

## **Chapter 1 Introduction**

### **Background**

1.1 In 2003, Hong Kong was attacked by an emerging infectious disease named Severe Acute Respiratory Syndrome (SARS). The SARS epidemic which lasted from March to June 2003 was unprecedented in the modern history of Hong Kong in terms of its severity and magnitude. SARS was completely unknown at the beginning of the epidemic, and there are aspects of the disease which are still unknown today. During the epidemic, 1 755 people were infected and 299 of them died. More than one-fifth of those infected were healthcare workers (HCWs) and eight succumbed to the disease. Hundreds of families were directly affected and 75 children lost one or both of their parents.

1.2 At its meeting on 14 May 2003, the Legislative Council (LegCo) Panel on Health Services agreed to propose to the House Committee that a select committee be appointed by LegCo to inquire into the handling of the SARS outbreak by the Government and the Hospital Authority (HA). The Panel's proposal was considered at the House Committee meeting on 30 May 2003. After discussion, a motion was passed by the House Committee requesting the Government "to appoint an independent Commission of Inquiry in or before October 2003 to find out the truth and whether any persons should be held accountable". It was also decided that if the Government did not accede to the request, the House Committee might consider recommending that LegCo appoint a select committee to conduct its own inquiry.

1.3 Despite Members' request, the Government did not agree to appoint an independent Commission of Inquiry to review the handling of the SARS outbreak, in addition to the SARS Expert Committee appointed on 28 May 2003.

1.4 The SARS Expert Committee published its Report on 2 October 2003. The Report of the Review Panel on the SARS Outbreak commissioned by HA was published on 16 October 2003.

1.5 Having considered the Expert Committee's Report at its special meetings on 2 October and 6 October 2003, the Panel on Health Services again proposed that LegCo should conduct an independent inquiry, as the Expert Committee's Report mainly focused on lessons to be learnt from the epidemic and did not pinpoint responsibility. The House Committee considered the Panel's proposal on 10 October 2003. Members were in agreement that LegCo should appoint a select committee to inquire into the handling of the SARS outbreak by the Government and HA, and to examine the performance and accountability of the officers at policy-making and management levels in that regard. The proposed resolution on the appointment of the select committee was passed by the Council on 29 October 2003.

### **Terms of reference of the Select Committee**

1.6 The resolution passed by LegCo on 29 October 2003, which details the terms of reference of the Select Committee, is as follows -

“RESOLVED that this Council appoints a select committee to inquire into the handling of the SARS outbreak by the Government and HA in order to examine the performance and accountability of the Government and HA and their officers at policy-making and management levels in that regard; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance.”

## **Membership of the Select Committee**

1.7 On the recommendation of the House Committee, the President of LegCo appointed on 31 October 2003 the Chairman, Deputy Chairman and members of the Select Committee. The membership of the Select Committee is as follows -

Dr Hon LAW Chi-kwong, JP (Chairman)  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP (Deputy Chairman)  
Hon Kenneth TING Woo-shou, JP  
Dr Hon David CHU Yu-lin, JP  
Hon Cyd HO Sau-lan  
Hon Martin LEE Chu-ming, SC, JP  
Hon CHAN Kwok-keung, JP  
Hon CHAN Yuen-han, JP  
Hon Andrew CHENG Kar-foo  
Hon Michael MAK Kwok-fung  
Dr Hon LO Wing-lok, JP

## **Areas of study**

1.8 The Select Committee considers that the focus of its inquiry should be on the decisions made, and the processes under which such decisions were made, by the Government and HA in the handling of the SARS outbreak in order to examine the performance and accountability of the officers at policy-making and management levels. The inquiry of the Select Committee does not seek to examine clinical issues per se, such as treatment protocols adopted in treating SARS patients. In addition, the Select Committee does not hold out itself as a proper body to adjudicate on the legal liability of any person who may have an interest in the matters inquired into by the Select Committee.

1.9 The Select Committee notes that the Report of the SARS Expert Committee and that of the HA Review Panel on SARS Outbreak have

identified problems in the healthcare system and have made important recommendations to improve that system. While the Select Committee is not appointed to duplicate the work of the Expert Committee and HA's Review Panel, some recommendations for improving the public health system have been made by the Select Committee.

