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Panel on Home Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 13 February 2009**

Implementation of recommendations of the 2006 District Council Review

Purpose

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

Background

2. The 2006 DC Review was initiated in the 2004 Policy Address during which 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."

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.

4. 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."

The 2006 DC Review

5. According to the Administration, the following basic parameters were adopted for the DC Review in 2006 -

- (a) the existing legal provisions (**Appendix I**) 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 (Cap. 547) which sets out the functions of DCs;
- (b) the 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.

6. 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. The Administration briefed the Panel on Constitutional Affairs on the Consultation Document on the same day. This was followed by a three-month public consultation.

7. On 28 September 2006, the Administration announced its plan for implementing recommendations arising from the 2006 DC Review, including the launching of a pilot scheme in four selected DCs to participate in the management of district facilities starting from 1 January 2007 (the Pilot Scheme), a revised remuneration package for DC members and the creation of a dedicated capital works block vote for district minor works.

8. The proposed remuneration package for DC members was endorsed by the Finance Committee (FC) on 1 December 2006. The proposed creation of a dedicated capital works block vote for district minor works was endorsed by the Public Works Subcommittee on 19 December 2006 and approved by FC on 12 January 2007. The Pilot Scheme was implemented in the four pilot DCs (i.e. Wan Chai, Wong Tai Sin, Sai Kung and Tuen Mun) on 1 January 2007 and reviewed by the HA Panel on 14 December 2007. On 1 January 2008, the recommendations arising from the 2006 DC Review were fully implemented in the 18 DCs.

Discussions held by HA Panel on recommendations relating to the 2006 DC Review

9. The Administration briefed the HA Panel on 10 November 2006 on the arrangements for implementing the recommendations of the 2006 DC Review, and the Panel discussed with the representatives of the four pilot DCs on 14 December 2007 on the implementation of the Pilot Scheme. Comments and suggestions raised by members at these meetings are summarized in the ensuing paragraphs.

Role and functions of DCs

10. A member considered that the Administration should be reprimanded for failing to delegate the powers of the former municipal councils to DCs as undertaken and for appointing 102 members to DCs in the third term DC. Some other members considered that the role and functions of DCs had been restricted by the DCs Ordinance as being advisory in nature, and the new arrangement would not bring about any material change to the role and functions of DCs. Other members expressed dissatisfaction at the minimal amount of additional funding provided to the pilot DCs and at DCs not being given independent secretariats or autonomy over financial matters. These members suggested that the Administration should further enhance the role and functions of DCs by delegating more powers formerly exercised by the municipal councils to DCs, such as by allowing DCs to participate in the management of more district facilities and in the provision of services relating to food and environmental hygiene.

11. The Administration responded that the suggestions to further enhance the role and functions of DCs would be further considered after the new arrangements had been implemented smoothly in all the 18 DCs. With the increase in funding for DCs under the new arrangements, more service would be provided to the community and district work would be enhanced.

Financial support for DCs

12. Regarding the proposal for creating a dedicated capital works block vote with an annual provision of \$300 million under the Capital Works Reserve Fund for DCs to initiate and implement district minor works projects within a cost ceiling of \$15 million each, some members suggested that, in order to better meet district needs, the annual provision for this block vote should be further increased and DCs should be given more flexibility to initiate or endorse a project.

13. The Administration explained that to utilize the proposed annual provision of \$300 million which was only the cash flow, there would be an over-commitment facility of up to 200%, which meant that works contracts valued between \$500 million and \$600 million could be awarded within a year.

14. Some members asked about the endorsement procedures for district minor works projects not exceeding \$15 million, and whether DCs would enjoy a high degree of autonomy in initiating such projects. The Administration explained that each DC would have full discretion in apportioning the funds allocated to it for carrying out projects, having regard to the needs of the district. DCs could also draw up their own list of proposed district minor works projects and provide it to the Administration for assessing cost implications. DCs could then examine the priority of the projects on the list, having regard to the estimated cost and their financial constraints. After the endorsement of a proposed project by a DC, the Controlling Officers concerned would be responsible for the delivery of works and signing the relevant contract on behalf of the DC. The works would be undertaken by works departments or contractors entrusted by the Home Affairs Department (HAD).

