the REO. Since the telephone numbers of the electors in the case quoted by Mr CHEUNG appeared to be supplied by the electors through a professional body and the mode of communication by means of SMS was generally accepted, the use of SMS in communicating with these electors should not constitute a breach of the guidelines. Mr CHEUNG Man-kwong said that the public should be made aware of the applicability of that guideline.

Counting arrangement

27. Mr Albert HO said that given that ballot papers were counted quickly, candidates, their election agents or counting agents sometimes might wish to re-inspect certain ballot papers which they had overlooked. He asked whether the EAC would consider allowing candidates, their election agents or counting agents to re-inspect ballot papers which had been counted and not classified as "questionable", especially when the difference in the number of votes received by two candidates was very small, say 8-10 votes.

28. SCMA said that ballot papers were sorted, counted and placed one by one in separate transparent boxes labelled with the chosen candidates' number on the counting tables. The counting process was highly transparent. Any candidate, his election agent or counting agent could request the RO to re-count the votes. CEO supplemented that candidates, their election agents or counting agents were not allowed to inspect invalid papers (e.g. tendered, spoilt, unused ballot papers) in past elections. The Proposed Guidelines had relaxed the requirement to provide that a candidate, his election agent or a counting agent could inspect invalid ballot papers apart from questionable ballot papers.

Action

Nomination of candidates

29. Mr Ronny TONG asked about the basis for disqualifying a person from being nominated as a candidate at an election, if he was an undischarged bankrupt and failed to pay his creditors in full within the previous five years (paragraph 4.5(j) of the Proposed Guidelines).

30. SCMA explained that the guideline was based on section 39(1)(i) of the Legislative Council Ordinance (Cap. 542) (LCO).

Election meetings

31. Referring to paragraphs 10.1 and 10.2 of the Proposed Guidelines, Mr Howard YOUNG enquired why expenses incurred for organising an election meeting after the LegCo election should be counted as election expenses, given that the election meeting was unlikely to serve the purpose of promoting or prejudicing the election of a particular candidate after the election. CEO responded that the guidelines quoted by Mr YOUNG were not new. The EAC would study the background of the guidelines and review the relevant paragraphs.

EAC

V. Practical arrangements for the 2008 Legislative Council election

(LC Paper No. CB(2)1617/07-08(05) - Administration's paper on "Practical Arrangements for the 2008 Legislative Council Election"

LC Paper No. CB(2)1646/07-08(01) - A relevant question raised by Hon Emily LAU during the examination of estimates of expenditure 2008-2009 and the Commissioner of Police's reply

LC Paper No. CB(2)1617/07-08(03) - Hon Emily LAU's letter dated 2 April 2008 on "Force Working Group on Electioneering Activities")

32. The Deputy Chairman took the chair after the Chairman left the meeting.

33. CEO introduced the paper which set out the key electoral arrangements for the 2008 LegCo election.

Election advertisements

34. Mr Howard YOUNG asked about the feasibility for candidates to print on their own a set of address labels with electors' names and addresses on a household basis, if the Administration maintained the practice to provide candidates with address labels on an individual basis.

Action

35. SCMA explained that the first and foremost principle was that the right of individual electors to access EAs must be respected and protected. The ability of individual electors to peruse the election platform of candidates was a fundamental principle of elections and must not be compromised. The EAC had studied the proposal of delivering EAs on a household basis and identified the following practical problems -

- (a) it was uncertain whether electors could have timely access to the EA due to the time required for circulation among electors within a household. In case the EA was held up by one of the electors, other electors in a household might not be able to have access to it; and
- (b) some electors resided in residential establishments where a communal address was shared by individual electors (e.g. tenement flats, elderly homes, etc.). EAs should be delivered to these electors on an individual basis. While in some cases it might be clear from their names or information kept by relevant departments, it might not be possible to ascertain this in other cases. It would not be feasible to identify all such establishments to ensure that EAs were delivered to the electors concerned on an individual basis.

SCMA said that the EAC had to work out arrangements to address the above issues, if sending EAs on a household basis was to be pursued.

36. Noting that the space allocated for each FC candidate in the introductory leaflet would be reduced from half of an A4 page to a quarter of an A4 page, and that for each GC candidate list would be reduced from two A4 pages to one page, Mr LEUNG Kwok-hung and Dr KWOK Ka-ki expressed concern about the limited space available for candidates to introduce and promote themselves. They said that if the Administration wished to save money, it should do so by using recycled papers.

