

**Paper for the Finance Committee meeting  
on 6 December 2002**

**Report of the Public Works Subcommittee**

**Attendance of public officers  
at meetings of the Public Works Subcommittee**

**Background**

According to the Procedure of the Public Works Subcommittee (PWSC), the Chairman or the PWSC may invite any public officer to give information or any explanation or to produce any records or documents which the PWSC may require in the performance of its duties. As PWSC is a subcommittee of the Finance Committee which is a standing committee of the Legislative Council, the power to order attendance of any person before a committee under Section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) also applies to the PWSC. Rule 9(1) and (3) of the Rules of Procedure also provide for the attendance of designated public officers at meetings of the Finance Committee or its subcommittees to speak on behalf of the Government. Under Rule 9(3), when it appears to the clerk, when preparing the agenda of the meeting, that a particular item of business requires the attendance of a designated public officer, the clerk shall state, in respect of that particular item, the name of the office of that public officer.

2. It has been the practice of PWSC to invite the Administration to provide the names of the offices of the designated public officers who will attend meetings of the PWSC to respond to questions on individual agenda items. These officers are usually the subject officers of the bureaux and departments responsible for the planning and implementation of the projects concerned.

3. Records dated back to early 1990s show that in addition to those officers designated to attend PWSC meetings for individual agenda items, the Policy Secretaries (D8 officers) responsible for public works, environment, planning and lands, or occasionally their deputies, had been present at all meetings of PWSC to respond to questions on general policy issues under their respective portfolios. The Director of Environmental Protection, or occasionally his deputy, has also been present at all PWSC meetings since early 1990s.

4. At the first regular PWSC meeting after the implementation of the Accountability System for Principal Officials, members noted that instead of the Directors of Bureau, the Permanent Secretaries or their deputies in the two Bureaux concerned were designated to respond to questions on general policy issues on public works, environment and planning and lands. The question of whether it was appropriate for the Permanent Secretaries or their deputies to respond to questions on general policy issues at PWSC meetings was thus raised.

#### **Role of the Directors of Bureau with a responsibility for public works, environment, planning and lands at PWSC meetings**

5. As capital works items supported by PWSC are seldom discussed in detail at Finance Committee (FC) meetings, PWSC is the main forum for the Administration to explain to the Legislative Council (LegCo) on capital works proposals and secure LegCo's support for the funding of these proposals. The FC has relied heavily on the PWSC to address both project-specific and general issues arising from capital works proposals before the proposals are put to the FC for approval.

6. At past PWSC meetings, general policy issues on public works, environment, planning and lands arose from time to time during the discussion of individual items. Some of these issues had significant impact on the way capital works projects were planned and implemented, and many of them touched on policies with far-reaching financial implications. It was common practice that the two Policy Secretaries were invited to clarify and elucidate the relevant policies and prevailing practices.

7. For illustration, the following are some examples of the policy issues on which PWSC members have in past meetings raised queries and given substantive views and suggestions -

- (a) packaging of works contracts to allow competitive bidding by both large and small contractor firms;
- (b) the rates used in calculating consultancy fees and the frequency in adjusting the rates according to market trends;
- (c) the monitoring of waste management during construction works to ensure minimum generation of construction waste and proper disposal of such waste;
- (d) criteria for provision of noise mitigation measures in highway projects and the design and materials used for noise barriers/enclosures;

- (e) land-use planning for new development areas and reclamation areas;
- (f) allocation of adequate and suitable sites for community facilities;
- (g) the need to give adequate consideration to the traffic noise factor in the town planning process, in particular in the designation of sites for residential developments; and
- (h) the need to strike a balance between development needs and preservation of archaeological sites/materials.

Members' queries on the above issues were directed to the two Policy Secretaries who were present at the relevant PWSC meetings. The Policy Secretaries made undertakings to follow up members' concerns on possible inadequacies of existing policies, and in some instances endorsed suggestions from members on these policy issues and ways to improve the implementation of public works.

#### **Concern about the level of public officers to respond to questions on policy issues**

8. Upon the implementation of the Accountability System for Principal Officials, the policy areas of public works and environment fall under the purview of the Secretary for the Environment, Transport and Works (SETW), whereas the policy areas of planning and lands fall under the purview of the Secretary for Housing, Planning and Lands (SHPL). Both SETW and SHPL are underpinned by Permanent Secretaries. They are further underpinned by Deputy Secretaries. Permanent Secretaries and Deputy Secretaries are appointed on civil service terms.

9. At the first PWSC meeting on 16 October 2002 to consider capital works proposals, the Permanent Secretary for the Environment, Transport and Works (Transport and Works) and the Deputy Secretary for Housing, Planning and Lands (Planning and Lands) attended the meeting in place of the former Secretary for Works and the Secretary for Planning and Lands. Some members questioned the appropriateness of the new arrangement. Members in particular doubted whether officers at the Permanent Secretary and Deputy Secretary levels were in a position to answer members' questions on general policy issues under the Accountability System. Members also expressed concern on how far Directors of Bureau would be held accountable for the policy advice and commitments made by Permanent Secretaries/Deputy Secretaries at PWSC meetings.

10. The matter was raised at the meeting of the House Committee on 18 October 2002 during the discussion on the issue of co-operation between the Administration and the Legislative Council. The Chairman of the House Committee raised the matter with the Chief Secretary for Administration (CS) on the issue on 21 October 2002. According to CS, the Directors of Bureau will attend Council meetings and those Panel or other committee meetings with agenda items which involve controversial or complex policy issues. The guiding principle is that the Administration would field whoever having the best grasp of the issues concerned. Public officers attending meetings have full authority to represent the Administration, irrespective of their seniority.

