

立法會
Legislative Council

LC Paper No. CB(2)2350/08-09
(These minutes have been seen
by the Administration)

Ref : CB2/PL/SE

Panel on Security

Minutes of meeting
held on Tuesday, 2 June 2009, at 2:30 pm
in Conference Room A of the Legislative Council Building

Members present : Hon LAU Kong-wah, JP (Chairman)
Hon James TO Kun-sun (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon WONG Yung-kan, SBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon CHIM Pui-chung
Hon CHAN Hak-kan
Hon WONG Kwok-kin, BBS
Hon WONG Yuk-man
Hon IP Kwok-him, GBS, JP

Members absent : Hon Albert HO Chun-yan
Dr Hon Margaret NG
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon LEUNG Kwok-hung

Public Officers attending : Item IV

Mrs Apollonia LIU
Principal Assistant Secretary for Security (E)

Mr Roderick B WOO, JP
Privacy Commissioner for Personal Data

Ms Brenda KWOK
Chief Legal Counsel
Office of the Privacy Commissioner for Personal Data

Mrs Vicki KWOK, JP
District Officer (Yau Tsim Mong)

Ms Alison LO
Assistant District Officer (Yau Tsim Mong)

Mr William WONG
Electronics & Data Communication Manager
Electrical & Mechanical Services Department

Mr LEUNG Kam-cheung
Service Development Manager
Electrical & Mechanical Services Department

Mr CHIU Kin-chee
Chief Manager/Management (Support Services 1)
Housing Department

Item V

Mr NGAI Wing-chit
Deputy Secretary for Security

Mr CHOW Wing-hang
Principal Assistant Secretary for Security (D)

Mr CHAN Kwok-ki
Assistant Director of Immigration (Visa and Policies)

Item VI

Mr NGAI Wing-chit
Deputy Secretary for Security

Mr CHAN Kwok-ki
Assistant Director of Immigration (Visa and Policies)

Clerk in attendance : Mr Raymond LAM
Chief Council Secretary (2) 1

Staff in attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr YICK Wing-kin
Assistant Legal Adviser 8

Miss Josephine SO
Senior Council Secretary (2) 1

Miss Kiwi NG
Legislative Assistant (2) 1

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I. Confirmation of minutes of previous meeting
(LC Paper No. CB(2)1674/08-09)

The minutes of the meeting held on 7 April 2009 were confirmed.

II. Information paper issued since the last meeting
(LC Paper No. CB(2)1467/08-09(01))

2. Members noted that the Administration's response to the Panel's request for a copy of the Police's investigation report on the death of a Nepalese in an open fire incident in Hung Hom on 17 March 2009 had been issued since the last meeting.

3. The Deputy Chairman expressed dissatisfaction with the Administration's reply which suggested that the Panel might consider whether to apply to the coroner for a copy of the Police's investigation report. He criticized the Administration for its reluctance to convey members' concern to the coroner. Members agreed that the Secretariat should write to the coroner for provision of the Police's investigation report.

Clerk

4. Ms Audrey EU queried whether the Police had any other investigation report in respect of the incident besides the investigation report referred to in the Administration's letter dated 4 May 2009. She requested the Secretariat to clarify the issue with the Administration.

Clerk

III. Date of next meeting and items for discussion
(LC Paper Nos. CB(2)1673/08-09(01) & (02))

Regular meeting in July 2009

5. Members agreed that the following items would be discussed at the next regular meeting to be held on 7 July 2009 -

- (a) Review of the torture claim screening mechanism;
- (b) Proposed amendments to the Import and Export Ordinance (Cap. 60) to enhance control over smuggling at sea; and
- (c) Adaptation of military references in Hong Kong laws.

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The Chairman said that pursuant to the decision made at the previous meeting, the Law Society of Hong Kong, Hong Kong Bar Association and Hong Kong Human Rights Monitor, should be invited to attend the meeting to give views on item (a). Members agreed that the meeting should be extended to start at 2:00 pm and end at 5:00 pm.

