

立法會

Legislative Council

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Report of the Panel on Home Affairs for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Home Affairs during the 2003-2004 Legislative Council (LegCo) session. It will be tabled at the Council meeting on 30 June 2004 in accordance with Rule 77(14) of the Rules of Procedure.

The Panel

2. The Panel was formed by resolution of this Council on 8 July 1998 and as amended on 20 December 2000 and 9 October 2002 for the purpose of monitoring and examining Government policies and issues of public concern relating to district, community and rural matters, human rights, civil education, data protection, press freedom, building management, youth and women matters, the provision of leisure and cultural services as well as matters relating to the development of arts and culture, public entertainment, sport and recreation.

3. The terms of reference of the Panel are in **Appendix I**.

4. The Panel comprises 18 members, with Hon IP Kwok-him and Hon MA Fung-kwok elected as Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major work

Incidents relating to the Equal Opportunities Commission

5. Following a press conference held by Mr Patrick YU on 23 October 2003 regarding the termination of his employment by the Equal Opportunities Commission (EOC), the Panel held three special meetings to discuss the issues

relating to the appointment and termination of employment of Mr YU as Director (Operations) by EOC, and the subsequent resignation of Mr Michael WONG from the office of the Chairperson of EOC, which had attracted wide public and media attention.

6. On 12 November 2003 a weekly magazine published an article containing six allegations against EOC and Ms Anna WU, former Chairperson of EOC. Members considered that the series of incidents relating to EOC had adversely affected the credibility of EOC and unanimously agreed that the Chief Executive should be requested to appoint a commission of inquiry to investigate the incidents. On 9 January 2004, the Administration reported its decision not to appoint a commission of inquiry as it considered that the termination of the employment contract of the Director (Operations) designate by EOC was an employer/employee dispute and there was no evidence showing that anyone had breached the law in the incidents.

7. In view of the Administration's decision, the Panel proposed that a select committee should be appointed by LegCo to inquire into the incidents, to examine the accountability of the persons concerned in that regard and to make recommendations on the restoration of credibility of EOC. The House Committee considered the Panel's proposal on 13 February 2004. Some Members expressed concern about the availability of Members to join the select committee, if appointed, and the manpower constraint of the LegCo Secretariat, given the very heavy work commitments of Panels, Bills Committees and the two on-going select committees and other committees, and the limited time available before the end of the LegCo term in July 2004. After discussion, the House Committee decided that the Administration should be asked one more time whether it would appoint an independent committee or panel to look into the EOC incidents.

8. The Secretary for Home Affairs (SHA) responded on 19 February 2004 that he would appoint an independent panel of inquiry to look into the appointment and termination of employment of Mr Patrick YU as Director (Operations) of EOC and the incidents which had affected the credibility of EOC and to make recommendations on measures to restore such credibility. The House Committee supported the appointment of an independent panel of inquiry by SHA. Pending the report of the panel of inquiry, the House Committee would not pursue the Panel on Home Affairs' proposal for the appointment of a select committee by LegCo.

9. On 15 May 2004 SHA announced that he had appointed a three-member panel of inquiry to look into the EOC incidents. The panel would submit its report within nine months from the date of its appointment.

Review of advisory and statutory bodies

10. Following discussion of the results of a survey on Government advisory and statutory bodies (ASBs) conducted by the Administration in 2001, the Panel suggested in March 2002 that the Administration should undertake a comprehensive review of the ASB system and provide a report to the Panel for further discussion. In the course of the discussion of the accountability system in LegCo, the Government indicated that it would review the role and functions of ASBs after the implementation of the accountability system.

11. The Administration provided two progress reports on the review of ASBs in the public sector to the Panel during the session. The progress reports comprised eight interim reports on various topics, including policy responsibility, classification, gender balance, remuneration of members, the six-year rule, the six-board rule and handling of conflict of interest. Four more interim reports would be provided to the Panel and the review was scheduled for completion by the end of 2004.