Staffing support for DCs

15. A member considered that an independent secretariat should be provided for each DC to ensure that DCs enjoyed a degree of autonomy in performing their work, and that an independent review should be conducted to study whether DC members' work should be recognized duly as a job with a view to attracting the young and able persons to take part in the work of DCs.

16. The Administration explained that individual DCs were not corporate bodies and did not enjoy separate legal status under the law. Hence, DCs could not employ their own staff. The Administration, however, would increase the total provision for the DC Funds from \$170 million to \$300 million per year upon full implementation of the recommendations arising from

the DC Review in all 18 DCs in the third term DC in order to strengthen support for DCs. DCs could then use the DC Funds to hire additional staff members. These staff members would be non-civil servants and recruited through District Offices. They would be required to work independently to support the work of DCs.

Implementation of district works projects in the pilot DCs

17. In response to some members' enquiry on whether the new arrangements for DCs to initiate and plan minor works projects had prolonged the project planning and delivery process, the four pilot DCs considered that the implementation of the pilot scheme was quite smooth and DC members had been able to reach consensus through discussions in prioritizing works projects. However, they pointed out that the term consultants engaged by the Administration for the works projects did not seem to match their expectations, e.g. delays were experienced in the tendering process of some works projects due to inaccuracies of project cost estimates made by the consultants, and this problem had delayed the project implementation process.

18. The Administration explained that two consultancy firms had been engaged by the Administration for the four pilot DCs, and four consultancy firms would be engaged under the term consultancy approach to implement work projects when the new arrangements were fully implemented in 18 DCs. Given that the term consultants seemed to have failed to meet DCs' aspirations, a member suggested that each DC should be allowed to hire its own consultant. In response, the Administration undertook to follow up the suggestion in consultation with DCs.

Pilot DCs' cooperation with government staff

19. The pilot DCs generally took the view that supporting staff from the government had cooperated well with DCs. One of these DCs further suggested that the use of the additional \$3 million allocated to the DC Funds should not be restricted to organizing community involvement programmes, and DCs should be given the flexibility to deploy the additional manpower support for performance of other duties. Some members considered that the Administration should continue to streamline various procedures to facilitate the work of DCs and strengthen the manpower support for the relevant departments to handle the additional work arising from the new arrangements. The Administration undertook to consider members' suggestions.

Recent deliberations on recommendations of the 2006 DC Review

20. In relation to Hon Emily LAU's oral question on District Council election mechanism raised at the Council meeting held on 3 December 2008, some members expressed the following concerns regarding the implementation of recommendations of the 2006 DC review -

- (a) whether assessment would be made on the performance of DCs in exercising their enhanced role in the management of district facilities and works projects;
- (b) whether consideration would be given to providing more resources to DC members so that they might reach out to the entire community of their constituency in fulfilling their duties; and
- (c) whether measures would be taken to address various problems/issues relating to minor district works projects, such as the long time for implementing these projects and the management of district facilities by Government departments which did not possess the expertise in the relevant areas.

21. The Administration responded that -

- (a) the HAB and HAD had been working closely with the Chairmen and members of the 18 DCs to strengthen district work and enhance the functions of DCs;
- (b) the annual provision of \$300 million for the DC Funds earmarked for non-works items together with the annual provision of \$300 million for district minor works programmes should enhance DC members' participation in community programmes; and
- (c) the relevant bureaux and departments would continue to deliberate on issues relating to the implementation of district minor works programmes, such as how the implementation time could be shortened and how far maintenance cost could be borne by the relevant departments.

22. At the Council meeting on 10 December 2008, Hon Cyd HO raised a written question asking for detailed statistics on district minor works projects under DCs, including the contents, progress and outcome of funding applications for these projects in each DC since January 2008; and whether the funding mechanism would be reviewed to ensure that the funding applications could be examined and approved expeditiously.

23. The Administration responded that to expedite the implementation of the district minor works projects, DCs had been encouraged to appoint a member/dedicated working group for each project to follow up on its planning and detailed design with the assistance of the District Office, and DCs could endorse these projects through circulation of papers. The relevant departments being consulted on the projects were required to act expeditiously and coordinate inputs at higher level for complex issues, while District Offices would assume a more proactive role in following up progress of the relevant projects.

