

立法會
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by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 19 April 2010, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present :

- Hon TAM Yiu-chung, GBS, JP (Chairman)
- Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP (Deputy Chairman)
- Hon Albert HO Chun-yan
- Dr Hon Margaret NG
- Hon CHEUNG Man-kwong
- Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
- Dr Hon Philip WONG Yu-hong, GBS
- Hon WONG Yung-kan, SBS, JP
- Hon LAU Kong-wah, JP
- Hon Miriam LAU Kin-yea, GBS, JP
- Hon Emily LAU Wai-hing, JP
- Hon Timothy FOK Tsun-ting, GBS, JP
- Hon LI Fung-ying, BBS, JP
- Hon Audrey EU Yuet-mee, SC, JP
- Hon WONG Kwok-hing, MH
- Hon LEE Wing-tat
- Hon Jeffrey LAM Kin-fung, SBS, JP
- Hon CHEUNG Hok-ming, GBS, JP
- Hon WONG Ting-kwong, BBS, JP
- Hon Ronny TONG Ka-wah, SC
- Hon CHIM Pui-chung
- Prof Hon Patrick LAU Sau-shing, SBS, JP
- Hon Cyd HO Sau-lan
- Dr Hon LAM Tai-fai, BBS, JP
- Hon CHAN Kin-por, JP
- Dr Hon Priscilla LEUNG Mei-fun
- Hon CHEUNG Kwok-che
- Hon WONG Kwok-kin, BBS
- Hon IP Kwok-him, GBS, JP
- Hon Mrs Regina IP LAU Suk-yea, GBS, JP
- Dr Hon PAN Pey-chyou
- Hon Paul TSE Wai-chun
- Dr Hon Samson TAM Wai-ho, JP

Members absent : Hon LAU Wong-fat, GBM, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP

Public Officers attending : Item III

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

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Ivanhoe CHANG Chi-ho
Principal Assistant Secretary for Constitutional and Mainland Affairs

Mrs Vivian TING TSUI Wai-ming
Chief Electoral Officer
Registration and Electoral Office

Item IV

Miss Adeline WONG Ching-man
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Hubert LAW Hin-cheung
Principal Assistant Secretary for Constitutional and Mainland Affairs

Equal Opportunities Commission

Mr LAM Woon-kwong
Chairperson

Mr LI Siu-kwai
Director (Operations)

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Clara TAM
Assistant Legal Adviser 9

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Ms Wendy LO
Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Information papers issued since the last meeting

Members noted that the reply on "Ethnic minorities being refused to open bank accounts" from the Hong Kong Association of Banks to Hong Kong Unison Limited dated 17 March 2010 [LC Paper No. CB(2)1133/09-10(01)] had been issued since the last meeting and the issue would be discussed under agenda item IV at the meeting.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1289/09-10(01) to (02)]

2. Members agreed to discuss at the next meeting on 17 May 2010 the following items proposed by the Secretary for Constitutional and Mainland Affairs ("SCMA") -

(a) public consultation on the Revised Code of Practice on Employment under the Disability Discrimination Ordinance issued by the Equal Opportunities Commission ("EOC"); and

(b) code on access to information and management of public records.

3. Members agreed that the Panel would receive public views on item referred to in paragraph 2(a). At the suggestion of Ms Audrey EU and Ms Emily LAU, members agreed to also receive views on "management of public records" under the item referred to in paragraph 2(b).

4. Noting that the third report of the Hong Kong Special Administrative Region ("HKSAR") under the International Covenant on Civil and Political Rights would be due in 2010, Ms Emily LAU enquired when the outline of the topics to be included in the third report would be made ready for public consultation. Deputy Secretary for Constitutional and Mainland Affairs ("DSCMA") responded that the Administration would issue the outline of topics within the current legislative session for public consultation in mid-2010.

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5. Ms Emily LAU further asked and DSCMA responded that to his understanding, the Labour and Welfare Bureau was working on the outline of topics to be included in the third report of HKSAR under the Convention on the Elimination of All Forms of Discrimination Against Women. He would relay to the Bureau the Panel's wish to discuss the outline within the current legislative session.

III. Practical arrangements for the 2010 Legislative Council By-election
[LC Paper Nos. CB(2)1289/09-10(03) to (04)]

6. SCMA informed members that 24 candidates would be standing for the Legislative Council ("LegCo") By-election to be held on 16 May 2010 ("LegCo By-election") to return one Member each from the five geographical constituencies ("GCs"). Chief Electoral Officer ("CEO") of the Registration and Electoral Office ("REO") briefed members on the key practical electoral arrangements for the LegCo By-election as set out in the Administration's paper [LC Paper No. CB(2)1289/09-10(03)].

7. Members noted the background brief prepared by the LegCo Secretariat [LC Paper No. CB(2)1289/09-10(04)] on the subject under discussion.

The LegCo By-election and the Appropriation Bill 2010

8. Mr WONG Kwok-hing said that although SCMA had described the LegCo By-election as artificial and unnecessary, the Administration had earmarked \$159 million for the expenditure of the LegCo By-election. As the Administration had bundled the expenditure of the LegCo By-election with the Appropriation Bill 2010 ("the Bill") without consulting LegCo, he would move a motion to amend the Bill at the Council meeting on 21 April 2010 to reduce \$159 million under REO's Head of Expenditure. Mr WONG expressed dissatisfaction that although some people had still perceived the LegCo By-election as "de facto referendum", the Administration had not taken any concrete move to rectify the misconception other than saying that the Basic Law ("BL") did not provide for any referendum mechanism. Mr WONG said that he had written to SCMA proposing that the Administration should state in all the promotional materials for the LegCo By-election that the LegCo By-election was artificial, unnecessary and any form of referendum would not be recognised by the Government.