12. Members were particularly concerned about the situation of non-compliance with the six-year and six-board rules. There were 1 695 cases breaching the six-year rule and 45 people serving on more than six boards/committees. Members queried whether there were really no other suitable persons for appointment to replace the incumbents and whether the appointment period had to be as long as six years in order to provide continuity. The Administration undertook to closely monitor compliance with a view to bringing about improvements in the two areas.

13. Some members were also concerned about the gender balance in ASBs. Noting that there was very little participation by women of grassroots level in ASBs, these members considered that the Administration had imposed too many restrictions and had limited its choice of suitable candidates for appointment to a small group. The Administration said that while the present women membership rate was 22%, the Administration had set a 25% gender benchmark, which was aimed to be achieved within a few years.

14. As regards the handling of conflict of interest, the Administration said that almost all policy bureaux had confirmed that they had put in either a one-tier or a two-tier reporting system for declaring interest. As people from the business sector were often appointed to serve on ASBs, a member suggested that the Administration should put in place a mechanism to prevent "transfer of interest" between the Government and ASB members. The Administration explained that with the mechanisms for declaration of interest in place, it would be up to the relevant boards/committees and their chairmen to enforce the relevant rules and regulations. The Administration would consider drawing up a set of fundamental principles, based on similar guidelines

published in Australia, Canada and the United Kingdom (UK), for members of ASBs to follow.

Measures to address gambling-related problems

15. During the resumption of the Second Reading debate on the Betting Duty (Amendment) Bill 2003 at the Council meeting on 9 July 2003, the Administration had undertaken, amongst other things, to commission academic institutions to conduct tracking surveys on the impact of authorisation of football betting on the prevalence of problem and pathological gambling.

16. In December 2003, the Administration briefed the Panel on the progress of measures implemented to address gambling related problems. Members sought more detailed information on the counselling and treatment services for problem and pathological gamblers operated by Caritas and the Tung Wah Group of Hospitals. The Administration explained that apart from operating two pilot dedicated counselling and treatment centres for problem/pathological gamblers and their family members, Caritas and the Tung Wah Group would also organise educational programmes for the general public on how to prevent and cope with gambling-related problems.

17. Some members were gravely concerned that a survey report published the previous day revealed that as many as 4 000 secondary school students under 18 had taken part in football betting and many of them had started their participation after August 2003. These members considered that the Administration should review the effectiveness of authorised football in combating illegal football gambling against the social costs involved. Some members were also concerned whether persons under 18 years of age could enter any betting centres to place bets and suggested that the Police should conduct undercover operations to find out whether the betting centres really accepted bets placed by underage persons.

18. The Administration explained that based on previous surveys conducted by the Administration, it was found that the number of adolescents under the age of 18 engaged in football betting had been on the increase in the past two to three years. However, before August 2003, they had placed bets with illegal bookmakers, and this trend could have resulted in even more serious problems if there had not been authorised football betting. The Administration said that the Hong Kong Jockey Club (HKJC) had been asked to put in measures to prohibit underage persons from participating in betting. HKJC had been extremely vigilant in that regard and there had not been many complaints about the problem. The Administration undertook to follow up the survey results and in addition, would conduct its own surveys to seek information and data for further studies into the matter.

19. A member considered that radio and television advertisement on gambling in general should be prohibited during the family viewing hours from 4:00 pm to 8:30 pm daily. The Administration agreed to follow up the matter with the Broadcasting Authority.

Code of Practice for the Conduct of Football Betting and Lotteries

20. During the resumption of the Second Reading debate on the Betting Duty (Amendment) Bill 2003 at the Council meeting on 9 July 2003, the Administration also undertook to consult the Panel on the provisions to be included in the codes of practice to be issued under the Betting Duty Ordinance (Cap. 108) on the operation of authorised football betting and lotteries.

21. The Administration consulted the Panel in February 2004 on two codes of practice for the conduct of football betting and lotteries. The codes of practice had been drawn up in consultation with a subcommittee under the Football Betting and Lotteries Commission and in the light of experience in the implementation of authorised football betting.

22. Some members were disappointed that the two codes of practice had not specified 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. These members were concerned that this would have the effect of encouraging more people to gambling activities.