37. The Deputy Chairman said that some GCs had many candidates. The introductory leaflet would be overcrowded if the space allocated to each candidate was to be reduced. He expressed concern that the elderly would find the leaflet difficult to read and other electors might choose to throw it away.

38. CEO said that although the space allocated for each candidate in the introductory leaflet was reduced, the font size of characters remained unchanged. Candidates were encouraged to provide concise and clear messages in the introductory leaflet and include information such as website and email addresses to allow electors to access more detailed information about the candidates by electronic means. Subject to technical considerations, electoral documents would be printed on recycled paper or paper made from sustainable forest for printing. CEO said that she would relay members' concern to the EAC.

Action

Counting arrangement

39. Mr LAU Kong-wah recalled that the election results of the 2004 LegCo election were declared 10 hours after the close of poll, which was unduly long as compared with the presidential election in Taiwan which took only four hours to complete the vote count. Mr LAU asked about the measures to expedite the counting process in the 2008 LegCo election.

40. SCMA explained that the malfunctioning of the Interactive Voice Response System which necessitated a manual compilation of statistics had delayed the announcement of election results in the 2004 LegCo election. In light of the experience gained, the REO had improved the vote counting arrangements in the 2007 DC election and 2007 LegCo by-election. The election results for the two elections were declared at 4:00 am and 3:00 am the following day respectively. The 2008 LegCo election would adopt the arrangements whereby each of the 520 polling stations would fax counting results to the statistical information centre to be set up inside the Central Command Centre. The Central Command Centre would relay the results after verification to the ROs who would declare the election results, if there was no request for re-counts from the candidates of the concerned constituencies.

41. Ms Emily LAU expressed concern that independent candidates and candidates belonging to 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. She pointed out that the same method was adopted by Taiwan in its recent presidential election.

42. SCMA responded that the REO had simulated a test on the counting method suggested by Ms LAU and the outcome was not satisfactory. CEO supplemented that the time required for completing the vote counting of 1 000 ballot papers of A3 size under the existing method and Ms LAU's suggested method was 29 minutes and 75 minutes respectively. As each polling station was assigned with about 6 400 electors on average, the counting process suggested by Ms LAU would be unduly long.

43. Mr LEUNG Kwok-hung suggested that a separate polling date could be designated for FC elections and electors who were disabled so that the counting process could be expedited.

44. Mr CHIM Pui-chung suggested that an electronic reader should be used to expedite the counting of GC votes, as in the case of the election of the Hong Kong deputies to the National People's Congress. He also expressed concern about the long time taken to count FC votes. He pointed out that out of the 28 FCs, about

Action

10 FC candidates would be uncontested and automatically elected. As for the remaining 18 FCs, he suggested that 18 ballot boxes should be placed in each of the 520 polling stations and FC electors would be directed to cast the ballot paper in the relevant FC ballot box. Counting of FC votes would commence in individual polling station immediately after the close of poll in order to expedite the counting process.

45. SCMA 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 the 2008 LegCo election, it was more suitable to adopt manual counting. SCMA further said that the method suggested by Mr CHIM for FC vote count was not practicable. First, a FC elector might be confused as to which of the 18 FC ballot boxes he should cast his vote. Second, the number of ballot papers cast in each FC ballot box would be small and the secrecy of votes could not be preserved. Third, if ballot papers were mixed before counting, it would involve the transport of 18 ballot boxes from each of the 520 polling stations to a central counting station and that would be too time consuming.

Force Working Group on Electioneering Activities (Force Working Group)

46. Mr LAU Kong-wah envisaged that candidates standing for the 2008 LegCo election would face keen competition. He expressed concern that election agents of some candidates might be trained to provoke or antagonise other candidates on the polling day. He urged that the Police should adopt standard practice in dealing with such situations and make reference to previous cases where appropriate.

47. Deputy Regional Commander Hong Kong Island Region/Hong Kong Police Force (DRC) said that the Police was committed to maintaining law and order in the community and protecting the personal safety of all members of the public. The Police also attached great importance to cases of intimidation during election. The Force Working Group was formed to enhance communication between the Police and various Government departments on matters relating to election. One of its tasks was to review and improve the existing practices having regard to experience learnt from handling past election complaints. The Force Working Group would issue guidelines to ensure consistent and practical practices would be adopted within the Police.