9. Mr IP Kwok-him, Mr CHEUNG Hok-ming and Dr PAN Pey-chyou concurred with the view that the LegCo By-election was a waste of public money, artificial and unnecessary. Mr IP said that the LegCo By-election had given rise to social disharmony and the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") would support the motion to be moved by Mr WONG.

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Dr PAN said that the Hong Kong Federation of Trade Unions ("HKFTU") also would support the motion as the community did not support the LegCo By-election and many taxpayers were angry at being forced to shoulder the cost for holding the LegCo By-election.

10. In response, SCMA said that -

- (a) the position of the Administration towards the resignation of the five LegCo Members had been very clear. The Decision made by the Standing Committee of National People's Congress ("NPCSC") on 29 December 2007 had already provided a timetable for HKSAR to implement universal suffrage. If these Members remained in office, they could deal with the Package of Proposals for the Methods for Selecting the Chief Executive ("CE") and for Forming LegCo in 2012 ("the Proposed Package"). The Administration considered the resignation of the five Members unnecessary;
- (b) the LegCo By-election was not a referendum and BL did not provide for any such mechanism. The Administration was aware that in the community, there were views against the resignation of the five Members for the purpose of initiating the so-called "referendum campaign". It appeared that there was also a lack of enthusiasm in the community for voting in the LegCo By-election. The Government, however, was obliged to discharge its statutory duty to arrange the LegCo By-election even though it was "artificial" in order to ensure that there would be a full number of representatives in LegCo and the views of Hong Kong people were fully represented in the Council;
- (c) the Administration had informed the Panel at its meeting in February 2010 that in line with the established practice, provisions for conducting elections/by-elections would be included in the annual estimates of REO's Head of Expenditure; and
- (d) the action taken by the Administration to arrange the LegCo By-election was reasonable and practical. The Administration had already provided a response to Mr WONG's letter.

11. Dr Priscilla LEUNG said that the Administration should not have bundled the expenditure of the LegCo By-election with the Bill. She had heard that some members of the District Council ("DC") who supported the so-called "referendum" had a plan to resign by turns and then stand for election in the subsequent by-elections between now and 2012 so as to wear out the Administration which would have to submit funding bids for conducting a by-election one after another. In her view, the so-called "referendum" was a breach of the principle of "One

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Country, Two Systems" and BL. In addition, BL did not provide for a mechanism for resignation of Members. BL 79 only provided the conditions under which Members should be disqualified from the office. According to BL 8, local law which violated BL should not be maintained. In this connection, the HKSAR Government would look ridiculous if it did not amend the LegCo Ordinance (Cap. 542) ("LCO") to plug the loophole soon enough. She enquired when the Administration intended to introduce amendments to LCO to restrict the condition under which a Member who resigned from his office would stand for election in the by-election to fill that vacancy. If the Administration had no intention to introduce such amendments, she would introduce a Private Members' Bill to that effect.

12. Dr LAM Tai-fai enquired how the Administration would deal with the loophole as raised by Dr LEUNG. As the Administration considered the LegCo By-election artificial, Dr LAM questioned whether SCMA wished Members to support the LegCo By-election or otherwise.

13. Mr WONG Kwok-hing said that he had discharged his duty as a Member to monitor the work of the Government by moving a motion to amend the Bill. He expressed regret that the Administration had not done enough to uphold BL and to tell the public unequivocally that any form of referendum was inconsistent with BL. He also expressed dissatisfaction that the Administration's reply to his letter offered nothing new. Dr PAN Pey-chyou enquired whether the Administration would amend LCO to the effect that Members who resigned to stand for election in the by-election to fill that vacancy would be required to bear part or all of the expenses for holding the by-election.

14. In response, SCMA said that -

- (a) the Administration did not wish any political parties or pro-establishment Members to get it wrong that the HKSAR Government was not upholding BL. Over the years the Administration had implemented the principle of "One Country, Two Systems" and had shown its determination and resolve in upholding Hong Kong's autonomy. The LegCo By-election was lawful and constitutional. BL provided that LegCo should consist of 60 Members. In upholding BL and discharging CE's constitutional duties under BL 48, the Administration had made electoral arrangements and funding bids to ensure the vacancies arose in the membership of LegCo would be filled;
- (b) the Administration had made it clear at the outset that the "resignation campaign" was unnecessary and the constitutional framework for Hong Kong did not provide for a mechanism for referendum. Conducting the so-called "referendum campaign" on

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the issue of constitutional development was not consistent with the provisions relating to amendments to the two electoral methods in BL and the interpretation made by NPCSC on 6 April 2004 which provided for a five-step mechanism to amend the two electoral methods. The HKSAR Government had emphasised that the By-election was only aimed at filling the vacancies in the membership of LegCo to ensure that there were 60 Members serving the people of Hong Kong;