23. The Administration explained that the objective of authorised football betting in Hong Kong was to combat illegal football gambling activities by diverting the demand for football betting into the authorised channel. The Administration pointed out that it was necessary to provide some flexibility for the licensed operator to compete with illegal bookmakers. Any attempt to specify details such as bet 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 in combating illegal football gambling activities.

24. Some members remained unconvinced that the authorisation of football betting could combat illegal football gambling and asked the Administration what other measures were being taken to address the problem. The Administration pointed out that relevant measures, such as preventive education and counselling and treatment services, were being taken to address gambling related problems. The Administration further said that the Government would make an evaluation two years after the implementation of authorised football betting and the relevant information would be provided to the Panel once available.

Monitoring of human rights

25. The Panel monitored the submission of reports to the United Nations (UN) under various international human rights treaties by the Hong Kong Special Administrative Region (HKSAR) Government and its progress in following up the recommendations made by the UN Treaty Monitoring Bodies concerned in respect of these reports.

26. To facilitate members' consideration of whether a human rights commission (HRC) should be established in the HKSAR, the Panel requested the Research and Library Services Division of the LegCo Secretariat to conduct a research study on the monitoring mechanism for the implementation of human rights treaties in other jurisdictions. The research report which studied the relevant mechanisms in UK, New Zealand and Canada found that only UK did not have a national HRC but the UK Government had recently announced its intention of setting up a Commission of Equality and Human Rights.

27. The Panel discussed the findings of the report with concern groups and the Administration at its meeting in May 2004. Members asked the Administration to explain why it considered that Hong Kong was not yet ready to take the steps necessary for the establishment of an institution that fully met the requirements of the Paris Principles. The Administration explained that the Paris Principles clarified the concept of a "national institution" by providing minimum standards for the status and role of a national HRC. The first step for the establishment of a HRC was to have the necessary legislation in place incorporating the provisions of all human rights treaties as applicable to Hong Kong. In this connection, enactment of legislation against racial discrimination would be an important step forward. In addition to working on the anti-racial discrimination legislation to be introduced in the 2004-05 legislative session, the Administration would also consider taking other long term measures, such as examining the possibility of amalgamating the existing statutory bodies providing safeguards for human rights in different areas, namely EOC, the Office of the Privacy Commissioner for Personal Data and the Ombudsman's Office.

28. In response to the Panel's request, the Administration agreed to provide short annual overviews of developments relating to the six treaties which applied to the HKSAR and which entailed an obligation to submit periodic reports to the UN Treaty Monitoring Bodies. The first report covering developments in 2003 was provided to the Panel in May 2004. Members were concerned that the HKSAR failed to submit its second report under the International Covenant on Civil and Political Rights on or before the deadline date of 31 October 2003. The Administration explained that the closing date for the second report was 30 June 2003 but the Administration considered that developments occurring after that date would be of interest to the UN Human

Rights Committee and therefore should be discussed in the report. The Administration was in the process of finalising the report and would submit it to UN shortly. The topics of major interest covered by the report included the electoral system, rural elections, Hong Kong's ethnic minorities, and the question of legislation to implement Article 23 of the Basic LAW. The Administration would release the report to the public immediately after it had been submitted to UN.

Safeguarding freedom of expression

29. In May 2004 three radio talk show hosts quitted their programmes in a rather sudden manner, causing concern in the community about possible external pressure or threats on the personalities concerned and whether freedom of expression in Hong Kong had suffered as a result.

30. The Panel held a special meeting on 27 May 2004 to discuss the issue of protection of freedom of speech. The three radio talk show hosts were invited to give views at the meeting. As two of them declined the invitation citing concern about insufficient protection to ensure their personal safety as the reason, Mr Allen LEE alone attended the meeting. Apart from making a statement regarding the pressure he had felt after taking over as host of the "Teacup in a Storm" programme, Mr LEE readily answered Members' questions. Some Members considered that Mr LEE's experience was sufficient proof that there had been external pressure exerted on freedom of speech in Hong Kong. Other Members felt that Mr LEE might have been oversensitive in his reaction.