(Post-meeting note: To give way to a Chief Executive's Question and Answer Session which would be held at 3:00 pm on 7 July 2009, the regular meeting originally scheduled for 7 July 2009 was re-scheduled to Monday, 6 July 2009, from 9:00 am to 12:00 noon.)

Special meeting in June 2009

6. The Deputy Chairman expressed concern about a recent media report that Mr Martin LEE, a former Legislative Council (LegCo) Member, had been the target of an assassination plot in August 2008. The Deputy Chairman suggested that the Panel should convene a special meeting to discuss the issue of "Police's handling of cases of violence against well-known personalities and civil servants in their performance of duties".

7. Mr WONG Kwok-kin queried whether the case involving Mr Martin LEE was election-related violence and why the Police had not disclosed any information about the case after the suspects were arrested so as to alert the public, in particular public figures, of possible threat of personal safety. The Deputy Chairman said that to his knowledge, Mr LEE had not disclosed details of his case to any person or body, including the mass media, until he was approached recently by a news agency to verify some information which it obtained from other sources.

8. Mr WONG Yung-kan expressed concern about the measures adopted by the Administration to combat illegal immigration. He said that to his knowledge, many illegal immigrants released on recognizance took up illegal employment in Hong Kong. He suggested that the Panel should discuss the item "combating illegal immigration" at a future meeting.

9. Members agreed that a special meeting would be held on 29 June 2009 at 2:30 pm to discuss the two items proposed respectively by the Deputy Chairman and Mr WONG Yung-kan in paragraphs 6 and 8 above.

(Post-meeting note: At the request of the Administration and with the concurrence of the Chairman, the item "Proposed introduction of the Medical Priority Dispatch System" was added to the agenda for the regular meeting in July 2009 and the item "Proposed amendments to the Import and Export Ordinance to enhance control over smuggling at sea" originally scheduled for discussion in July 2009 was included in the

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agenda for the special meeting to be held on 29 June 2009. Members were informed of the revised meeting arrangements vide LC Paper Nos. CB(2)1781/08-09 and CB(2)1787/08-09 issued on 5 June 2009.)

IV. Installation of closed-circuit television cameras in public places
(LC Paper Nos. CB(2)969/08-09(01), CB(2)1201/08-09(01) & (02) and CB(2)1673/08-09(03))

Briefing by the Administration

10. At the invitation of the Chairman, District Officer (Yau Tsim Mong) (DO/YTM) briefed members on the proposal of the Yau Tsim Mong District Council (YTMDC) to install a closed-circuit television (CCTV) system in the Mong Kok Pedestrian Precinct (MKPP), as detailed in the Administration's letter dated 30 March 2009 (LC Paper No. CB(2)1201/08-09(01)). DO/YTM highlighted the following points -

- (a) taking into account the heavy pedestrian flow of MKPP and the previous incidents of objects being thrown from height, YTMDC agreed in December 2008 to install a CCTV system in MKPP and set up the Working Group on Mong Kok Pedestrian Precinct (the Working Group) to take forward the project;
- (b) government departments, including the Yau Tsim Mong District Office (YTMDO), the Police and the Electrical and Mechanical Services Department (EMSD) were invited to join the Working Group. YTMDO and YTMDC immediately started to identify suitable locations for the installation of the CCTV system, sought advice from the Department of Justice (DoJ) and the Office of the Privacy Commissioner for Personal Data (PCPD), formulated guidelines for the operation of the CCTV system and held a public consultation forum to gauge the views of the public on the project;
- (c) the installation of CCTV cameras was only one of the measures to deter incidents of objects being thrown from height and assist Police investigation into similar incidents. Only those parties authorized by YTMDC and YTMDO, such as the Police, relevant government departments and maintenance staff, could access the video recording for system review and maintenance purposes;
- (d) operational guidelines for the CCTV system had been formulated to ensure a reasonable balance between the safety of passers-by and the privacy of residents. The guidelines would be uploaded to the homepage of YTMDC for public access;