- (c) LCO had been enacted since 1990's and had been reported to NPCSC for the record. Had LCO been unconstitutional, it would have been rejected by NPCSC. It should be noted that the disqualification of Members in BL 79 and the resignation of Members in section 14 of LCO were two different issues. The provision to allow Members to resign was a reasonable arrangement and had been in force before the establishment of HKSAR. There was no dispute that LCO was consistent with BL and would continue to be so;
- (d) the Administration noted members' concern about the need to prevent a Member who resigned from his office to stand for election in the by-election to fill that vacancy. The Administration was exploring means to prevent abuse of the electoral system. The Administration had stressed that any proposal to amend LCO must comply with BL 26, and the proposed restrictions should be reasonable and practicable. If the Proposed Package was endorsed by Members and the legislative process to amend Annexes I and II to BL could be completed before the end of the current legislative session, amendments to LCO, if any, to that effect could be considered when the Administration introduced local legislation in the autumn of 2010 to implement the two electoral methods;
- (e) given that it was the right of permanent residents of HKSAR to vote and to stand for election, the expenses for conducting an election or by-election to enable residents to exercise their rights should be paid from the general revenue; and
- (f) the plan mentioned by Dr Priscilla LEUNG about DC members resigning by turns would be considered by the public as unreasonable and against the interests of Hong Kong. Any political party which attempted to implement the plan would be the one to lose out.

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15. Ms Audrey EU said that the Administration's remark that the resignation of the five Members was unnecessary had proven to be wrong since the publication of the Proposed Package. The Proposed Package revealed that it was retrogressive and the question of abolition of FCs remained unresolved. It was therefore necessary for the five Members to resign to trigger a "de facto referendum" so that every citizen could express one's view under the theme of "implementation of genuine universal suffrage and abolition of FCs as soon as possible" by voting in the LegCo By-election. She added that the resignation of the five Members who would then stand for election in the LegCo By-election was a move not lightly made. Legislators in overseas jurisdictions had made similar moves to resort to public support when their protests against a high-handed government were not heeded. She recalled that the press had reported the Panel Chairman saying that he would not support the motion to be moved by Mr WONG Kwok-hing because the motion if passed would give rise to constitutional crisis and Mr IP Kwok-hing had once said that he supported the funding provision for the LegCo By-election which was an issue different from the "de facto referendum". It was obvious that DAB had now changed its stance because it decided not to field any candidates in the LegCo By-election. She stressed that electors' right to vote in a by-election should be safeguarded.

16. The Chairman clarified that he had not made any statement on whether or not to support Mr WONG Kwok-hing's motion and the remarks mentioned by Ms EU might be quoted out of context by the press. Mr IP Kwok-him said that he had made the remarks that the Administration had the constitutional duty to earmark provision for the LegCo By-election at the early stage. Following the radical slogan made by the League of Social Democrats and the Civic Party that their resignation sought to liberate Hong Kong, he could not support any such related move.

17. SCMA responded that what could be done did not mean that it should be done. While LCO provided a reasonable mechanism for a Member to resign, it did not mean the resignation of the five Members was reasonable. As a political party, the Civic Party should respect the wish of the community which did not support the "resignation campaign" and the use of \$159 million to conduct the LegCo By-election.

18. Mr IP Kwok-him said that in the event that the motion moved by Mr WONG Kwok-hing was passed in the Council, the Administration would have no money to conduct the LegCo By-election. He enquired whether the Administration would conduct the By-election at a later stage when it had the money to do so, or would reallocate funds from internal resources, or would reduce expenditure of the By-election so as to facilitate the conduct of the LegCo By-election.

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19. Mr Ronny TONG said that if the Bill as amended by Mr WONG Kwok-hing was passed, the Administration would still have the prerogative to reallocate funds within its budget among government bureaux and departments so as to discharge its constitutional duty to conduct the LegCo By-election. He enquired whether the Administration would do so.

20. SCMA responded that the Administration had every confidence that support from Members would be secured for the necessary financial allocation for the LegCo By-election to take place as pan-democratic Members had indicated that they supported the LegCo By-election in the past few months. He affirmed that if the motion to be moved by Mr WONG Kwok-hing was passed, the Administration would not have money to conduct the LegCo By-election. He explained that after passage of the Bill, each bureau Secretary would receive an operating expenditure envelop for allocation of funds to respective departments under the relevant policy purview. If Mr WONG Kwok-hing's motion was passed, the \$159 million would be deducted from REO's budget and there was no way to make up the shortfall to facilitate the conduct of the LegCo By-election. The Administration would not lightly reallocate funds among government bureaux or departments as they had bid for resources in accordance with their needs in the coming year. SCMA added that there was little room for the Administration to reduce the expenses of the LegCo By-election which involved more than 500 polling stations and 14 600 staff members, given that the 2007 DC Ordinary Election which involved some 400 polling stations was conducted at a cost of \$140 million.

21. Dr PAN Pey-chyou enquired why SCMA was confident that the Bill would be passed by LegCo. SCMA explained that although the majority of Members did not support the "resignation campaign", they were apprised of the Administration's need to discharge its statutory duty to conduct the LegCo By-election. In this connection, Mr CHEUNG Man-kwong said that the Democratic Party tended to support the provision earmarked for REO's expenditure to carry out the LegCo By-election.

Practical arrangements for the LegCo By-election

Venue for polling station

22. Mr LEE Wing-tat, Ms Emily LAU and Mr CHEUNG Man-kwong expressed concern that some of the polling stations in the LegCo By-election were different from those in the 2008 LegCo General Election, which would cause confusion to electors. They understood that the management of some village schools would decline requests for such venues to be used as polling stations as some members of Heung Yee Kuk did not support the LegCo By-election. These members considered that if the management of venues had refused to allow the setting up of polling stations because of their stance against the LegCo By-election,

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they were not honouring their civic duties. Three members were concerned that the newly designated polling stations were inaccessible to the extent that they would discourage electors to vote and asked about the number of new polling stations to be set up in the LegCo By-election.

