

立法會 *Legislative Council*

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Panel on Home Affairs

Background brief prepared by the Legislative Council Secretariat for the meeting on 12 November 2010

Implementation of recommendations of the 2006 District Council ("DC") Review and other DC-related issues under the purview of the Home Affairs Department

Purpose

This paper gives an account of the main views and concerns raised by members on the powers and responsibilities of DCs, the remuneration package of DC members, and the manpower support for district administration since July 2010, i.e. when these subjects were last discussed by the Panel. Members may wish to refer to LC Paper No. CB(2)818/08-09(02) and CB(2)1980/09-10(02) for previous deliberations on these subjects, as well as other DC-related issues under the purview of the Home Affairs Department ("HAD").

Background

2. At the meeting of the Panel on 9 July 2010, the Administration briefed members on the implementation of measures to enhance the monitoring and advisory role of DCs in district affairs, and its plan to review DC members' remuneration package to prepare for the 2011 District Council Election. Subsequent to the meeting, the Administration advised the Panel that it would revert to the Panel on the progress of the review and, as requested by members, the manpower support for DC Secretariats at the Panel meeting on 12 November 2010. At the Panel meeting on 14 October 2010, a member considered that the Administration should also brief the Panel on the powers and responsibilities of DCs, which in her view should be examined in conjunction with the review on members' remuneration package.

Powers and responsibilities of DCs

Overview

3. According to the Administration, DCs play a pivotal role in district administration. They monitor the provision of district services, and advise the Government on matters relating to the local community. The Government also consults DCs on territory-wide issues. Through undertaking the Community Involvement programmes and District Minor Works projects, DCs encourage public participation in district affairs as well as sports, arts and cultural development. Legal provisions relating to the powers and functions of DCs, including Article 97 of the Basic Law which provides that DCs shall not be organs of political power, and section 61 of the District Councils Ordinance which sets out the functions of DCs are attached in **Appendix I**.

Members' views and concerns

4. Some members expressed dissatisfaction that the functions of DCs remained to be advisory, and criticized the Government for being unwilling to confer DCs with more power to facilitate their management and monitoring of district facilities. These members considered that without the appropriate power, it would be difficult for DCs to fulfill a more proactive and meaningful role in district administration. They also queried the Administration's commitment to honour its undertaking to delegate the powers of the two former Municipal Councils to DCs, and called for a public consultation on DCs' role and responsibilities with a view to establishing a clear positioning for DCs in district affairs. A member expressed concern about the Administration's failure to give due regard to DCs' requests even these were unanimously supported by DC members.

5. On the contrary, some other members considered that the views of DCs do carry weight in the Government's policy making process, and the Administration could hardly implement policy proposals without the support of DCs. These members further opined that although progress had been made to enhance the participation of DCs in the management of district facilities, the Administration could delegate further power to DCs in the management of cultural and recreational facilities, as well as those relating to food and environmental hygiene, which have a direct impact on the quality of life of the local community. A member urged the Administration to confer powers and responsibilities to DCs to participate in the planning of major community works and ancillary facilities required by the respective districts for the development of an integrated and comprehensive community.

6. The Administration advised that under the Basic Law, the main role of DCs was to serve as an advisory body in district administration and other local affairs. Pursuant to the review on DCs in 2006, their role and functions had been enhanced progressively under the aforesaid parameter. While the administrative power for district/public facilities was vested with the Heads of the relevant bureaux/departments, the Government had invited DCs to participate in the management of district facilities where feasible and practicable. The Government would also give due regard to DCs' views in the policy making process, as it would be difficult to implement policy proposals without the support of DCs. For instance, District Planning Officers would attend DC meetings of their respective districts to

listen to the views of DC members, and solicit their support on major development proposals before taking forward these proposals.

7. The Administration further clarified that the government had not given a commitment to devolve all the powers of the two former Municipal Councils to the DCs. Regarding the suggestion for conferring DCs with the administrative power for the planning and management of district facilities, the Administration advised that it was not the government's intention to change the positioning of DCs as an advisory body under the law. Neither did the Administration see a consensus in the community for DCs to function as an administrative body.

8. As for members' enquiry on how the Administration would explain to the public the enhanced role of DC brought about by the passage of the amendments to Annex II to the Basic Law concerning the method for the formation of the Legislative Council in 2012, the Administration advised that it did not see any fundamental change to the role and functions of DCs as provided under the Basic Law following the passage of the aforesaid legislation.

Remuneration package for DC members

Overview

9. The existing remuneration package for DC members comprises: (a) a monthly honorarium of \$20,290; (b) an accountable annual provision of Operating Expenses Allowance at the rate of \$233,544; (c) a non-accountable monthly provision of Miscellaneous Expenses Allowance at the rate of \$4,120 to cover expenses like entertainment, self-development, personal insurance and minor purchase; (d) an accountable Setting-up Allowance of \$100,000 per DC term to cover the cost of setting up a ward office, such as renovation of premises, purchase of furniture and equipment; and (e) an accountable Winding-up Allowance of \$72,000 per DC term to cover expenses required to wind up a ward office, including severance payments for staff of the DC members.