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- (e) EMDS carried out the required procedures in relation to the design, procurement and installation of the system. It conducted a procurement exercise soon after the District Facilities Management Committee under YTMDC approved funding in March 2009. EMSD would complete the installation and testing of the system in early June. The CCTV system was expected to begin operation within June 2009; and
- (f) YTMDC would continue to maintain close liaison with relevant government departments. It hoped that the new system would help the Police in its investigation work. In the meantime, residents, owners' corporations, mutual aid committees and residents' groups in the district would be reminded to stay alert and strengthen the security systems of their buildings.

Views of PCPD

11. Privacy Commissioner for Personal Data (PC) presented the views of PCPD over the proposed installation of CCTV system in MKPP, as outlined in its paper tabled at the meeting.

(Post-meeting note: The paper provided by PCPD tabled at the meeting was issued to members vide LC Paper No. CB(2)1750/08-09 on 3 June 2009).

Discussion

12. The Deputy Chairman said that given the resolution level of images to be captured by the CCTV system and the measures put in place to address the privacy concerns, he supported in principle the proposal to install CCTV cameras in MKPP to monitor object throwing-related misdeeds. He, however, asked why the proposal for installation of CCTVs in MKPP was not initiated by the Police. He pointed out that the Police had, on a need basis during major festive days and events, employed temporary CCTV systems at specific locations for monitoring crowd movement and facilitating crowd control by the Police for public safety purpose. Thus, the Police should have better knowledge and experience than YTMDC and YTMDO in monitoring the installation and commissioning of the CCTV system. In his view, if this district-based initiative had been led by the Police, much time could have been saved. He therefore asked whether the Police was in general supportive of the proposal of YTMDC to install CCTV cameras in MKPP. He also asked about the role of the Police in the project.

13. In response, Principal Assistant Secretary for Security (E) (PAS(S)E) made the following points -

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- (a) at present, various government departments installed CCTV systems in public places, such as strategic locations in the transport infrastructure, entrances to public facilities and lift cabins for traffic monitoring, facility management and other lawful purposes;
- (b) insofar as the Police was concerned, it had installed CCTV systems along the land boundary to facilitate a timely response to activities that might pose a threat to the integrity of the boundary, e.g. smuggling and illegal immigration. For similar reasons, the Police intended to install CCTV systems to monitor the sea boundary;
- (c) no CCTV system was currently installed by the Police in public places on a permanent basis for the purpose of maintaining law and order. The Police had only used temporary CCTV systems in crowd management operations during major festivals and events;
- (d) as installation of CCTV systems in public places had implications on personal privacy and needed to be handled with care, the Police assessed each proposal for installation of CCTVs at public locations on a case-by-case basis having regard to the legitimate purpose that such facility would serve, necessity and protection of privacy;
- (e) following an incident on 13 December 2008 in which more than 40 persons suffered injuries as a result of an acid attack from height in MKPP, YTMDC responded quickly by taking a decision to pursue the installation of a CCTV system in MKPP to deter the occurrence of and to assist Police investigation in similar incidents. The Police considered it more appropriate for the project to be followed up by YTMDC. The Police had provided comments on the project, including which directions the CCTV cameras should face and the proper storage of equipments of the CCTV system; and
- (f) the Police attached great importance to the two incidents involving corrosive fluid being thrown from height in MKPP in December 2008 and May 2009. The Police had been investigating the two cases and would follow up vigilantly.

14. Responding to the Deputy Chairman's enquiry about the effectiveness of CCTV installations in fighting crime, PAS(S)E said that according to the Police's experience, the deployment of CCTV cameras had some deterrent effect on criminal activities, and the recorded images might provide

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information to assist Police investigation. However, the effect of assisting the Police in crime investigation in past cases would be limited if the CCTV systems were installed after the occurrence of crimes.