1.10 The Select Committee acknowledges that the public has high expectations of its work. However, given the limited time available for the Select Committee to complete its inquiry and table its report before the last meeting of the current term of LegCo on 7 July 2004, the Select Committee has to confine itself to selective areas of study.

1.11 After careful consideration, the Select Committee decided to give priority to the following areas of study in its inquiry -

- (a) early events: communication between the Hong Kong Special Administrative Region (HKSAR) Government and the health authorities in Guangdong Province; handling of the case of AA<sup>1</sup> (from Guangdong) by the Kwong Wah Hospital (KWH); and the outbreak of SARS at the M Hotel;
- (b) the SARS outbreaks at the following hospitals: the Prince of Wales Hospital (PWH); Alice Ho Miu Ling Nethersole Hospital (AHNH); United Christian Hospital (UCH); Princess Margaret Hospital (PMH); Tai Po Hospital (TPH); and Tuen Mun Hospital (TMH); and
- (c) the SARS outbreak at the Amoy Gardens.

1.12 The Select Committee also decided to give particular attention to the following issues when studying the above events and outbreaks -

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<sup>1</sup> A list of the pseudonyms used in this Report is set out in Appendix V.

- (a) notification mechanism of infectious diseases between Hong Kong and Guangdong;
- (b) the handling of the case of AA by KWH;
- (c) strategy and contingency plans of the HKSAR Government and HA for dealing with outbreaks of infectious diseases;
- (d) communication between the Head Office of HA and individual public hospitals;
- (e) the adding of Severe Acute Respiratory Syndrome to the First Schedule to the Quarantine and Prevention of Disease Ordinance (Cap. 141);
- (f) infection control measures introduced at the border; and
- (g) infection control measures in hospitals.

### **Practice and procedure**

1.13 The procedures of select committees are regulated by the relevant provisions in the Legislative Council (Powers and Privileges) Ordinance and the LegCo Rules of Procedure. A select committee may also make its own practice and procedure on matters not expressly provided for in the Ordinance and the Rules of Procedure.

1.14 In deciding on its practice and procedure, the Select Committee drew reference from the practice and procedure adopted by previous select committees, and also had regard to the following principles -

- (a) the practice and procedure should be fair and seen to be fair, especially to parties whose interests or reputations may be affected by the proceedings of the Select Committee;
- (b) there should be maximum transparency in its proceedings, so that the public's right to know would not be undermined;
- (c) the practice and procedure should facilitate the ascertaining of the facts relevant to, and within the scope of, its inquiry as set out in the Select Committee's terms of reference, which do not include the adjudication of the legal liabilities of any parties or individuals;
- (d) its proceedings should be conducted with efficiency and with as much expedition as is practicable; and
- (e) the cost of the proceedings should be kept within reasonable bounds, as the inquiry is funded out of public money.

1.15 The practice and procedure of the Select Committee, drawn up at the commencement of its inquiry, are set out in Appendix I.

1.16 Under Rule 79(2) of the LegCo Rules of Procedure, meetings of a select committee shall be held in public unless the chairman otherwise orders in accordance with any decision of the committee. The Select Committee decided that, as a general rule, the taking of evidence should be conducted at open hearings. However, witnesses were informed that if they wished their evidence or any part thereof to be taken at closed door meetings, they should submit their reasons in writing to the Select Committee for a decision. The Select Committee also decided that witnesses should be summonsed, instead of being invited, to the hearings of the Select Committee, and that they should be examined on oath.

1.17 The Select Committee decided that in line with the practice of previous select committees, it should hold its internal deliberations at closed door meetings. The Select Committee agreed that members should not disclose its internal deliberations or documents considered at these meetings. The Select Committee also agreed that the Chairman should be the only person authorized to handle enquiries from the media concerning the work of the Select Committee.