23. SCMA responded that a total of 532 polling stations were set up in the 2008 LegCo General Election, which was slightly more than the 520 polling stations to be set up for the LegCo By-election. Given the special background to the LegCo By-election, the management of five venues located in villages had refused to make the venues available for REO to be used as polling stations. CEO supplemented that 55 venues which had been used as polling stations in the 2008 LegCo General Election were not available for various reasons such as the venues were under renovation or activities had already been scheduled on the polling day. The unavailability of venues had happened in previous elections and by-elections. With strenuous efforts made to identify alternative venues, REO had succeeded in securing 38 alternative venues in the neighbouring areas which were largely accessible to the public.

24. Mr CHEUNG Man-kwong enquired about the breakdown of the 55 venues by GCs. CEO responded that the distribution of 55 venues were as follows : 11 in Hong Kong Island, eight in Kowloon West, 11 in Kowloon East, 10 in New Territories West and 15 in New Territories East. CEO stressed that the unavailability of venues was not uncommon. For instance, 29 out of 97 venues in the 2007 DC Ordinary Election were not available for use as polling stations in the 2007 LegCo Hong Kong Island GC By-election, despite the two elections were held only two weeks apart.

25. Mr CHEUNG Hok-ming said that many members of Heung Yee Kuk considered the LegCo By-election a waste of public money and unnecessary. Some villagers resented the LegCo By-election and had refused to make their venues available for such use.

26. Dr LAM Tai-fai remarked that REO's request to use Lam Tai Fai College as a polling station had put him in a dilemma because expansion works were due to commence there. If he did not accede to the request, some people would query his stance on the LegCo By-election. If he acceded to the request, the expansion plan of the College would be delayed. SCMA responded that while REO had the duty to identify suitable venues for use as polling stations, Dr LAM could decide on his own whether to accede to REO's request. Dr LAM informed members that the College had eventually decided to defer expansion works to facilitate the conduct of the LegCo By-election.

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27. Ms Audrey EU enquired how many electors would be affected by the change of polling stations. CEO responded that she did not have the figure on hand. However, for the 17 polling stations for which alternative venues could not be identified, about 50 000 electors were affected. They would be allocated to the nearest polling station and the poll card to be sent to each elector would specify the location of the polling station to which an elector was allocated. In response to Ms Cyd HO's question, SCMA said that poll cards, which contained an enquiry hotline number, would be sent to electors 10 days before the polling day.

28. Ms Emily LAU expressed concern that only 85% of the polling stations were accessible to persons with disabilities ("PWDs"). She requested the Administration to undertake to provide polling stations with 100% barrier-free access facilities to PWDs in future elections. Ms Audrey EU enquired whether an enquiry hotline would be set up to answer PWDs' enquiries.

29. SCMA responded that REO would make the best endeavour to identify polling stations which could be easily accessible to PWDs. CEO supplemented that in identifying venues for use as polling stations, REO would arrange for venues accessible to PWDs as far as practicable. However, this would depend on constraints such as availability of venues suitable for use as polling stations, and consent of the venue management. If there was no other suitable choice and a venue which was not readily accessible to PWDs had to be used, REO would try to provide, where circumstances permitted, temporary ramps to increase the accessibility of the polling stations to PWDs. A poll card would be sent to each elector, which provided a hotline number and attached a map which indicated whether the polling station allocated to the elector was suitable for use by PWDs. If a PWD was allocated to a polling station unsuitable for his use, he could make a request, not later than five days before the polling day, to REO for re-allocation to a polling station accessible to PWDs in his constituency. Where feasible, REO would also arrange for Rehabus service for electors with disabilities to commute to the relevant polling stations. REO would continue to identify barrier-free venues for PWDs and would welcome members' referrals for such venues, if any.

Arrangement for prisoners' voting

30. Dr Margaret NG said that this was the first time for imprisoned persons who were registered electors ("prisoner-electors") to vote in a territory-wide election and she hoped that the relevant polling arrangements would be made smoothly. She enquired whether a Dedicated Polling Station ("DPS") would be set up in each penal institution, whether prisoner-electors were all allowed to vote in respective DPSs, whether and when prisoner-electors were informed of the electoral arrangement to vote in DPSs, whether prisoner-electors would receive poll cards and candidates' introductory leaflets in penal institutions or their

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registered addresses, whether arrangements were made for candidates' and their election agents to observe the poll in DPSs, and about the procedure for counting ballot papers cast in DPSs. Ms Audrey EU enquired whether special arrangements were made for prisoner-electors to receive the election-related materials sent by direct mailing to penal institutions.