15. PC informed members that according to a research study conducted in the United Kingdom, CCTV installations did not produce a noticeable deterrent effect. However, they were considered very useful in crime detection. PC held the view that notwithstanding the effectiveness of CCTVs in combating crimes, a proper balance should be struck between crime prevention and detection and protection of privacy of members of the public. Hence, the number of cameras installed should be restricted to the minimum required to meet the purposes, and sufficient notices should be posted to inform the public that the area was under the surveillance of the CCTV system.

16. Mr IP Kwok-him recalled that the Police's previous proposal to install CCTV cameras in the Lan Kwai Fong area as a pilot scheme aiming at assisting crowd management and preventing crime had aroused wide public concern. When the proposal was discussed at meetings of the Central & Western District Council (C&WDC) in 2002, C&WDC members generally did not support the proposal. Their main concern was over the need to protect individual's privacy. They also questioned the effectiveness of CCTV installations in crime investigation. Regarding the current proposal of YTMDC to install CCTV cameras in MKPP, Mr IP said that the whole issue had given him the impression that the Police was evading its responsibility by not taking the lead in the overall planning, coordination and monitoring of the project. He considered the arrangement not satisfactory as protection of public safety was primarily the responsibility of the Police, not DC's.

17. The Deputy Chairman reiterated his concern about the effectiveness of CCTV installations in monitoring object throwing-related misdeeds. He considered that the Police should take the lead in launching the CCTV project in MKPP, should CCTV systems be considered a cost-effective measure to address the problem of objects being thrown onto MKPP.

18. Noting that in case there was an incident of throwing of object from height, the Police might retrieve only the images recorded six hours before and after the incident concerned upon obtaining the vetting committee's authorization, Mr IP Kwok-him asked about the reason for setting such a time limit on recorded images of CCTV systems to which the Police could access. He said that there was a possibility that the culprit might visit the district to observe the surrounding environment beforehand. The video footage taken a few days before the incident might capture images of the culprit. In his view, if the recorded images would be stored and retained for 14 days, all captured images relevant to the incident should be provided to the Police for its viewing so as to assist its investigation work to the fullest extent.

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19. DO/YTM responded that the video recordings would be used for Police investigation into incidents of attacks from height. In drawing up the operational guidelines for the CCTV system in MKPP, YTMDC had considered the public concern about the risk of infringing the privacy of residents in the area and endeavoured to ensure that a reasonable balance between the safety of passers-by and the privacy of residents would be upheld. YTMDC believed that providing the Police with images recorded six hours before and after the incident concerned would be sufficient in assisting the Police in its investigation into an incident.

20. PAS(S)E supplemented that the Police could apply to the court for issue of an order directing the provision of video tapes of longer duration, if so needed.

21. Ms Audrey EU considered that clear operational guidelines should be adopted across-the-board for installation of CCTVs in public places. She held the view that the Administration should provide all DCs with a set of standard guidelines, and DCs should follow the same if they had such a need to install CCTV systems in public places for surveillance of the conditions in the areas concerned. She also expressed concern whether YTMDC would post sufficient notices in MKPP to inform the public that the area was under the surveillance of the CCTV system.

22. The Chairman and Mr WONG Kwok-kin echoed Ms EU's view. They sought clarification as to whether there would be standard guidelines on the installation of CCTV systems in public places for use by all DCs. PAS(S)E agreed to follow up the issue with the Home Affairs Department and provide the Panel with a response.

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23. DO/YTM responded that the purpose of installing CCTVs in MKPP was to deter people from throwing objects from height and to assist the Police investigation when similar incidents happened in future. The present project was essentially a district-based initiative, and it would be up to other DCs to decide, having regard to their own circumstances, whether they had such a need to install CCTVs in public places. Since the operational guidelines promulgated by YTMDC for the present project had been uploaded to the homepage of YTMDC, other DCs could easily access the guidelines and make reference to them, if necessary.

