

立法會
Legislative Council

LC Paper No. CB(2)1746/03-04

(These minutes have been
seen by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

**Minutes of meeting
held on Friday, 13 February 2004 at 10:45 am
in the Chamber of the Legislative Council Building**

Members present : Hon IP Kwok-him, JP (Chairman)
Hon MA Fung-kwok, JP (Deputy Chairman)
Hon Cyd HO Sau-lan
Hon NG Leung-sing, JP
Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon TANG Siu-tong, JP
Hon Henry WU King-cheong, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
Dr Hon LO Wing-lok, JP

Members absent : Hon Albert HO Chun-yan
Hon CHOY So-yuk
Hon WONG Sing-chi

**Public Officers:
attending** Item V

Mr Stephen FISHER
Deputy Secretary for Home Affairs (1)

Ms Esther LEUNG
Principal Assistant Secretary for Home Affairs (1)

Mr Ryan CHIU
Assistant Secretary for Home Affairs (1)

Item VI

Mr Stephen FISHER
Deputy Secretary for Home Affairs (1)

Mr David YIP
Principal Assistant Secretary for Home Affairs
(Special Duties)

Mrs Hedy CHU
Principal Assistant Secretary for Home Affairs (3)

Clerk in attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in attendance : Ms YUE Tin-po
Senior Council Secretary (Complaints) 3

Mr Watson CHAN
Head, Research and Library Services

Mr Michael YU
Research Officer 7

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I. Confirmation of minutes
[LC Paper Nos. CB(2)1241 & 1242/03-04]

The minutes of the special meetings held on 9 December 2003 and 14 January 2004 were confirmed.

II. Information paper(s) issued since the last meeting
[LC Paper No. CB(2)1122/03-04(01)]

2. Members noted that, as requested at the meeting on 12 December 2003, the Administration had provided supplementary information on measures to address gambling-related problems.

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III. Items for discussion at the next meeting

[Appendies I and II to LC Paper No. CB(2) 1263/03-04]

3. Members agreed to reschedule the next regular meeting originally scheduled for 12 March 2004 to Monday, 22 March 2004 at 10:45 am, as a number of members would have to attend meetings of the National People's Congress in the early part of March 2004. Members also agreed to discuss the following items as proposed by the Administration at the next regular meeting -

- (a) Policy on the preservation of heritage and monuments; and
- (b) Computer programme for calculation of interest and surcharge on arrears of maintenance.

4. The Chairman said that he had received views from the Society for Community Organization on measures to address poverty. He suggested that the matter be discussed together with item 16 on the list of outstanding items at a future meeting. Ms Cyd HO suggested that a joint meeting could be held with the Panel on Welfare Services as the latter had been following up issues relating to poverty.

(Post-meeting note: The item on measures to address poverty was included in the agenda of the meeting of the Panel on Welfare Services on 8 March 2004. Members of the Panel on Home Affairs were invited to join the discussion of the item.)

5. Ms Emily LAU asked whether the research report on the monitoring mechanisms for the implementation of international human rights treaties in selected places would be ready for discussion at the next meeting. She suggested that deputations be invited to present their views on the report. The Chairman requested the Clerk to check whether the report was ready for discussion at the next meeting.

Clerk

(Post-meeting note: Discussion of the research report on "Monitoring Mechanisms for the Implementation of International Human Rights Treaties in the United Kingdom, New Zealand and Canada" has been included in the agenda of the next regular meeting.)

6. Referring to item 15 on the list of outstanding items for discussion, Ms Emily LAU said that the Administration should be asked to provide information on the reporting cycle and dates of hearing by the United Nation Committees in respect of the six human rights reports. The Chairman said that the Clerk would obtain the information from the Administration.

Clerk

(Post-meeting note : The information has been issued to members vide LC Paper No. CB(2)1431/03-04 dated 20 February 2004.)

IV. Proposed research outline of the study on the economic and social impacts of hosting selected international sports games
[LC Paper No. CB(2)1263/03-04(01)]

7. Head (Research and Library Services Division) (H(RL)) briefed members on the proposed outline of the study. H(RL) said that the report would be completed in May 2004.

8. Mr Henry WU was of the view that it would be difficult to make a comparison between the Olympic Games and the East Asian (EA) Games because they were different in scale. He considered that the study should focus more on the EA Games to enable members to have a better understanding of the economic and social impacts of hosting regional sports events.