48. Dr KWOK Ka-ki said that one of the ways to reduce friction among election agents was to impose a cooling off period on the polling day. Mr LEUNG Kwok-hung said that the issue of cooling off period was political. In past elections, a resourceful political party had provided bus service to take electors to a polling station to vote. If there was a cooling off period on the polling day, such activities would be banned and friction among election agents could be avoided.

Action

49. SCMA responded that the Administration maintained the view that canvassing on the polling day would create a better atmosphere for the election. As Hong Kong was developing its electoral system, the present arrangement provided candidates and political parties with the opportunity to canvass votes. The Administration was also concerned about the practicable difficulties in enforcing cooling off period as there were grey areas, e.g. it was uncertain whether canvassing votes by telephone calls by a political party on the polling day should be regarded as electioneering.

50. The Deputy Chairman expressed support for electioneering activities on the polling day. He asked whether the Force Working Group would provide guidelines and training to policemen to resolve conflicts on the polling day. Ms Emily LAU said that there should be sufficient manpower to ensure that disputes were resolved as soon as practicable so as not to affect the election.

51. DRC said that policemen were trained to deal with the enforcement of the law in all respect and they would continue to do so fairly and impartially. Many of the officers who worked on the polling day had previous experience in dealing with disputes relating to election. Briefing sessions, to be designed based on the guidelines to be devised by the Force Working Group, would be provided to officers involved in policing on the polling day. While the Force Working Group was not in a position to give an exact number of officers involved on the polling day at this stage, it would ensure that there would be sufficient manpower on duty on that day.

Staffing matters

52. Ms Emily LAU enquired about the manpower deployed to work on the polling day.

53. SCMA said that in the 2007 DC election and 2007 LegCo by-election, the Administration had recruited about 15 000 civil servants to work on the polling day. The Administration aimed to recruit about 17 000 civil servants from various bureaux and departments for the 2008 LegCo election.

Polling/counting station

54. Ms Emily LAU expressed concern that some polling stations were not accessible by electors with a disability.

55. SCMA said that an elector with disability finding it difficult for him to access the polling station could apply to the CEO for re-allocation to a special polling station accessible to such electors. If circumstances permitted, the REO would arrange with the Society for Rehabilitation to provide Rehabus service for these electors. In the 2004 LegCo election, about 50% of the polling stations were accessible to the disabled. The number had increased to 70% in the 2007 DC election.

Action

Media centre

56. The Deputy Chairman recalled that the media centre for the 2004 LegCo election was overcrowded. SCMA responded that in light of the experience gained in the 2004 LegCo election, the Administration would lease more space in the Hongkong International Trade & Exhibition Centre in the 2008 LegCo election.

VI. Subsidy rate of the financial assistance for candidates and the election expense limits for the 2008 Legislative Council election

(LC Paper No. CB(2)1591/07-08(01) - Administration's paper on "Subsidy Rate of the Financial Assistance for Candidates and the Election Expense Limits for the 2008 Legislative Council Election")

57. SCMA briefed members on the proposals to increase the subsidy rate of financial assistance scheme for candidates in the 2008 LegCo election from \$10 per vote to \$11 per vote, and to increase the election expense limits for both GC and FC elections by 5%. Details of the proposals were set out in the Administration's paper.

58. Ms Emily LAU considered that the proposed subsidy rate of \$11 per vote was inadequate. Given that the Administration had already saved money from reducing two rounds of free postage of EAs to one round, it should be more generous in providing financial assistance to candidates. She enquired about the total financial assistance provided to candidates in the 2004 LegCo election and the estimate for the 2008 LegCo election.

59. SCMA said that the current subsidy rate of \$10 per vote was first adopted in the financial assistance scheme for the 2004 LegCo election. The subsidy rate was proposed to increase by 10% to \$11 per vote to reflect inflation since 2004. In the 2004 LegCo election, it had been estimated that the total amount of financial assistance payable would be \$8 million and the amount turned out to be about \$14 million. Assuming that the number of candidates and votes obtained by each candidate in the 2008 LegCo election was the same as those in the 2004 LegCo election and that the election expenses incurred by candidates increased by 5% as compared to the 2004 LegCo election figures, the additional amount of financial assistance for eligible candidates would be about \$1 million. Moreover, while reducing two rounds of free postage of EAs to one in the 2004 LegCo election had achieved savings of \$10 million as compared with the 2000 LegCo election, the payment of \$14 million in terms of financial assistance had incurred additional expenditure by \$4 million.