10. To prepare for the 2011 District Council Election, the Administration has briefed the Panel in July 2010 on its plan to review DC members' remuneration package, in consultation with the Independent Commission on Remuneration for Members of the District Councils of the Hong Kong Administrative Region ("the Independent Commission"), with a view to ensuring that potential candidates are aware of the agreed remuneration package before they decide to take part in the election. According to the Administration, the review will be conducted in accordance with the following guiding principles and practices -

- (a) the objective of the remuneration package is to make it possible and attractive for a broad spectrum of individuals from different sectors and all walks of life of the community to serve the public;

- (b) although the remuneration of DC members is funded by the Government, DC members do not have any employment relationship with the Government; and
- (c) any proposal involving substantial changes to the remuneration package for DC members in one term should take effect in the following term.

Members' views and concerns

11. Members urged the Administration to draw up proposals for the provision of medical benefits and end-of-service gratuity for DC members, in response to the persistent calls for introducing these benefits to DC members, and having regard to the availability of such benefits to LegCo Members since October 2008.

12. As advised by the Administration, the Government would actively consider the requests for introducing these benefits for DC members, having regard to the need to ensure the prudent use of public fund. In studying these requests, the Administration would make reference to the latest remuneration arrangements for LegCo Members as well as the experiences in other legislatures. It would also be mindful of the fact that DC members did not have an employment relationship with the Government. The Independent Commission would solicit the views of DC members by way of focus group meetings.

13. Some members considered that the remuneration package for DC members should be commensurate with their powers and responsibilities, and urged the Administration to study the powers and functions of DCs in conjunction with the review on DC members' remuneration package. They also called for the conduct of public consultation to gauge public views on DC members' role and work, as well as their remuneration. A member raised concern as to whether the Administration could make available the outcome of the review before the nomination for the next DC election.

14. The Administration advised that according to the planned schedule, a formal proposal on the remuneration package for DC members in the new term would be drawn up around November 2010 following consultation with the Independent Commission and DC members, and the outcome of the review would be announced in early 2011. This timeframe, which was in line with the established practice for similar reviews for LegCo Members, was well in advance of the nomination period for DC election in late 2011. The Administration further advised that following the same practice adopted for LegCo Members, it did not see the need for public consultation on the remuneration package for DC members, as public views should be adequately reflected during the deliberations of the Independent Commission, an independent body comprising non-DC members from a wide spectrum of background.

15. Some members suggested that the Operating Expenses Allowance should be prepaid to DC members on a rolling basis as soon as possible to obviate the need for DC members to pay in advance various office expenses. The Administration

undertook to consider members' suggestion in the review on DC members' remuneration package and revert to the Panel on the outcome. The Administration further advised that if a proposal did not involve substantial changes to the remuneration package, subject to the view of the Independent Commission, the proposal could in principle be implemented in the same term.

Manpower support for District Offices

16. According to the Administration, starting from 2008-2009, each District Office has been provided with one additional Liaison Officer, one Executive Officer and one Assistant Clerical Officer to strengthen manpower resources for District Offices to support their role in promoting district administration.

Members' views and concerns

17. Some members called for the setting up of an independent secretariat for the respective DCs, with a view to providing more comprehensive support to DCs and ensuring that DCs would enjoy a high degree of autonomy in performing their work. Other members expressed reservation on the need for an independent secretariat. They considered that given the small scale operation of individual DCs, the existing secretariat support provided by the District Offices should be effective in assisting DCs to discharge their duties. Nevertheless, they saw a need to further strengthen the manpower support for DC secretariats to complement DCs' enhanced role and functions in district affairs.

18. The Administration assured members that although DC secretariats were part of the civil service establishment under HAD, they had been providing administrative support to DCs in an independent manner. The existing arrangement should adequately serve the need of DCs as an advisory body, and allow flexibility in the deployment of manpower. While the Administration had strengthened the manpower support to DC Secretariats in 2008-2009, it would endeavour to further enhance the support to DCs if necessary.

Relevant papers

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

Council Business Division 2
Legislative Council Secretariat
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Legal provisions relating to the powers and functions of 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 organizations. Article 97 of the Basic Law provides -

"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 -

"The powers and functions of the district organizations and the method for their formation shall be prescribed by law."

District Councils Ordinance

2. According to Section 61 of the District Councils Ordinance (Cap. 547), the functions of a DC are -

- (a) to advise the Government on -
 - (i) matters affecting the well-being of the people in the District;
 - (ii) the provision and use of public facilities and services within the District;
 - (iii) the adequacy and priorities of Government programmes for the District; and
 - (iv) 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.

Panel on Home Affairs

**Relevant documents on Implementation of recommendations of
the 2006 District Council ("DC") Review and other DC-related issues
under the purview of the Home Affairs Department**

Committee	Date of Meeting	Minutes/Paper/ Council Question or Motion	LC Paper No./ Website
Panel on Home Affairs	13.2.2009	Background Brief prepared by the LegCo Secretariat on Implementation of recommendations of the 2006 District Council Review	CB(2)818/08-09(02) http://www.legco.gov.hk/yr08-09/english/panels/ha/papers/ha0213cb2-818-2-e.pdf
Panel on Home Affairs	9.7.2010	Administration's paper on Implementation of recommendations of the 2006 District Council Review and other DC-related issues under the purview of the Home Affairs Department	CB(2)1980/09-10(01) http://www.legco.gov.hk/yr09-10/english/panels/ha/papers/ha0709cb2-1980-1-e.pdf
		Background Brief prepared by the LegCo Secretariat on Implementation of recommendations of the 2006 District Council Review and other DC-related issues under the purview of the Home Affairs Department	CB(2)1980/09-10(02) http://www.legco.gov.hk/yr09-10/english/panels/ha/papers/ha0709cb2-1980-2-e.pdf
		Minutes of meeting	CB(2)153/10-11