9. Mr Andrew CHENG suggested that the profiles of two Asian Games held in Busan of South Korea and Bangkok of Thailand be included in part 2 of the study. Mr Andrew CHENG also suggested that the study should include an analysis of the government policies (such as sports promotion) and concrete measures taken by the host countries to support the sports events.

10. Ms Cyd HO suggested that the study should include the impact on society, for example, community involvement and volunteer participation in activities and sports events of the Games.

V. Codes of Practice for the Conduct of Football Betting and Lotteries
[LC Paper No. CB(2)1263/03-04(02)]

11. Deputy Secretary for Home Affairs (1) (DS(HA)1) briefed members on the Administration's paper on the two codes of practice for the conduct of football betting and lotteries. DS(HA)1 said that the codes of practice had been drawn up in consultation with a sub-committee under the Football Betting and Lotteries Commission (the Commission) and in the light of experience in the implementation of authorised football betting. Reference had been made to similar codes in overseas jurisdictions and the codes would be revised from time to time.

12. Mr Andrew CHENG said that he was disappointed that the two codes of practice, which were issued after members' repeated requests, had not specified the match types and betting options. Mr CHENG pointed out that during the resumption of Second Reading debate on the Betting Duty (Amendment) Bill 2003 at the Council meeting on 9 July 2003, the Administration had said that it would issue codes of practice in respect of the restrictions and would work out a more detailed guideline. Mr CHENG said that it would be difficult to effectively regulate authorised football betting if the legislation or the code of

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practice did not specify the restrictions on match types and betting options. Without such restrictions, the licensed operator for football betting would have a free hand to offer as many betting options as possible in order to compete with illegal operators, and this would have the effect of encouraging more people to participate in gambling activities.

13. DS(HA)1 explained that the policy was not to encourage gambling, and the objective of authorising football betting in Hong Kong was to combat illegal football gambling activities by diverting the demand for football betting into the authorised channel. As part of the regulatory regime, the licensing conditions for authorised football betting and the code of practice sought to strike a balance between the need to ensure the competitiveness of authorised football betting vis-à-vis its illegal counterparts, and to minimise the adverse impact of gambling on the community, in particular, underage betting. In this connection, it was necessary to allow the licensed operators to offer fixed odds games, in addition to pari-mutuel games. The attempt to specify details such as bet types and match types in the legislation or in the licensing conditions would seriously undermine the licensee's competitiveness and the effectiveness of authorised football betting to combat illegal gambling activities.

14. Mr Andrew CHENG was not satisfied with DS(HA)1's explanation. Mr CHENG said that the Government should set out clearly the scope of authorised match types in the code of practice, and should not wait until the problems of pathological and underage gambling had worsened. He added that recent suicide cases had demonstrated that the problem of pathological gambling was already very serious.

15. DS(HA)1 responded that the betting options and match types offered by the licensed operator had so far been confined to certain major types and had not exceeded the scope that the Government had originally expected. DS(HA)1 added that it would be counter-productive to specify the match types or betting options in the code of practice, as illegal bookmakers would then offer betting options which were not regulated or specified. DS(HA)1 stressed that it was necessary to provide some flexibility for the licensed operator to compete with illegal bookmakers.

16. Mr Albert CHAN said that he opposed the authorisation of football betting because by providing authorised outlets, it would encourage more people to engage in gambling. Mr CHAN commented that while the codes of practice could regulate the licensed operator, many activities aiming at promoting football betting were not organised by the licensees, for example, the increased coverage on betting information instead of football news in the press. He asked whether the Government had adopted other measures to address the problem.

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17. DS(HA)1 responded that the Chairman of the Commission had conveyed to the media that football as a sport and football betting should be handled separately. The Commission would continue to monitor the situation and would recommend other measures if there were no improvements. DS(HA)1 added that relevant measures, such as preventive education and publicity and counselling and treatment services, were being taken to address gambling-related problems.

18. Mr Albert CHAN said that he did not believe that authorisation of football betting could combat illegal football gambling. Given the prevalent problem of illegal football gambling, he asked what measures the Government would take to combat the problem.

19. DS(HA)1 responded that the Police would take strict enforcement action against illegal football gambling activities. He reiterated that authorisation of football betting was not to encourage gambling but to combat illegal betting by diverting the demand to authorised channels. He believed that the code of practice would help to regulate the practices of the licensee. There were also other measures, which he had just mentioned, to address gambling-related problems.

20. Ms Cyd HO asked about the effectiveness of the enforcement actions taken by the Police and the amounts of bets involved.