31. In response, CEO said that -

- (a) DPSs would be set up at every penal institution which had imprisoned registered electors. The Administration planned to set up 23 DPSs at the penal institutions of the Correctional Services Department ("CSD") for registered electors imprisoned or remanded under the custody of CSD. Four DPSs would also be set up at police stations across the territory for registered electors who were remanded or detained on the polling day by law enforcement agencies to cast their votes;
- (b) REO would liaise closely with CSD three weeks before the polling day and thereafter would update the list of prisoner-electors on a daily basis. REO would send the poll cards to prisoner-electors at penal institutions 10 days before the polling day to inform them about the polling arrangement. The Commissioner for Correctional Services would make preparations to facilitate prisoner-electors to vote for their constituency at different time slots to ensure that voting in DPSs would be conducted in an orderly manner;
- (c) address labels would be provided to candidates for mailing election advertisements to prisoner-electors at the penal institutions if the concerned registered electors had put down the prison addresses as their correspondence addresses. For security reasons, candidates would need to comply with the guidelines on sending election advertisements to prisons which had been included in the Guidelines on Election-related Activities in respect of the Legislative Council Election provided to them;
- (d) candidates and/or their agents could be present at DPSs to observe the poll except for DPS situated in a maximum security prison, where only candidates would be allowed. The election agent or a polling agent of a candidate should apply to the Commissioner of Correctional Services at least one week before the polling day for admission into a DPS situated at penal institutions; and

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- (e) five Ballot Paper Sorting Stations would be set up for the sorting of ballot papers cast at DPSs according to each GC before they were delivered to the respective main counting stations. The ballot papers would then be mixed with those cast at the main counting stations before they were counted. To ensure the transparency of the election, the sorting process would be open for observation.

32. In response to Mr Ronny TONG's question, SCMA said that there were over 2 000 prisoner-electors at penal institutions and 23 DPSs should be sufficient for these electors to cast their votes.

Staffing arrangement

33. Mr LEE Wing-tat said that according to a press report, a civil servant who would work as a polling staff on the polling day had applied for leave on the day following the polling day and his superior in the Department of Justice had suggested him not to do so. He expressed concern that such action of the management would discourage civil servants to work for the smooth conduct of the LegCo By-election.

34. SCMA responded that the Administration had acted promptly to make practical arrangements for the LegCo By-election since the resignation of the five Members. The preparatory work for the By-election was expected to take four months and the Administration managed to complete it within three and a half months' time. The Administration had recruited 14 600 civil servants from various government bureaux and departments as polling staff on the polling day. As in previous elections and by-elections, department heads were supportive of their staff working as polling staff in the LegCo By-election.

35. Noting that one out of 12 civil servants would be engaged in electoral activities on the polling day, Mr CHEUNG Hok-ming expressed concern whether the provision of government services would be affected if many front-line staff took leave on the day following the polling day.

36. SCMA responded that this was not the only time that civil servants were recruited to perform polling duties in the LegCo By-election. Department heads would take into account the manpower and workload situation before deciding whether to grant approval for leave to civil servants who worked as polling staff. Based on previous experience, the provision of government services had not been affected as a result of staff taking leave on the day following the polling day. CEO supplemented that not all the polling staff would take leave the following day, and some civil servants who worked on shift might not need to take leave after the polling day.

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37. Prof Patrick LAU enquired whether the Administration would consider using more advanced technologies in the electoral process to reduce administrative costs. SCMA responded that where possible, REO would computerise the electoral process. At present, electronic counting of votes was adopted in the Election Committee subsector elections. As for voting, the Administration considered that ballot papers should continue to be used because there was practical difficulty in verifying whether the vote was cast by the elector concerned if it was done by electronic means. Voting using ballot papers was more practicable and reliable.

Voter Registration

38. Mr Ronny TONG said that he was not aware of any publicity to promote voter registration and queried whether it was one of the means to downplay the LegCo By-election. Ms Audrey EU expressed concern that electors who changed their addresses might not have updated their personal particulars in the registers in time and hence would be deprived of the right to vote in their constituency in the upcoming LegCo By-election. She urged the Administration to review and shorten the process for updating the registers of electors.

39. SCMA explained that a voter registration campaign was usually launched during the year of general or ordinary election. In this connection, large scale publicity for voter registration would be conducted in the 2011 DC ordinary election and the 2012 LegCo general election. Under the existing arrangement, Hong Kong permanent residents could register as electors and registered electors could report to REO their updated particulars any time in a year, but only those who had made their applications by the annual deadline could be included in the registers of electors published in that year and vote in elections conducted thereafter. For the LegCo By-election, the voter registers compiled in July 2009 would be used. CEO explained that while REO would lose no time to update electors' addresses after receiving electors' applications, it was bound by law to include the new addresses registered after the annual deadline in the next registers of electors.

40. Dr Margaret NG said that it was the duty of the Administration to encourage persons eligible to be registered as electors to register and to maintain validity of the registers of electors. To her understanding, some people had thought that they could register only when the voter registration campaign was launched. She expressed concern that by the time a person realised that there was an election, it was already too late for the person to register or update the address because the deadline for registration had already lapsed. She requested the Administration to consider simplifying and shortening the registration procedures. For instance, to specify a period before the polling day as the deadline for voter registration, and to update registers of electors a few times a year.

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41. SCMA said that the Administration had discussed with Members how to shorten the time gap between the deadline for voter registration and the polling day for general/ordinary election since 2004. LCO and the DCs Ordinance (Cap. 547) had subsequently been amended to implement the new arrangements. Under the existing arrangement, final registers of electors would be published in September for a DC ordinary election to be held in November of the same year and final registers of electors would be published in July for a LegCo general election to be held in September of the same year. He considered that a time gap of two months reasonable and practical. SCMA added that the proposal to update registers of electors a few times a year departed from the long-standing practice. The Administration considered that updating registers of electors once a year was appropriate. At the request of Dr Margaret NG, SCMA said that the Administration would look into the voter registration procedures of overseas jurisdictions.