1.18 Minutes of evidence, which are in the form of verbatim transcripts made from the sound recordings of the proceedings of the meetings at which witnesses were examined, form part of the Select Committee's Report to the Council. In view of the way that these transcripts are used and in order that witnesses should have a fair and reasonable opportunity to satisfy themselves that their testimonies are accurately transcribed, the Select Committee had sent to all witnesses the parts of the draft verbatim transcripts of their respective testimonies so that they could propose corrections to them if they so wished. They were also provided with the sound recordings of the proceedings upon their request. The Select Committee accepted corrections proposed so long as they did not materially alter the general sense of the evidence so recorded. Some witnesses, however, declined to make any comments on or propose any corrections to the draft verbatim transcripts. The Select Committee is aware of the fact that since the language used at the proceedings of the Select Committee was generally in the Cantonese dialect, there may be discrepancies in meaning between what was said at the proceedings and what was recorded in written Chinese. In the event that such discrepancy is detected, the Select Committee will rely on the sound recording of the proceedings instead.

1.19 In the light of the investigatory nature of the Select Committee's proceedings and in order to enhance fairness of the proceedings, persons named in the Select Committee's Report were given an opportunity to comment on those parts of the Select Committee's draft Report relevant to them. The Select Committee regrets that the time given to the witnesses to respond is relatively short due to the Select Committee's tight schedule. Some of the persons requested to comment on the draft Report asked for extension of time

to return their comments. The Select Committee has acceded to all such requests. The Select Committee wishes to thank them for their comments which were very helpful. The Select Committee had taken their comments into consideration seriously before it finalized its Report.

**Further measures to uphold the integrity of the Select Committee and to ensure transparency of its inquiry**

1.20 Members of the Select Committee were nominated by the House Committee for appointment by the President through a fair and open procedure agreed to by the House Committee. The Select Committee is aware that LegCo Members had keen interest in the events relating to the work undertaken by the Government and HA in their handling of the SARS outbreak, and that some of them might be in possession of information directly relevant to the terms of reference of the Select Committee. Members of the House Committee therefore had been reminded, prior to the commencement of the nomination proceedings in the House Committee, that if they thought their role as a Select Committee member might be compromised, or if they wished to give evidence to the Select Committee, they should not agree to be nominated for appointment to the Select Committee.

1.21 Rule 84 of the LegCo Rules of Procedure relating to voting or withdrawal from a meeting of the Council in case of direct pecuniary interest applies to the proceedings of the Select Committee. In addition, a member may declare non-pecuniary interests, if he considers it necessary to do so.

1.22 The Select Committee considers that its members should not act in any way which may compromise their role as members of the Select Committee and in turn affect the credibility and impartiality of the Select Committee.

1.23 In order to avoid any possible role conflict of a member of the Select Committee who might be called upon to serve as a Duty Roster Member



(DRM) to handle complaints which might contain information directly relevant to the terms of reference of the Select Committee, it was decided that members should not serve as DRMs for such complaint cases. It was also decided that in the event that the ward/district offices of a member of the Select Committee received such a case from a member of the public, the member should invite the member of the public to provide the Select Committee with the information of the case directly. The Select Committee informed the House Committee of the above decisions and other related arrangements on 5 December 2003.

1.24 Following the practice of previous select committees, members of the public can obtain copies of the sound recordings of public hearings upon payment of a charge. In order to enhance the transparency of the Select Committee's proceedings of its hearings and to assist persons in the public galleries of the LegCo Chamber in following the proceedings, they were provided with the written statements of the witnesses who were appearing before the Select Committee. However, to avoid revealing the identity of patients and other persons concerned unnecessarily, personal data, except the names of the witnesses and public officers, referred to in these statements was either obliterated or replaced by pseudonyms.

### **Invitation of public views**

1.25 As the SARS epidemic affected a wide spectrum of the community, the Select Committee invited views and information from the public on the handling of the SARS outbreak by the Government and HA by placing an advertisement in a local Chinese and a local English newspapers on 12 November 2003. In addition, a general invitation for submissions to the Select Committee was posted on the LegCo website. Organizations in the healthcare sectors and the medical faculties of the University of Hong Kong and The Chinese University of Hong Kong (CUHK) were also informed of the invitation.