24. Mr WONG Yuk-man said that to his knowledge, CCTV systems were widely installed in public housing estates and shopping centres under the purview of the Housing Department, the airport, and facilities of the Leisure and Cultural Services Department. While they were considered effective in crime prevention and detection, it was equally important to uphold the principle of prudent use of such installations and the images recorded to avoid intrusion on privacy.

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25. The Deputy Chairman requested the Administration to provide information on whether the Police had considered employing CCTV systems to address the problem of objects being thrown from height onto MKPP, and whether it had arrived at any conclusion in this regard.

26. PAS(S)E said that the Police had a role to play in the proposal put forward by YTMDC to install CCTV cameras in MKPP. As CCTV systems were widely used by other government departments and the private sector for security and other lawful purposes, it was not appropriate solely for the Police to decide whether or not to install a CCTV system at a particular location.

V. Legislative proposals on immigration convenience measures for Macao visitors and other immigration control matters
(LC Paper Nos. CB(2)1673/08-09(04) & (05))

27. Deputy Secretary for Security (DS for S) took members through the Administration's paper which set out the Administration's proposal to -

- (a) amend the Immigration Ordinance (Cap. 115) (IO) to allow Macao permanent residents to visit Hong Kong solely on the strength of their Macao Permanent Identity Cards, so as to enhance travel convenience for Macao visitors; and
- (b) make new provisions under IO to specify an offence against taking of employment by illegal immigrants (IIs) and other ineligible persons.

28. While supporting the legislative proposal to enhance the travel convenience for Macao residents, Ms Audrey EU expressed concern over the Administration's hasty decision to make new provisions under IO to specify an offence against taking of employment by IIs and other ineligible persons. Referring to paragraphs 4, 5 and 8 of the Administration's paper which briefly set out the background to the proposal, Ms EU said that the recent ruling of the Court of First Instance (CFI) on a judicial review case and its implications had to be studied carefully and construed from a wider perspective. Since the upsurge of non-ethnic Chinese IIs taking up illegal employment in Hong Kong was related to the rapid increase in the number of torture claims and refugee claims lodged in Hong Kong, she considered that the Administration should speed up its review of the torture claim screening mechanism and introduce a more comprehensive legislative proposal to tackle all the issues in one go.

29. In response, DS for S made the following points -

- (a) although the law enforcement agencies had strengthened

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boundary control in collaboration with the Mainland counterparts, there was an upsurge in the number of non-ethnic Chinese IIs intercepted in recent months since the handing down of the CFI's judgment in March 2009. The numbers of non-ethnic Chinese IIs (not including Vietnamese) intercepted from January to April 2009 were 32, 41, 102 and 167 respectively. The figures recorded in March and April 2009 represented increases by 180% and 350% respectively over the average of the first two months. There was an urgent need to specify an offence against taking of employment (or establishing/joining in of business) by IIs and other ineligible persons, so as to prevent the problem of illegal employment from deteriorating; and

- (b) the Administration was studying the implementation of a legislative regime with comprehensive and effective procedures for assessing torture claims made under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). It intended to brief LegCo on the legislative framework by the end of 2009.

30. Ms Audrey EU appreciated the need for expeditious action to tackle the specific problem of employment of IIs. She, however, remained of the view that the Administration should not deal with problems in a piece-meal manner. In her view, amendments to legislation should be done in a coordinated manner, taking into account the findings of the review on the legislative framework for torture claimants and asylum seekers.

31. The Deputy Chairman commented that the information provided in paragraphs 4, 5 and 8 of the Administration's paper was too brief. He considered that the Administration should provide more detailed analysis on the background to the proposal to create an offence of taking of employment by IIs and other ineligible persons. He echoed Ms EU's views and said that the Administration should study the grounds for the CFI's ruling, provide more details and come up with a view on the need for a comprehensive review and legislative exercise, before it would proceed further to make provisions under IO to specify an offence against taking of employment by IIs. He opined that the Administration should endeavour to identify the employer of the illegal workers to see if there was sufficient evidence to prosecute the employer in the first instance. The Deputy Chairman further said that the Administration should conduct independent assessment of torture claims rather than relying on the determination of refugee status by the United Nations High Commissioner for Refugees. He suggested that the Administration should make reference to overseas experiences, such as that of the United Kingdom, in their handling of torture claims.