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Exit poll

42. Ms Audrey EU expressed dissatisfaction that the Electoral Affairs Commission ("EAC") had disregarded the improvement measures suggested by pan-democratic Members to regulate the conduct of exit poll such as restricting the conduct of exit poll to academic institutions. Given EAC's stance, pan-democratic Members had appealed to electors not to respond to pollsters in the 2008 LegCo General Election. Some electors had then decided to give misleading information and as a result, the creditability of the exit poll findings had been called into question. She enquired whether EAC intended to impose more stringent measures to regulate the conduct of exit poll so as to ensure fairness in the LegCo By-election.

43. SCMA responded that the issue of exit poll had been discussed by the Panel on previous occasions. The rules set out in the Guidelines on Election-related Activities in respect of the Legislative Council Election would apply to the LegCo By-election. In this connection, persons or organisations intending to conduct exit polls would need to make an application to REO and were required to abide by the guidelines governing the conduct of exit polls. Ms Audrey EU reiterated her regret that EAC had not changed its position on the matter.

Publicity and related issues

44. Mr CHEUNG Man-kwong and Ms Cyd HO said that although the Administration considered the resignation of the five Members unnecessary, it should promote voter turnout conscientiously as electors had the right to vote and to discharge their civic duties. Mr CHEUNG said that government officials should also show support by voting in the LegCo By-election. Ms Cyd HO urged the publicity campaign should commence as soon as practicable.

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45. SCMA responded that having regard to the publicity expense for the 2007 LegCo Hong Kong Island GC By-election was \$0.7 million, the publicity expense of \$3 million for the LegCo By-election was sufficient and appropriate. The voter turnout publicity which included posters, television and radio announcements of public interests, etc. would commence soon, despite the Administration had limited time to prepare the LegCo By-election.

46. At the request of Ms Cyd HO, the Administration undertook to provide the following information to the Panel in early May 2010 -

- (a) comparison of the voter turnout publicity in electronic media among the 2007 LegCo Hong Kong Island GC By-election, the 2008 LegCo General Election and the 2010 LegCo By-election; and
- (b) an update on the preparation for the LegCo By-election.

(Post-meeting note: The Administration's responses were issued to members vide LC Paper No. CB(2)1387/09-10 on 26 April 2010 and LC Paper No. CB(2)1452/09-10 on 4 May 2010 respectively.)

47. Prof Patrick LAU said that he supported the measures to reduce paper consumption on election-related materials for environmental protection purposes. He considered that election-related materials could be sent to electors by e-mail to further reduce paper consumption. He enquired how many electors had provided e-mail addresses to REO, how the Administration would encourage electors to provide email addresses, and whether prisoner-electors could access to election-related materials through e-mail.

48. CEO responded that less than 10% of the electors had provided their e-mail addresses to REO. A person who wished to register as a voter was invited to provide one's e-mail address on a voluntary basis in the application form for voter registration, and was informed that the e-mail address would be provided to candidates for the purpose of sending election-related materials. In the upcoming voter registration exercise, the Administration would step up publicity to encourage electors to provide e-mail addresses. CEO added that CSD restricted the use of computer by prisoners for security reasons. Poll cards and candidates' introductory leaflets would be sent to prisoner-electors in compliance with the rules of CSD. Prisoners could also access to information relating to the LegCo By-election via radio, television and newspaper.

49. Referring to the briefing session organised by REO for candidates in the LegCo By-election on 13 April 2010, Mr Paul TSE said that the EAC Chairman, representatives of the Independent Commission Against Corruption, the Post Office, and other relevant government departments had participated to answer questions raised by candidates on electoral arrangements, but it was regrettable

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that the order at the briefing session had gone uncontrolled. He considered that people who had behaved in a disorderly manner should be expelled from the briefing session. He urged the Administration to provide EAC with sufficient resources to maintain order at future briefing sessions.

50. SCMA responded that EAC and REO had conducted the briefing session according to the established procedures. To his understanding, EAC and REO had made the best effort to maintain order at the briefing session. He stressed that political parties and candidates should also be responsible for their acts at the briefing.

IV. Support service centres for ethnic minorities

[LC Paper Nos. CB(2)889/09-10(12) to (13), CB(2)961/09-10(01) to (02), CB(2)1072/09-10(01) to (02), CB(2)1133/09-10(01), CB(2)1289/09-10(05) and CB(2)1319/09-10(01)]

51. Under Secretary for Constitutional and Mainland Affairs ("USCMA") briefed members on the operation of the four support services centres for ethnic minorities as set out in the Administration's papers [LC Paper Nos. CB(2)889/09-10(12) and CB(2)1289/09-10(05)]. In gist, the Administration had invited non-governmental organisations ("NGOs") to submit proposals on the establishment and operation of the four centres in December 2008. The Administration had subsequently selected four NGOs to run the centres located in Kwun Tong, Wan Chai, Tuen Mun and Yuen Long.

52. Members noted the following papers on the subject under discussion -

- (a) EOC's paper on "Refusal to open banking accounts for ethnic minority groups" [LC Paper No. CB(2)1319/09-10(01)];
- (b) background brief prepared by the LegCo Secretariat [LC Paper No. CB(2)889/09-10(13)];
- (c) letter dated 10 February 2010 from the Hong Kong Unison Limited on "Ethnic minorities being refused to open bank accounts" [LC Paper No. CB(2)961/09-10(01)];
- (d) statement issued by EOC on "Ethnic minorities being refused to open bank accounts" [LC Paper No. CB(2)961/09-10(02)];
- (e) reply on "Ethnic minorities being refused to open bank accounts" from Hang Seng Bank Limited to Hong Kong Unison Limited [LC Paper No. CB(2)1072/09-10(01)];

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- (f) reply on "Ethnic minorities being refused to open bank accounts" from EOC to Hong Kong Unison Limited [LC Paper No. CB(2)1072/09-10(02)]; and
- (g) reply on "Ethnic minorities being refused to open bank accounts" from the Hong Kong Association of Banks to Hong Kong Unison Limited [LC Paper No. CB(2)1133/09-10(01)].