1.26 A total of 30 organizations and individuals made submissions to the Select Committee. Their names are set out in Appendix II.

### **Question of expert assistance**

1.27 There were occasions in the inquiries conducted by previous LegCo select committees where experts were engaged to provide assistance. The Select Committee considered this question and decided that in the light of its terms of reference and the focus of its inquiry, it was not necessary to engage or invite experts to provide assistance to the Select Committee.

1.28 The Select Committee wishes to make it clear that regardless of the professional training and background of individual members, everyone played the same role in the Select Committee, and no one played the role of an expert.

### **Preparatory work**

1.29 The Select Committee held its first meeting on 5 November 2003 to start its preparatory work. The Health, Welfare and Food Bureau (HWFB) and HA were requested to provide the Select Committee with the necessary information to facilitate its preparatory work, which included collating and considering information relevant to the inquiry; deciding on the main areas of study and their priority; deciding on the main areas of evidence to be obtained from witnesses; and identifying the witnesses to be summonsed and their order of attendance at hearings. The Select Committee held a total of nine meetings between 5 November and 6 December 2003 to complete its preparatory work. The total meeting time spent was 35 hours.

1.30 To facilitate the taking of evidence by the Select Committee, witnesses were informed in advance of their appearance the areas of study in which they were expected to assist the Select Committee and were requested to respond to specific questions of the Select Committee in their written

statements. All the witnesses were also requested to provide information on their professional qualifications and experience where appropriate.

1.31 Given the large number of HCWs infected during the SARS epidemic, the Select Committee considered it necessary to study the procurement and supply of personal protective equipment for use by HCWs. To assist the Select Committee in its study and to save the need for a large number of HA staff having to give evidence before the Select Committee in this regard, the Select Committee designed a questionnaire entitled “Measures relating to Personal Protective Equipment during Outbreak of Severe Acute Respiratory Syndrome”, and requested 10 hospitals to respond to the questionnaire. These 10 hospitals include the seven hospitals referred to in paragraph 1.11(a) and (b) above, i.e. AHNH, KWH, PWH, PMH, UCH, TPH and TMH, and three other regional hospitals, i.e. the Pamela Youde Nethersole Eastern Hospital, Queen Elizabeth Hospital and Queen Mary Hospital (QMH). The analysis of the information obtained from the responses to the questionnaire is set out in Chapter 13.

### **Taking of evidence from witnesses and deliberation on the evidence obtained**

1.32 The Select Committee held a total of 30 public hearings between 13 December 2003 to 24 April 2004 to take oral evidence from 73 witnesses. The number of hearing hours was 180. The Select Committee also spent another 29 hours to prepare for these hearings. A schedule of these hearings and the names of the witnesses are set out in Appendix III.

1.33 The former Director of Health (D of H), Dr Margaret CHAN FUNG Fu-chun, who is now with the World Health Organization (WHO) in Geneva, was flown back to Hong Kong in January 2004 to give evidence. She was then summonsed to give evidence before the Select Committee in her former capacity of D of H at the time of the SARS epidemic.

1.34 Apart from the 73 witnesses who gave written and oral evidence to the Select Committee, three other witnesses, viz, the Hospital Chief Executive of QMH, Dr York CHOW Yat-ngok; Head of the Research Office of HWFB, Dr LO Su-vui; and a former Deputy D of H, Dr Paul SAW Thian-aun, who joined the Department of Health as a volunteer to help in the investigation into and control of the SARS outbreak, formally produced their witness statements under oath at a public hearing. In addition, a Professor in the Department of Anaesthesia and Intensive Care of CUHK, Dr Gavin Matthew JOYNT, submitted written evidence to the Select Committee.

1.35 The Select Committee fully appreciates the pain and distress that some of the witnesses experienced when recounting certain incidents or events during the SARS epidemic to the Select Committee at the hearings. The Select Committee is grateful to all the witnesses for their cooperation and assistance.