60. Ms Emily LAU said that an addition of \$1 million could hardly help to promote political party development and grooming political talents. She suggested that the subsidy rate be increased to \$20 per vote.

Action

61. Mr Ronny TONG suggested that the ceiling of the financial assistance, which was 50% of the actual election expenses incurred by the candidates, should be raised to say, 70%. Alternatively, the Administration could consider imposing a ceiling for the amount of financial assistance payable to each candidate, say \$1 million. Dr YEUNG Sum and Mrs Anson CHAN shared the view of Mr TONG that the ceiling of the financial assistance should be raised.

62. SCMA explained that the ceiling of 50% was set on the basis that both the candidates and the Administration should shoulder part of the expenses. The public had accepted such an arrangement. In addition, it was not possible to revise the ceiling at this stage as it would involve amendments to the Legislative Council Ordinance.

63. Some members, including Ms Emily LAU, Mr Ronny TONG and Dr YEUNG Sum, considered that the proposal to increase the election expense limits was in favour of well-off candidates. They pointed out that at the Panel meeting in February 2008, many members did not support the proposal to adjust the election expense limits upward. Some members had pointed out that many candidates spent less than the prescribed limits in previous elections. Mr Ronny TONG said that a candidate who spent up to the proposed prescribed election expense limit of \$2.62 million in the GC election in New Territories East would have to shoulder the expenses of \$1.31 million. The amount was equivalent to a Member's two years' salary and not many candidates could afford it. Dr YEUNG Sum cautioned about the danger of developing money politics in election culture. He said that the limits should be maintained at the existing level.

64. SCMA said that the Administration had studied the past spending pattern of candidates and found that some spent close to the limits. Having regard to the advent of the inflationary trend and the proposal of increasing the subsidy rate by 10% would affect the amount of election expense incurred by candidates, there was a need to adjust the election expense limits upward.

65. Mr James TIEN said that the remarks made by some members were unfair to those who could afford to spend more on election expenses. As there were calls for greater political participation from the community including the business sector, it would be inappropriate to limit election expenses. He pointed out that countries such as the United States did not impose any limit on election expenses. Referring to paragraphs 3 and 8 of the Administration's paper, he asked why the Administration had proposed to increase the GC election expense limits by 5% only, since the inflation rate was 9.2%.

66. SCMA explained that the 9.2% represented the inflation rate from 2004 to 2008. However, there was a cumulative deflation of 8.2% since 1998. As inflation was returning and there was an increase in population by 6.9% since 1998, the Administration hence proposed to increase the election expense limits by a modest rate of 5%.

Action

67. In response to Ms Audrey EU, SCMA affirmed that donations received, whether in cash or in kind, would not be deducted from the total election expenses for calculation of the amount of financial assistance receivable by the candidates concerned.

68. Mr LEUNG kwok-hung said that the absence of a political party law had made fund raising by political parties difficult. He said that if a political party law was in place, the Administration should provide financial assistance to the opposition party based on the election results. SCMA responded that the Administration maintained the view that at this stage, enactment of such a law would hinder development of political parties.

69. Mrs Anson CHAN asked whether the Administration would review the financial assistance scheme when universal suffrage was implemented for the CE in 2017 and the LegCo in 2020. SCMA said that the matter would be considered after 2012.

70. The Deputy Chairman observed that there was no correlation between the amount of election expenses incurred by a candidate and the election result. In past elections, some candidates had not spent a lot and still won in an election. The Deputy Chairman asked about the legislative timetable for introducing legislative amendments to the relevant subsidiary legislation.

71. SCMA said that having regard to members' views expressed at the meeting, the Administration would draft legislative proposals for the consideration of the Executive Council. The proposals would then be introduced into the LegCo for negative vetting in the current legislative session.

VII. Method for forming the Legislative Council in 2012

(LC Paper No. CB(2)1436/07-08 - Papers of the Task Group on Constitutional Development of the Commission on Strategic Development for its meeting on 27 March 2008)

72. The Deputy Chairman suggested and members agreed to defer discussion of the item to the next meeting.

73. The meeting ended at 5:15 pm.