

## **Meeting Arrangements of Other Local and Overseas Statutory Bodies**

### **Background**

At the Bills Committee meeting held on 14.3.2000, Members were briefed on the meeting arrangements of 19 local statutory bodies as well as the practices for open meetings overseas in countries like the U.S.A., U.K. and Australia. Members suggested including the Estate Agents Authority in the Administration's study, and requested for a paper to cover this topic.

### **Local Statutory Bodies**

2. The meeting arrangements of 20 local statutory bodies have been studied. The table at Annex provides a summary of the relevant provisions in their respective ordinances. The Annex also includes information on the chairmanship, membership and quorums of meetings of these statutory bodies.

3. There is no express provision in the majority of these ordinances (17 out of 20) for the respective statutory bodies to conduct open meetings. The three exceptions are the Administrative Appeals Board, Estate Agents Authority and Personal Data (Privacy) Advisory Committee, which are all related to hearing or inquiry.

4. For the 17 statutory bodies that are not required by law to open their meetings, most of them (13 out of 17) do not do so administratively. The four exceptions are the Country and Marine Parks Board (from May 2000 onwards), Hong Kong Arts Development Council (some meetings are open), Hong Kong Housing Authority and Hospital Authority (full board meetings only for both authorities).

### **Overseas Experience**

5. In the U.S.A., there is an Open Meeting Law requiring all meetings of a public body to be open to the public. This applies to all boards, councils and commissions of the states and their municipalities, including the sub-committees of these bodies. This means that the law also governs meetings of planning commissions and planning boards. At an open meeting, the public are given an opportunity to comment on matters considered by the board,

subject to reasonable rules set by the chair of the board. However, the Open Meeting Law recognises that there are certain situations where the public interest would not be jeopardised by having a meeting in private, and has provisions allowing a board to go into an “executive session” according to the specific grounds set out in the law. An example of such situations is a discussion relating to a body’s bargaining or litigation strategy in the purchase or sale of real estate.

6. The planning legislation in the U.K. (e.g. the Town and Country Planning Act in England and Wales) and Australia (e.g. the Environmental Planning and Assessment Act in New South Wales) are very similar. There are express provisions under both acts for holding public inquiries to hear objections and comments on local plans. All such inquiries are open to members of the public. For planning applications, they are mostly determined by the local planning authorities (i.e. the district or local councils). Some exceptions include major ones of state significance which are directed to be referred to the Secretary of State or the Minister for determination, and minor ones which are determined by public officers under delegated powers. All meetings of the councils and their committees are required to be open to the public under the Local Government Acts in both places, other than in some exceptional circumstances. One of such circumstances is when information relating to the financial or business affairs of a particular person or commercial information of a confidential nature is discussed.

### **Administration’s View**

7. We should consider carefully whether the overseas experience is totally relevant to Hong Kong, taking due account of local circumstances. While the Administration encourages the opening up of committees and statutory bodies whenever possible, some of these bodies deal with issues which may involve information which is classified, commercially and market sensitive. The consideration of planning applications by the Town Planning Board falls within this category.

8. The Administration is prepared to consider Members’ alternative proposal after the Bills Committee has reviewed the entire Bill.

Planning Department  
March 2000

**Provisions for the Appointment of Chairman and Conduct of Meeting of Statutory Bodies under Different Ordinances**

<b>Statutory Body/Authority</b>	<b>Ordinance</b>	<b>Whether the Chairman shall be official or non-official</b>	<b>Whether there is provision for open meeting</b>	<b>Whether there is open meeting in practice</b>	<b>No. of Members</b>	<b>Quorum for meeting</b>
Administrative Appeals Board	Administrative Appeals Board Ordinance (Cap.442)	No express provision	Hearing of appeals to be conducted in public except in special circumstances (s.17)	Open hearing as stipulated	Chairman + 1 or more than 1 Deputy Chairman + a panel of persons (s.6)	No express provision
Airport Authority	Airport Authority Ordinance (Cap.483)	No express provision	No express provision	No	Chairman + Chief Executive Officer (CEO) (ex-officio) + 8-15 other members, but the no. of members of the Authority who are public officers shall not be more than those who are not public officers (s.3(3)(a))	Half of the members including the Chairman and the CEO, of whom at least 2 shall be members who are public officers and at least 2 shall be members who are not the Chairman, CEO or public officers (s.11(8))
Antiquities Advisory Board	Antiquities and Monuments Ordinance (Cap.53)	No express provision	No express provision	No	No express provision	Not less than one-half of the members (s.17(4))
Country and Marine Parks Board	Country Parks Ordinance (Cap.208)	No express provision	No express provision	Open meeting from May 2000 onwards	Authority + not less than 10 other members of whom not less than 5 are public officers (s.5(2))	5 members (s.5(5))