After-school tutorial classes

53. Mr CHEUNG Man-kwong said that while designated schools with a critical mass of non-Chinese speaking ("NCS") were provided with special grant to identify means to help NCS students, non-designated schools with quite a number of NCS students also required support services to facilitate NCS students to learn the Chinese language. In this connection, he had suggested to the Administration to adopt a two-pronged approach under which after-school tutorial classes should be provided to ethnic minority students in the support service centres and some non-designated schools. Referring to paragraph 7 of the Administration's paper [LC Paper No. CB(2)1289/09-10(05)], he expressed concern whether NCS students could afford the time and expenses to travel to the centres to attend after-school tutorial classes. He enquired how many non-designated schools provided after-school tutorial classes on the Chinese language, Mathematics and general homework tutorials and whether NCS students from other schools and from other districts could attend these classes. He said that it would be more cost effective for NGOs to organise after-school tutorial classes in non-designated schools rather than in centres.

54. USCMA responded that in inviting the service proposals, NGOs had been requested to consider adopting the two-pronged approach as suggested. The operators of the support service centres had considered the situation of the ethnic minority students and the availability of school and other venues for conducting classes in relevant districts before putting up their proposals. As a result, the after-school tutorial classes were provided by the operators of three of the support service centres at the venues of the respective NGOs and religious centres, among other venues. Operators of two support service centres also organised after-school tutorial classes in non-designated schools, in districts including Tuen Mun, Yuen Long and Tin Shui Wai. NCS students from other non-designated schools or districts were welcomed to attend these classes. The four centres would continue to promote their services and programmes to the ethnic minority communities and, through networking and reach-out effort, provide services to ethnic minorities in different districts. USCMA added that apart from providing language classes in Cantonese and English, cultural and community programmes, counselling and referral services, and other integration programmes were also organised for ethnic minorities to facilitate their integration into the community

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Admin and access to public services. At the request of Mr CHEUNG, USCMA undertook to provide a list of non-designated schools with NCS students in which after-school tutorial classes were provided to these students.

Admin 55. Ms LI Fung-ying enquired whether tutorial classes had been organised for adults to facilitate them to learn the Chinese language and to help employment. USCMA responded that apart from organising language classes, the four support service centres also organised work-related and integration programmes including personality development course, computer classes, counselling and referral services for ethnic minorities to facilitate their integration into the community and access to public services including health and employment services. At the request of Ms LI, USCMA undertook to provide information on the number of ethnic minority adults attending language classes and work-related programmes in the support service centres.

Interpretation and translation services

56. Noting that the Centre for Harmony and Enhancement of Ethnic Minority Residents ("CHEER"), which provided interpretation and translation services, had received about 500 calls and requests for interpretation and translation services, Ms LI Fung -ying enquired about the type of requests received and how many were relating to access to health and employment services. She further asked whether the small number of requests received was due to the short operating hours of CHEER.

57. USCMA responded that the 500 calls and requests for interpretation and translation services were received between 31 October 2009 and the end of March 2010. For telephone interpretation requests, the breakdown was as follows: 43% of the requests were originated from governments departments for interpretation involving issues mainly in social welfare and housing services, 36% from NGOs for interpretation involving issues mainly in social welfare, and 21% from ethnic minorities for interpretation involving issues mainly in housing and health services. CHEER's telephone interpretation hotlines were operated seven days a week from 8:00 am to 10:00 pm except public holidays. She added that there was a need to step up publicity to promote awareness of the interpretation and translation services provided by CHEER.

58. Ms Emily LAU enquired whether CHEER had received complaints about its interpretation and translation services. Given that ethnic minorities had expressed concern about the difficulty in accessing to medical and health services because of language barrier, Ms LAU also enquired about the provision of interpretation services by the Hospital Authority ("HA").

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59. USCMA responded that efforts were made to promote the telephone interpretation and other services of CHEER to the ethnic minority communities in order to ensure that they could access government services without difficulty. CHEER had also conducted a series of briefing for government bureaux and departments as well as NGOs and provided them with guidelines on using the interpretation and translation services in serving ethnic minorities. Interpretation services were mostly provided by CHEER through three-way conference calls involving an interpreter in CHEER, a government official or NGO representative, and an ethnic minority person. The Administration had ensured that ethnic minorities would not be deprived of their right to government services because of language barrier. For scheduled service such as medical services of the Department of Health, patients could request the health centre concerned to arrange interpretation service in advance. As regards HA, interpretation services were available in public hospitals and clinics through a service contractor which covered 12 languages. The service was provided on the site or through telephone depending on the needs in each case.

60. The Chairperson of EOC said that EOC had not received any complaints about the interpretation services offered to ethnic minorities. When promoting the Race Discrimination Ordinance (Cap. 602) ("RDO") during the past year, EOC had received suggestions on the provision of government services from ethnic minorities, and government departments and public bodies such as HA had proactively sought EOC's advice on issues relating to racial discrimination. The complaints received by EOC, however, were mainly relating to discrimination against PWDs rather than racial discrimination.