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32. Mr IP Kwok-him was concerned about the substantial increase in the number of non-ethnic Chinese IIs intercepted in recent months since the handing down of the CFI's judgment. He appreciated that there was an urgent need to make provisions under IO to specify an offence against taking of employment by IIs so as to prevent them from believing that there was any loophole to exploit. Since the Administration had undertaken to study the implementation of a legislative regime for handling torture claims made under CAT and provide a framework on the subject matter for consideration by LegCo by the end of 2009, Mr IP considered it acceptable to tackle the specific problem of illegal employment first.

33. The Chairman requested the Administration to take note of members' views and concerns in drawing up the relevant legislative proposal.

34. DS for S said that the Administration would consider how the concerns of members could be addressed. Responding to the Chairman's enquiry, DS for S advised that the number of non-ethnic Chinese IIs intercepted in May 2009 was comparable to that in April 2009. DS for S reiterated that as the Administration had not been able to prosecute IIs released on recognizance for undertaking illegal employment since the handing down of the CFI's judgment, there was an urgent need for the Administration to address the problem.

VI. Discretion of the Director of Immigration in the processing of contract renewal applications from foreign domestic helpers
(LC Paper Nos. CB(2)1673/08-09(06) & (07))

35. Noting from paragraph 7 of the Administration's paper that discretion was exercised in about 20% of the contract renewal cases of foreign domestic helpers (FDHs), and that most of them involved requirements for a particular supporting document, the Deputy Chairman sought information on the distribution of these cases among the different supporting documents, including residential proof of employer, financial proof of employer and relationship proof.

36. Assistant Director of Immigration (Visa and Policies) (AD of Imm) responded that most of the cases in which discretion had been exercised were related to residential proof of employer. He said that employers were normally required to produce utility bills, such as water, telephone and electricity bills, of the last three months as residential proof. The Immigration Department (ImmD) might, based on the circumstances of individual cases, exercise discretion to accept other documents, such as bank statement or correspondence to the employer from public organizations, as residential proof. If the address in the new contract was the same as that in the previous contract, ImmD might also consider exempting the employers from furnishing proof again.

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37. The Deputy Chairman noted that when submitting a contract renewal application, an employer was required to provide documentary proof showing that he was financially capable of employing a FDH. Regarding a case recently reported by the media where an Under Secretary only submitted his business card bearing his office title to ImmD as proof of his financial position in respect of the contract renewal application of his FDH, the Deputy Chairman asked whether ImmD would accept the business card of the employer of a FDH as the sole proof of his financial position, and if so, how ImmD verified the information and identity of the employer as stated on the business card.

38. AD of Imm responded that as a general procedure, employers were required to provide supporting documents to show that they were financially capable of employing FDHs. In general, for every FDH to be employed, the employer should have a household income of no less than \$15,000 per month or assets of comparable amount. The supporting documents might normally include notice of assessment and demand for tax, bank passbook or statement, and salary statements or slips. In the event that an employer could not produce the said supporting documents, ImmD might waive the requirement if it was satisfied with the employer's financial capability. While he would not comment on the details of individual cases, AD of Imm said that discretion was exercised on the premise that the applicants must satisfy ImmD the relevant applications had met all the essential criteria, including that the employers were financially capable to fulfill the employment contracts. Each case involving the exercise of discretion must be properly recorded by ImmD staff handling the case. ImmD also conducted random checks from time to time to ensure proper exercise of discretion.