21. In response to Ms Cyd HO, DS(HA)1 provided the following information concerning enforcement against gambling-related offences during the period August to October 2003 –

<u>Month</u>	<u>Number of cases involved</u>	<u>Number of persons arrested</u>	<u>Amount of Bets</u>
August	3	3	\$153,900
September	1	2	\$130,000
October	4	6	\$235,000

DS(HA)1 said that the current regulatory regime and enforcement, together with the preventive and remedial measures for gambling-related issues, were effective in tackling the illegal football gambling problems.

22. Ms Cyd HO asked whether there were any estimation on the annual football betting turnover for the licensed operator, as compared to the total betting turnover for illegal football gambling. Ms HO considered that the comparison would enable members to assess the effectiveness of authorised football betting as a measure against illegal football gambling.

23. DS(HA)1 advised that it was not possible to have accurate information in respect of the illegal betting turnover, but the licensed operator would

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provide regular reports on its betting turnover to the Government. He said that the Government would make an evaluation after implementing authorised football betting for one year. He agreed to provide the relevant information to the Panel once it was available.

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VI. Progress report on the review of advisory and statutory bodies
[LC Paper No. CB(2)1263/03-04(03)]

Introductory remarks

24. The Chairman said that the Panel had discussed at its meeting on 12 March 2002 the results of a survey on government advisory and statutory bodies (ASBs) conducted by the Administration in 2001 and the improvement measures recommended. Members had suggested that the Administration should undertake a comprehensive review of the ASB system and provide a report to the Panel for discussion. The Administration subsequently informed the Panel at its meeting on 14 March 2003 that a review was being conducted.

25. At the invitation of the Chairman, DS(HA)1 briefed members on the progress report on the review of ASBs in the public sector. DS(HA)1 said that recent events relating to the appointment and termination of employment of Mr Patrick YU as Director (Operations) of the Equal Opportunities Commission (EOC) had revealed that the Administration should further look into the whole system of ASBs, in particular, whether there should be an executive chairperson of an ASB, and whether the role of chairperson should be separated from that of the chief executive officer (CEO). DS(HA)1 said that as the Administration would need some time to complete the review on ASBs, a series of interim reports on the findings and conclusions were submitted for members' perusal.

26. Regarding the recent incidents concerning EOC, DS(HA)1 said that he noted that the House Committee would discuss in the afternoon the Panel's proposal of appointing a select committee to inquire into those incidents that had affected the credibility of EOC and related issues. To facilitate members' consideration of the Panel's proposal, he would like to table a letter dated 12 February 2004 from the Secretary for Home Affairs (SHA) to the chairperson of EOC on the recent developments. With the concurrence of the Panel Chairman, SHA's letter was tabled at the meeting and issued to all Members subsequently.

27. DS(HA)1 informed members that in his letter dated 12 February 2004, SHA expressed support for EOC's move to consider the setting up of a review committee comprising independent members to conduct a review of the policy and procedures relating to human resources management in EOC, as well as the setting up of a review committee to look into the issues concerning the

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appointment and termination of appointment of Mr Patrick YU. SHA had pointed out that it was imperative that the public saw the review on the proposed investigation as independent and fair, and the appointment of a review committee by EOC itself would not fully meet public expectations. SHA had therefore put to the Chairperson of EOC that it would be more appropriate for the Administration to nominate two independent members to sit on the EOC review committee so as to enhance the credibility and transparency of the proposed investigation.

Discussion on the review of advisory and statutory bodies

28. Mr Andrew WONG said that he was disappointed at the review conducted by the Administration. He considered that the Administration should differentiate operational committees from advisory committees in the review. He commented that the issue was not whether it was necessary to delineate the responsibilities of the chairpersons and the CEO, as this would depend on the nature of the committees. He added that the powers of the chairperson and CEO of public corporations should be clearly spelt out in the relevant legislation.

29. DS(HA)1 responded that Interim Report No. 2 on the review provided a classification scheme for the public sector advisory and statutory bodies in Hong Kong which were classified according to their functions, as follows -

- (a) advisory boards and committees;
- (b) non-departmental public bodies;
- (c) regulatory boards and bodies;
- (d) appeal boards;
- (e) advisory and management boards of trusts, funds and funding schemes;
- (f) public corporations; and
- (g) miscellaneous boards and committees.