Performance monitoring and evaluation

61. Ms Emily LAU said that the number of NCS students taking classes in the four support service centres and in non-designated schools were few as compared with the ethnic minority population. She queried whether the operational funding of up to \$700,000 for the 2009-2010 school year and up to \$1.4 million for the 2010-2011 school year for after-school tutorial classes as referred to in paragraph 15 of the Administration paper [LC Paper No.CB(2)889/09-10(12)] was adequate. She also asked the Chairperson of EOC whether EOC was satisfied with the financial provision and how EOC would assess the effectiveness of the support services provided to ethnic minority children.

62. The Chairperson of EOC responded that EOC had all along monitored the provision of education services to ethnic minority children. EOC welcomed the Administration's initiative to set up the four support service centres for ethnic minorities and had conducted site inspections. In his view, there was room for further improvement. For instance, publicity should be stepped up to increase awareness and hence participation of ethnic minority students in these centres.

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After-school tutorial classes should be organised in non-designated schools as suggested by Mr CHEUNG Man-kwong because it would be helpful to ethnic minority students.

63. USCMA clarified that the Government spending on education for NCS children far exceeded the amount quoted by Ms Emily LAU, which covered the additional provision for after-school tutorial classes provided by the support centres only. The Education Bureau had earmarked sufficient provision to cater for the educational needs of NCS students. This included, among others, the special grant for designated schools given at the range of \$300,000 to \$600,000 per school per annum. In addition, the Government also provided various support services to ethnic minorities by sponsoring NGOs in different districts.

64. Mr IP Kwok-him said that DAB had also set up a centre to provide services to ethnic minorities to help them integrate into the community. He enquired whether the Administration had done any assessment of the adequacy of the services provided to ethnic minorities, whether more support service centres should be opened in the near future, and how the needs of ethnic minorities who resided outside the districts in which the four centres were located could be met. Ms Miriam LAU also enquired how the effectiveness of the language classes and integration programmes provided by the centres would be assessed.

65. USCMA responded that as the four support service centres had operated for only a few months, it would be too early to ascertain adequacy of the services provided. In general, feedbacks from service users and ethnic minority communities had been positive. It must be noted that the four centres could be used by ethnic minorities residing in other districts. The Administration would monitor the operation and performance of the four support service centres through gathering feedbacks from the community and other monitoring mechanisms such as reports and user evaluation of the activities of the centres. The Administration would also keep under review the support services and consider necessary adjustment in the light of the operational experience and the needs of ethnic minority communities, before deciding on the need to open more centres.

Refusal of banks to open bank accounts for ethnic minorities

66. Mr CHEUNG Kwok-che enquired about the progress of investigation conducted by EOC into complaints lodged on refusal of banks to open bank accounts for Pakistanis. He expressed concern whether the guidelines on opening bank accounts involved discriminatory practices which restricted account opening for individuals of certain nationality, and if so, whether the restriction was due to the need of the banks concerned to comply with the guidelines on prevention of money laundering issued by the Hong Kong Association of Banks a few years ago.

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67. The Chairperson of EOC said that since the media reported on two Pakistani women being refused to open bank accounts, EOC had so far received four complaints including those from nationality other than Pakistan, of which three were relating to opening of bank accounts, and one relating to the provision of financial investment services. Even before receipt of any formal complaint, EOC had already written to the Hong Kong Monetary Authority ("HKMA") and the banks concerned to seek clarifications on their positions on refusals of opening bank accounts for ethnic minorities. HKMA had responded that there was no general prohibition or requirement on the opening of accounts for individuals of specific nationality and the guidelines given to banks were in compliance with RDO. One complaint case involving two branches of a bank whose front-line staff had adopted different practices in handling opening of bank accounts was settled after conciliation. As the other two complaint cases concerning refusal of opening bank accounts and the case concerning provision of financial investment services were under investigation, EOC was not in a position to disclose further details.

EOC

68. Mr CHEUNG Kwok-che recalled that complaint cases mentioned by the Hong Kong Unison Limited were more than four. The Chairperson of EOC responded that despite the EOC's invitation, the Hong Kong Unison Limited had not referred further cases to EOC. At the request of Mr CHEUNG, the Chairperson of EOC undertook to advise the Panel on whether the internal guidelines on opening of bank accounts issued by banks were in compliance with RDO after concluding its investigation into the complaints.

Foreign domestic helper ("FDH")

69. Noting that many FDHs liked to frequent the Harnessing Opportunities and Potentials for Ethnic Minorities Support Service Centre ("HOPE"), Ms Emily LAU expressed concern about the situation of FDHs who stayed out-door in Central during weekends especially during inclement weather. With a population of over 200 000, Ms LAU enquired whether FDHs had requested the Administration to designate a venue for their gathering.

70. USCMA clarified that while the Administration noted that the HOPE Centre was popular among FDHs, it did not mean that the service demand of FDHs would only be addressed by that centre. Apart from HOPE, the Administration had collaborated with other NGOs to organise activities for FDHs to help them integrate into the community. FDHs could also book government facilities such as community halls and in-door recreation centres for in-door activities or they could also go to parks for out-door activities. The Constitutional and Mainland Affairs Bureau had not received any request from FDHs for designating a venue for their gathering.

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71. The Chairman recalled that the Administration had designated a school in North Point as the gathering place for FDHs a few years ago but FDHs still preferred to gather at Central for various reasons and many FDHs would go to churches during the weekends. In addition, with over 200 000 FDHs in Hong Kong, they needed more than one gathering venue. He considered that the issue was not easy to tackle.

72. The meeting ended at 5:30 pm.

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