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Consumer Council	Consumer Council Ordinance (Cap.216)	No express provision	No express provision	No	Chairman + Vice-Chairman + not more than 20 other members (s.6(1))	11 members (s.7(2)(a))
Estate Agents Authority	Estate Agents Ordinance (Cap.511)	No express provision	Inquiry to be conducted in public except in some special circumstances (34(4))	Open inquiry as stipulated	Chairman + Vice-Chairman + other members being not more than 18 including individuals who do estate agency work (Category A); individuals appear to have knowledge of estate agency work (Category B); and individuals appear to be suitable for appointment (Category C). Not less than half of the members of the Authority (excluding the Chairman and Vice-Chairman) shall be persons of Category C and the remaining members should be as far as possible be equally represented by persons of Categories A and B	Half of the members of the Authority (including the Chairman and Vice-Chairman whether present or not) (para.9 of the Schedule)
Exchange Fund Advisory Committee	Exchange Fund Ordinance (Cap.66)	Financial Secretary shall be the ex-officio Chairman (s.3(1))	No express provision	No	No express provision	No express provision

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Hong Kong Housing Authority	Housing Ordinance (Cap.283)	The Chairman should not be a public officer (s.3(3)(a))	No express provision	Housing Authority's meetings are open (but not for its sub-committees)	Director of Housing + other members not being public officers + not exceeding 3 public officers (s.3(2))	9 members (s.3(6))
Hong Kong Arts Development Council	Hong Kong Arts Development Council Ordinance (Cap.472)	No express provision	No express provision	Council's meetings are partly open	Chairman + Vice-Chairman + 16 other members (9 of whom nominated by organisations in the relevant fields in arts as specified by Chief Executive) + Secretary for Home Affairs and Director of Education (s.3(3))	Half of the members (para. 5 of the Schedule)
Hong Kong Housing Society	Hong Kong Housing Society Incorporation Ordinance (Cap.1059)	No express provision	No express provision	No	No express provision	No express provision
Hong Kong Monetary Authority	Exchange Fund Ordinance (Cap.66)	No express provision	No express provision	No	No express provision	No express provision

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Hong Kong Productivity Council	Hong Kong Productivity Council Ordinance (Cap.1116)	No express provision	No express provision	No	Not more than 23 members including Chairman + not more than 17 other members whom shall be appointed to represent management, labour and professional or academic interests + not more than 5 who shall be public officers (s.9(1))	Half of the members (s.11(3))
Hong Kong Industrial Estate Corporation	Hong Kong Industrial Estate Corporation Ordinance (Cap.209)	No express provision	No express provision	No	Chairman + Chief Executive + 9 other members of whom not more than 4 are public officers (s.7(1))	4 members (s.8(1))
Hong Kong Trade Development Council	Hong Kong Trade Development Council Ordinance (Cap.1114)	No express provision	No express provision	No	Chairman + 8 ex officio members including Chairmen of relevant organisations, Secretary for Trade and Industry and Director of Information Services + 4 members nominated by relevant organisations + 6 other members (s.11(1))	9 members (s.14(3))

<b>Statutory Body/Authority</b>	<b>Ordinance</b>	<b>Whether the Chairman shall be official or non-official</b>	<b>Whether there is provision for open meeting</b>	<b>Whether there is open meeting in practice</b>	<b>No. of Members</b>	<b>Quorum for meeting</b>
Hospital Authority	Hospital Authority Ordinance (Cap.113)	The Chairman should not be a public officer (s.3(3)(a))	No express provision	Board's meetings are open	Chairman + not more than 3 public officers + not more than 4 principal officers + not more than 23 other members not being public officers. (s.3(3))	Half of the members but not less than 10 (para. 8 of Schedule 3)
Kowloon-Canton Railway Corporation	Kowloon-Canton Railway Corporation Ordinance (Cap.372)	No express provision	No express provision	No	Chairman + 4-8 other members (s.3(2))	5 members (para.9 of Schedule 1)
Land Development Corporation	Land Development Corporation Ordinance (Cap.15)	The Chairman should not be a public officer (s.3(2)(a)).	No express provision	No	Chairman + Chief Executive + not less than 5 other members not being public officers + not more than 3 other members being public officers (s.3(2))	6 members (Para.9 of Schedule 1)
Mass Transit Railway Corporation	Mass Transit Railway Corporation Ordinance (Cap.270)	No express provision	No express provision	No	Chairman + Managing Director + 4-8 other members (s.4(1))	5 members (s.5(1))

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Mandatory Provident Fund Schemes Authority	Mandatory Provident Fund Schemes Ordinance (Cap.485)	No express provision	No express provision	No	Not less than 10 directors of whom not less than 4 are executive directors and the remainder are non-executive directors. Of the non-executive directors, at least 1 but not more than 2 are to be persons represent the interests of participating employers and at least 1 but not more than 2 are to be persons represent the interests of relevant employees (s.6A)	No express provision
Personal Data (Privacy) Advisory Committee	Personal Data (Privacy) Ordinance (Cap.486)	No express provision	Hearing for the purpose of investigation by Privacy Commissioner for Personal Data to be conducted in public except in some circumstances (s.43(2))	Open hearing as stipulated	Chairman (Privacy Commissioner for Personal Data) + 4-8 other members of whom not less than 1 shall have not less than 5 years' experience in the processing of data and not more than 1 shall be public officer (s.11(2))	No express provision

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