30. DS(HA)1 said that in view of the recent incidents concerning EOC, the Administration considered it necessary to review the governance of statutory bodies and the need to provide a check and balance mechanism in these bodies, so as to ensure that the governance of these bodies would keep pace with modern management. The review would also cover the relationship between the Administration and these bodies.

31. Mr Andrew WONG said that public corporations, such as the Kowloon-Canton Railway Corporation and the Mass Transit Railway Corporation, were commercial entities running business independently. Mr WONG considered that the governance of these corporations should be entrusted to professionals who could devote full-time to the day-to-day management of the corporations.

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32. Mr Andrew CHENG commented that the Administration had tended to appoint persons who were supporters of the Administration to ASBs. Mr CHENG opined that ASBs should comprise members from different sectors and those with dissenting views. He commented that the Administration should also avoid appointing the same persons to sit on too many ASBs.

33. The Chairman, Mr Henry WU, Mr NG Leung-sing and Dr TANG Siu-tong did not agree with Mr Andrew CHENG that members appointed to ASBs would necessarily support the Administration's proposals. They said that based on their experience in participating in the work of ASBs, individuals of different backgrounds and those holding dissenting views were also appointed to ASBs, and their views had been truly reflected to the governance and recorded in the minutes of meeting.

34. Mr Henry WU said that he did not always agree with the Administration's proposals when serving on these ASBs. He pointed out that the Administration had listened to the views of different members of the ASBs and made suitable modifications to its proposals.

35. Regarding the proposal of delineating the roles and responsibilities between the chairperson and the CEO, Mr WU said that this was necessary for statutory bodies such as the Kowloon-Canton Railway Corporation in order to enhance the effectiveness of corporate governance. He added that he had given similar views when scrutinising the Securities and Futures Bill. Dr TANG Siu-tong expressed support for delineating the responsibilities between the chairperson and the CEO of statutory bodies.

36. Mr NG Leung-sing expressed support for greater transparency of the operation of ASBs so that the public could better understand their work. Mr NG considered that it would be more important for ASBs to perform effectively and it was meaningless to have too many ASBs.

37. Ms Emily LAU enquired about the progress of implementing the "six-board" and "six-year" rules so far, as some individuals had been appointed to too many ASBs. She also asked about the timetable of conducting the second round of consultation on the review of ASBs and the way forward.

38. DS(HA)1 said that the "six-board" and "six-year" rules were general guidelines for appointment of members to ASBs. These rules had generally been observed so far, and only a few individuals had exceptionally been appointed to 8 ASBs. He added that improvements were being made, and the Administration would provide a paper on the compliance with the "six-board" and "six-year" rules to the Panel as soon as possible.

39. DS(HA)1 further said that the Administration had conducted an initial review of the existing system of ASBs to identify issues and problems

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requiring further study. Twelve guiding principles had been raised for consultation and individual bureaux would carry out in-depth reviews of those ASBs under their purview. The Administration would provide eight more interim reports to the Panel, and the review was scheduled for completion by end of 2004. A second round of consultation on the review would be conducted in early 2005, after which a final report would be provided to the Panel.

Proposal to nominate two independent members to sit on the EOC review committee

40. Referring to SHA's letter dated 12 February 2004 to the Chairperson of EOC tabled at the meeting, Mr Tommy CHEUNG asked about the membership size of the EOC review committee and the timeframe of the proposed inquiry. Mr CHEUNG also asked why the Administration did not consider appointing an independent committee instead. He said that he would only accept the Administration's proposal if the two independent members would constitute the majority of the membership of the review committee.

41. DS(HA)1 responded that since EOC was an autonomous statutory body, it would be more appropriate for EOC to conduct its own investigation in order to restore its credibility and public confidence. SHA had proposed to appoint two independent members who were highly regarded in the community to sit on the EOC review committee, in order to enhance the transparency and credibility of the proposed investigation. DS(HA)1 said that SHA would decide on the appointment of the two independent members shortly so that the EOC review committee could commence work as soon as possible. As regards Mr Tommy CHEUNG's suggestion that the two independent members should constitute the majority of the EOC review committee, DS(HA)1 said that he would relay Mr CHEUNG's request to SHA for consideration.

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42. Mr NG Leung-sing said that he would support EOC conducting its own investigation as it would not be possible for the select committee, if appointed by LegCo, to complete its inquiry within the remaining months of the current term. He considered that the independent members to be nominated by SHA to sit on the EOC review committee should not have political affiliation or be retired judges.

43. DS(HA)1 said that in appointing the two independent members to the EOC review committee, SHA would consider their background and make sure that there would be no conflict of interest in their participation in the inquiry.