11. The House Committee agreed at its meeting on 25 October 2002 that it was for individual committees or subcommittees to decide which public officer(s) should be invited to attend its meetings on policy issues.

### **Views of PWSC members**

12. The Chairman of PWSC issued a questionnaire to all PWSC members on 31 October 2002 to seek their views on the matter. In the questionnaire, the following two options were put forward for members' consideration -

- (a) As a standard arrangement, both the Secretary for Environment, Transport and Works (SETW) and the Secretary for Housing, Planning and Lands (SHPL) should be in attendance of PWSC meetings to respond to questions on general policy issues; and
- (b) Permanent Secretaries from the Environment, Transport and Works Bureau and the Housing, Planning and Lands Bureau should be in attendance of PWSC meetings as a standard arrangement, while the respective Directors of Bureau should attend on a need basis.

13. Of the 26 members of PWSC (excluding the Chairman), 15 members have chosen the first option and 11 have chosen the second option.

14. The majority view of PWSC members was conveyed by the PWSC Chairman to SETW and SHPL on 9 November 2002 and the two Directors of Bureau were accordingly invited to attend PWSC meetings in future. In their replies, the two Directors of Bureau did not give a clear indication as to whether they would attend PWSC meetings as a standard arrangement. They reiterated the points made by CS on the matter, and added that irrespective of the level of Government's representation, the Principal Officials would accept total responsibility for matters under their policy portfolios.

15. At the PWSC meeting on 13 November 2002, it was resolved that as the Subcommittee had already taken a decision on the matter based on the majority view of members, the Subcommittee should write to the two Directors of Bureau to elucidate the decision of PWSC and at the same time report the matter to the FC.

### **Present position**

16. In their replies (Appendices I and II) dated 26 and 27 November 2002, SETW and SHPL reiterated the Administration's position as set out in paragraph 9 and 14 above. They also commented that general policy issues fell within the purview of LegCo Panels, and discussion of policy issues at the PWSC had been related to the application of existing policies rather than the formulation or revision of policies per se.

17. Members may wish to note that in the past, there were instances that where general or specific policy issues which could not be resolved at PWSC meetings, discussion on the items concerned were adjourned or the items withdrawn to allow more detailed discussion to take place in the relevant Panels. However, as the former Policy Secretaries were present at most PWSC meetings, it is difficult to assess to what extent the items would have been deferred and referred to the relevant Panels for discussion before the PWSC decided on the items if the former Policy Secretaries were not present at PWSC meetings.

### **Advice sought**

18. Members are requested to note this report and advise on the way forward.

香港特別行政區政府  
房屋及規劃地政局局長



SECRETARY FOR HOUSING,  
PLANNING AND LANDS  
Government of the Hong Kong  
Special Administrative Region

Your Ref: CB1/F/2

26 November 2002

Ir Dr Hon Raymond Ho  
Chairman  
Public Works Subcommittee  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

**Public Works Subcommittee  
Attendance of Directors of Bureau at PWSC Meetings**

Thank you for your letter of 15 November. I have carefully considered all the points which have been raised.

I am glad to take note that there is common ground between us that discussion of policy issues at PWSC meetings are exceptions rather than the rule because they fall within the purview of the respective policy panels. You have given examples of issues which have been raised for discussion at PWSC in the past. These are very much project-specific and relate more to application of existing policies, rather than the formulation of new policies per se. It seems to me to argue for the attendance of my professional colleagues from the Planning Department.

Having reviewed the matter further, I believe that the way forward is a greater sense of vigilance on my part to ensure attendance by HPLB at PWSC meetings at a proper level in respect of projects falling within my portfolio.

Yours,

A handwritten signature in black ink, appearing to read "Michael". The signature is fluid and cursive, with a prominent "M" and "S" at the end.

( Michael M Y SUEN )

Secretary for Housing, Planning and Lands

c.c. SETW  
PSPL  
PSH  
D of Adm  
SFST (Attn: Miss Elizabeth Tse)

香港特別行政區政府

## The Government of the Hong Kong Special Administrative Region

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27 November 2002

Ir Dr Hon Raymond Ho  
Chairman, Public Works Subcommittee  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Central  
Hong Kong

Dear Raymond,

**Public Works Subcommittee  
Attendance of Directors of Bureaux at PWSC Meetings**

Thank you for your letter of 15 November 2002.

The Administration has explained its position on attendance by public officers at the Public Works Subcommittee vide PWSC1(2002-03)29, the gist of which are set out below :-

- (a) the Government would send the most suitable representatives to PWSC meetings;



- (b) as in the case for other Panel and Committee meetings, public officers attending PWSC meetings speak on behalf of the Government; and
- (c) irrespective of the level of Government's representation at PWSC meetings, the Principal Officials accept total responsibility for matters under their policy portfolios.

It is useful to note that general policy issues on public works fall within the purview of the Panel on Planning, Lands and Works which has, as one of its Terms of Reference, the duty "to monitor and examine Government policies and issues of public concern relating to lands, buildings and planning matters, works, water supply and Public Works Programme". In your letter of 15 November 2002, you have given examples of issues which have been raised for discussion at PWSC in the past. They are very much project specific and relate more to application, rather than revision or formulation of public works policies which should obviously be reserved for the Panel on Planning, Lands and Works.

Yours sincerely,



(Sarah Liao)  
Secretary for the Environment,  
Transport and Works

cc SHPL  
PSPL  
PSH  
PSE  
PSTW  
D of Adm (Attn: Miss Eliza Lee)  
SFST (Attn: Ms Elizabeth Tse)