31. The meeting attracted much public attention. The Chief Executive told the public the following day that he had made enquiries especially with the relevant Central Authorities. They had told him that the Central Government would not do anything to undermine "One Country, Two Systems" and supported the HKSAR to take action to safeguard the freedom of expression and of the press in accordance with the law.

Building management

32. The Panel set up a subcommittee in March 2001 to discuss the review of the Building Management Ordinance (Cap. 344) (BMO) with the Administration. After 12 meetings with the Administration, the subcommittee reported its deliberations to the Panel in November 2003.

33. Following the completion of a public consultation exercise on its proposed amendments to BMO, the Administration briefed the Panel on the outcome at the meeting on 28 November 2003. Since the Administration planned to introduce the proposed amendments into LegCo in the 2004-05

legislative session, members of the Panel agreed that the subcommittee should continue discussion with the Administration on further improvements to BMO. The subcommittee considered in more detail the appointment procedures of a management committee, the appointment of proxy, setting up of account for owners' committees as well as the procurement of supplies, goods and services by tendering. The Administration undertook to take into consideration the views and suggestions made by members of the subcommittee during the drafting of the amendment bill.

Review of built heritage conservation policy

34. In February 2004 HAB published a consultation document on review of built heritage conservation policy. The Panel discussed the consultation document at its meeting in March 2004.

35. Members were in general disappointed with the document as it failed to provide details of potential heritage items identified for protection and the conservation costs involved. They considered that the Administration should immediately release concrete details of the costs and compensations involved, including the transfer of development rights, in order to make the consultation exercise more meaningful. The Administration explained that it had to know the views of the community on the fundamental principles before it could formulate a holistic approach to guide the direction of conservation work. The Administration would consider the views and suggestions relating to implementation measures and the transfer of development rights and include them in the second stage of the consultation exercise early next year.

Priority of the provision of leisure and cultural services facilities

36. The Administration briefed the Panel in April 2004 on the priority for the provision of new leisure and cultural services facilities in Hong Kong. Members noted that the Administration had engaged consultants to analyse Expression of Interest submitted by developers on two pilot projects in Kwun Tong and Tseung Kwan O to be implemented under the Private Sector Finance (PSF) approach. The Administration would also explore the adoption of the PSF approach for the development of a cultural complex in Tai Po.

37. While members agreed that the adoption of the PSF approach to implement leisure and cultural facilities was worth exploring given the financial constraint of the Government, they expressed concern about the pricing mechanism for the facilities. One member suggested that the Administration should require the pricing mechanism to be approved by the District Councils concerned or LegCo. The Administration explained that it would adopt very objective standards in approving the pricing mechanism proposed by the project operators. If the facilities were those also being provided by the Government,

the proposed pricing level would have to be broadly comparable to that for the same Government facilities. As to those facilities which were not being provided by the Government, the project operators would be required to make reference to the prevailing market rate in proposing the pricing level.

Meetings held

38. From October 2003 to June 2004, the Panel held a total of 20 meetings, including a joint meeting with the Panel on Constitutional Affairs and two joint meetings with the Panel on Planning, Lands and Works.

Council Business Division 2
Legislative Council Secretariat
26 June 2004

**Legislative Council
Panel on Home Affairs**

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to district, community and rural matters, human rights, civic education, data protection, press freedom, building management, youth and women matters, the provision of leisure and cultural services as well as matters relating to development of arts and culture, public entertainment, sport and recreation.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Home Affairs**

Membership list for 2003-2004 session

Chairman	Hon IP Kwok-him, JP
Deputy Chairman	Hon MA Fung-kwok, JP
Members	Hon Cyd HO Sau-lan Hon Albert HO Chun-yan Hon NG Leung-sing, JP Hon James TO Kun-sun Hon Andrew WONG Wang-fat, JP Hon WONG Yung-kan Hon LAU Wong-fat, GBS, JP (up to 13 January 2004) Hon Emily LAU Wai-hing, JP Hon CHOY So-yuk 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 Hon WONG Sing-chi (Total : 18 Members)
Clerk	Ms Doris CHAN
Legal Adviser	Mr Stephen LAM Ping-man
Date	13 January 2004