44. Mr Andrew CHENG said that an inquiry conducted by the EOC review committee would lack credibility as such an inquiry could not pinpoint responsibility and would not be able to address the concerns of the public and

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of Members. Mr CHENG said that the Administration was evading its responsibility by not appointing a Commission of Inquiry.

45. Mr Albert CHAN said that SHA's proposal was intended to enable some members to change their stance on the appointment of the proposed select committee. He was disappointed with SHA's proposal and remarked that it would not fully meet public expectations as EOC could not exercise powers to summons witnesses, such as SHA, to give evidence before its review committee. Mr CHAN considered it more appropriate for the Administration to appoint an independent Commission of Inquiry. He commented that the review or inquiry would have been completed had the Administration taken a decision earlier.

46. DS(HA)1 responded that there was an urgent need to restore the credibility of EOC so that it could resume its normal operation. He said that it was most important for the inquiry to be conducted impartially focussing on the appointment and termination of appointment of Mr Patrick YU. He did not consider it appropriate to investigate into the alleged private meetings involving SHA and other persons as reported by the media. DS(HA)1 stressed that SHA's proposal of appointing two independent members to the EOC review committee could realistically address the concerns of the public and also enhance the transparency and credibility of the inquiry.

47. Ms Emily LAU said that the Panel had previously requested the Administration to appoint an independent committee to inquire into the incidents which had affected EOC's credibility. However, as the Administration had informed the Panel on 9 January 2004 that it would not appoint an independent Commission of Inquiry, Panel members therefore supported the appointment of a select committee by LegCo. She considered that SHA's present proposal of nominating two independent members to sit on the EOC review committee was contradictory to the Administration's previous position. Ms LAU further said that in the absence of details on how the EOC review committee would operate, e.g. whether public hearings would be held, she would not support SHA's proposal.

48. DS(HA)1 said that the Administration would relay to the EOC review committee members' request for open hearings to be held. He further said that it might not be appropriate for the inquiry to be held in open sessions if it would infringe on the privacy rights of the persons concerned.

49. Dr TANG Siu-tong said that as EOC was an independent statutory body, it would be more appropriate for EOC to conduct its own investigation in order to restore public confidence. He agreed that appointing two independent members to the EOC review committee could enhance the credibility and transparency of the proposed inquiry.

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50. Dr LO Wing-lok shared similar views. He supported in principle SHA's proposal to nominate two independent members to sit on the EOC review committee to enhance the credibility and impartiality of its inquiry. He urged that the EOC review committee should conduct the inquiry as soon as possible and it should take into account Panel members' views and suggestions in conducting its inquiry. He also requested the Administration to provide details of the EOC review committee.

51. The Chairman expressed support for SHA's proposal and he believed that EOC could conduct an independent investigation. He asked the Administration whether the investigation by EOC would depend on LegCo deciding against the appointment of a select committee.

52. DS(HA)1 responded that SHA had not set any pre-requisite for its request of nominating two independent members to sit on the EOC review committee. However, if the House Committee decided not to support the appointment of a select committee in the afternoon, SHA would strongly request EOC to conduct its own inquiry as soon as possible.

VII. Final report of the Subcommittee to study discrimination on the ground of sexual orientation

[LC Paper No. CB(2)738/03-04]

53. Ms Cyd HO, Chairman of the Subcommittee to study discrimination on the ground of sexual orientation, invited members to note the deliberations of the Subcommittee as detailed in its report. Ms HO said that members of the Subcommittee had expressed concern about the different treatment in various areas in public services against people of different sexual orientations. These members were of the view that the Administration should conduct a large-scale public consultation on the need for legislative changes or administrative arrangements to address the problem of discrimination on the ground of sexual orientation.

54. Ms Emily LAU said that during the deliberation of the Subcommittee, many homosexual groups were willing to come forward to give their views. This indicated that the society was now more open-minded in discussing issues relating to homosexuality. Ms LAU further said that as the issues raised in the Subcommittee's report were controversial, the Administration should be requested to conduct public consultation and also gauge the views of the homosexual groups on the need to legislate against discrimination on the ground of sexual orientation.

55. Ms Cyd HO said that as the Subcommittee had already completed its work and provided its final report, the Administration should be requested to provide a written response to the Panel on the issues and concerns raised in the

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report, including the need for conducting public consultation. Members agreed.

VIII. Any other business

56. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 2
Legislative Council Secretariat
18 March 2004