39. Mr WONG Yuk-man and the Deputy Chairman were concerned whether the ImmD staff who handled the contract renewal application from the Under Secretary was satisfied with the applicant's identity. They asked whether the ImmD staff had cross-checked with the Under Secretary concerned by telephone if the latter had sent his FDH to lodge an application. Mr WONG sought information on the special considerations which had been taken into account by the ImmD staff in assessing the said application. He said that these information could facilitate members' assessment as to whether the discretion was exercised in a proper manner and whether the Under Secretary had abused his power.

40. In response, AD of Imm emphasized that confirming the applicant's identity was an important job for ImmD officers. Regarding the waiving of financial proof, AD of Imm explained that as a general procedure, all employers were required to produce copy of their financial proof to support that they were financially capable to employ FDHs. However, if for some reasons the employer could not furnish any of the required documents, ImmD might then consider waiving the provision of such document provided that its

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officers were satisfied that the employers had fulfilled the relevant requirement.

41. The Deputy Chairman remained unconvinced of the Administration's explanation. He expressed deep concern about how ImmD verified the information on the business card submitted by the FDH in question. He sought information on the action taken by the ImmD staff to confirm that the Under Secretary was the same person who intended to renew the FDH's contract.

42. AD of Imm responded that when submitting an application, an employer had to enclose, among others, a copy of his Hong Kong Permanent Identity Card, original copy of the new standard employment contract and original copy of his FDH's current employment contract. ImmD staff would compare the information on these documents and check the application against the records kept by ImmD to ensure that the contract renewal application was made by the same employer. Since the new and the old employment contracts both showed the signature of the employer, ImmD would verify the signature on the new contract with that on the old contract to ascertain the employer's identity.

43. Mr WONG Yuk-man and the Deputy Chairman said that they had learned from media reports that the Administration had tried to identify the anonymous informant, said to be an ImmD staff, who reported to the press on how the Under Secretary's application had been handled. They asked whether the Administration had conducted such a witch-hunt, and whether disciplinary action had been taken against any staff members of ImmD.

44. DS for S replied that the Administration had no intention to witch-hunt any person. He explained that the ImmD management had looked into the incident mainly to ensure that the internal procedure and safeguard to protect personal data of the applicants were intact. AD of Imm added that no disciplinary actions had been taken against any staff members of ImmD after the investigation.

Admin

45. At the request of Mr WONG Yuk-man, the Administration agreed to provide information on how it followed up the case where an Under Secretary used his business card as financial proof in support of his FDH's contract renewal application after the case came to light and was widely reported by the media.

46. Mr IP Kwok-him noted that the relevant Under Secretary had accepted the criticism and apologized publicly that he was not careful enough in handling the matter by submitting only his business card to ImmD to support his FDH's contract renewal application. Mr IP hoped that ImmD would continue to exercise discretion, rather than tightening up the discretion, in assessing contract renewal applications of FDHs. He considered it appropriate for ImmD staff to be provided with a discretionary power to waive a particular

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documentary requirement, having regard to the circumstances of individual cases.

47. Mr WONG Yuk-man and the Deputy Chairman said that they had no intention to call for any tightening of the exercise of discretion. Their main concerns were the questions of whether ImmD had exercised the discretion in a fair and reasonable manner, and whether the staff member concerned was under undue pressure in granting the Under Secretary such discretion.

48. In response, AD of Imm assured members that ImmD would not give any privileged treatment for people with power and influence. In assessing the contract renewal applications, officers conferred with the authority to exercise discretion would carefully consider the circumstances of each application before they exercised discretion in respect of a particular assessment criterion or documentary requirement. The relevant applications must satisfy ImmD that they had met all the essential assessment criteria. Regarding the case in which an Under Secretary used his business card as financial proof, AD of Imm said that the officer handling the case had verified the identity of the applicant before he made a decision to exercise discretion. The officer had documented the justifications for such discretion. ImmD would conduct random checks from time to time to ensure proper exercise of discretion. Currently, about 10% of the cases involving the exercise of discretion were reviewed.

49. The meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
5 August 2009