Relevant papers

24. A list of relevant papers with their hyperlinks at the LegCo website is in **Appendix II**.

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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 that –

"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 that -

"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.

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**Relevant papers on implementation of recommendations
of the 2006 District Council Review**

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
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 http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-consultation-e.pdf
		Leaflet provided by the Administration on "Enhancing work in districts, Strengthening District Councils"	Issued vide CB(2)1863/05-06 on 27 April 2006 http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-leaflet-e.pdf
		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) http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-1863-1e.pdf
		Paper provided by the Administration for the power point presentation on "District Council Review"	CB(2)1863/05-06(02) http://www.legco.gov.hk/yr05-06/english/panels/ca/papers/ca0427cb2-1863-2e-scan.pdf
		Minutes of meeting	CB(2)2328/05-06 http://www.legco.gov.hk/yr05-06/english/panels/ca/minutes/ca060427.pdf
10.11.06	Panel on Home Affairs	Paper provided by the Administration for the Panel on "Implementation of	CB(2)257/06-07(01) http://www.legco.gov.hk/yr06-07/english/panels/ha/papers/ha1110cb2-257-1-e.pdf

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
		the District Council Review"	
		Background brief prepared by the LegCo Secretariat on "District Council Review in 2006"	CB(2)257/06-07(02) http://www.legco.gov.hk/yr06-07/english/panels/ha/papers/ha1110cb2-257-2-e.pdf
		Minutes of meeting	CB(2)533/06-07 http://www.legco.gov.hk/yr06-07/english/panels/ha/minutes/ha061110.pdf
1.12.06	Finance Committee	HEAD 63 – HOME AFFAIRS DEPARTMENT Subhead 000 Operational expenses Subhead 700 General non-recurrent	FCR(2006-07)25 http://www.legco.gov.hk/yr06-07/english/fc/fc/papers/f06-25e.pdf
		Minutes of meeting	FC36/06-07 http://www.legco.gov.hk/yr06-07/english/fc/fc/minutes/fc061201.pdf
19.12.06	Public Works Subcommittee	Paper provided by the Administration on block allocations for Heads 701 to 711 under the Capital Works Reserve Fund	PWSC(2006-07)48 http://www.legco.gov.hk/yr06-07/english/fc/pwsc/papers/p06-48e.pdf
		Minutes of meeting	PWSC33/06-07 http://www.legco.gov.hk/yr06-07/english/fc/pwsc/minutes/pw061219.pdf
12.1.07	Finance Committee	Paper provided by the Administration on "Recommendations of the Public Works Subcommittee on	FCR(2006-07)30 http://www.legco.gov.hk/yr06-07/english/fc/fc/papers/f06-30e.pdf

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
		Public Works Programme and Capital Subvention Projects"	
		Minutes of meeting	FC54/06-07 http://www.legco.gov.hk/yr06-07/english/fc/fc/minutes/fc070112.pdf
14.12.07	Panel on Home Affairs	Paper provided by the Administration for the Panel on "Implementation of the Pilot Scheme to Further Improve District Administration "	CB(2)556/07-08(01) http://www.legco.gov.hk/yr07-08/english/panels/ha/papers/ha1214cb2-556-1-e.pdf
		Background brief prepared by the LegCo Secretariat on "Implementation of a pilot scheme under the 2006 District Council Review"	CB(2)556/07-08(02) http://www.legco.gov.hk/yr07-08/english/panels/ha/papers/ha1214cb2-556-2-e.pdf
		Minutes of meeting	CB(2)1051/07-08 http://www.legco.gov.hk/yr07-08/english/panels/ha/minutes/ha071214.pdf
3.12.08	Council meeting	Oral question raised by Hon Emily LAU on "Population of District Council Constituencies" and the Administration's reply	http://www.legco.gov.hk/yr08-09/chinese/counmtg/floor/cm1203-confirm-ec.pdf (pages 28-35) http://www.info.gov.hk/gia/general/200812/03/P200812030138.htm

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
10.12.08	Council meeting	Written question raised by Hon Cyd HO on "District minor works under District Council" and the Administration's reply	http://www.legco.gov.hk/yr08-09/chinese/counmtg/floor/cm1210-confirm-ec.pdf (pages 56-58)

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