1.36 Given that the Chief Executive of HKSAR had set up and personally chaired the Chief Executive's Steering Committee (CESC) which directed and coordinated the Government's overall response to the SARS epidemic, the Select Committee considered it necessary to take evidence from the Chief Executive. Having regard to the constitutional relationship between the Chief Executive and LegCo, and the Chief Executive's position as recognized by the Legislative Council (Powers and Privileges) Ordinance<sup>2</sup> and the LegCo Rules of Procedure<sup>3</sup>, the Select Committee agreed that it should and did, in the first instance, invite the Chief Executive to give evidence at an open meeting without being required to give evidence under oath.

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<sup>2</sup> Under section 8A of the Legislative Council (Powers and Privileges) Ordinance, the Chief Executive when present at a sitting of LegCo or a committee, and any public officer designated by the Chief Executive for the purpose of attending sittings of LegCo or any committee, while so designated and attending any such sitting, shall enjoy the same privileges or immunities as those provided in or conferred on the members by section 3, 4 or 5 of the Ordinance i.e. freedom of speech and debate, immunity from legal proceedings and freedom from arrest.

<sup>3</sup> Rule 8 of the LegCo Rules of Procedure provides that the Chief Executive may at his discretion attend meetings of the Council, or any committee or subcommittee thereof, for the following purposes: (a) addressing the Council at any time as he shall think fit, including during a special meeting; (b) answering Members' questions put to him on the work of the Government; and (c) proposing any policy, measure, bill, resolution, motion or question for debate by and in the Council or any such committee or subcommittee.

1.37 The Select Committee was subsequently advised by the Chief Executive's Office that although the Chief Executive appreciated the nature of its invitation, he considered that it was "constitutionally inappropriate" for him as the Head of HKSAR to be subject to personal compulsion by the legislature.

1.38 Having considered in detail the legislative provisions relating to its powers to require a witness to give evidence before it, the Select Committee is firmly of the view that it has been conferred with the power to summons any person including the Chief Executive to give evidence before it. However, it would need more time to study the question of whether such power should be exercised in the light of the views advanced by the Chief Executive's Office. The Select Committee decided that, pending further consideration, the Chief Executive would be requested to provide written responses to questions put by the Select Committee relating to his involvement in the handling of the SARS outbreak in his capacity as the Chief Executive and Chairman of CESC. In addition, the Select Committee would take oral evidence from the Director of the Chief Executive's Office, Mr LAM Woon-kwong, who was present at almost all the meetings of CESC to enable the Select Committee to decide whether it was necessary to obtain information from the Chief Executive directly.

1.39 After consideration of the written responses provided by the Chief Executive's Office, and the evidence taken from the Director of the Chief Executive's Office, the Select Committee considered it necessary to obtain information from the Chief Executive directly. As regards the constitutional issues raised by the Chief Executive's Office, the Select Committee considers that as it would take time to examine these issues thoroughly, the Select Committee might not be the most appropriate forum to resolve them. The Select Committee reached the agreement that members of the Select Committee should meet with the Chief Executive in order to obtain information directly from him. The Select Committee then decided by majority that the meeting could be a closed door meeting in the LegCo Building or another venue to be chosen by the Chief Executive. Members of the Select Committee subsequently had a meeting with the Chief Executive in the

Government House on 22 May 2004 from 9:00 am to 11:45 am outside the Select Committee's formal proceedings for obtaining evidence from witnesses. The relevant information obtained from the Chief Executive was taken into account by the Select Committee in its deliberations and incorporated into the Select Committee's Report where appropriate. The notes of the meeting between the Chief Executive and members of the Select Committee are set out in Appendix IV.

1.40 The Select Committee fully appreciates that little was known about SARS at the material time, and that it is easy to pass judgement with the benefit of hindsight. In examining why certain decisions were made and actions taken and whether they should have been made or taken differently, the Select Committee constantly reminded itself that it should base its examination on what the persons concerned knew or should have known at the time when those decisions were made and actions taken.

1.41 In addition to holding public hearings to take evidence from witnesses, the Select Committee held 53 internal meetings between 9 December 2003 and 23 June 2004 to deliberate on the evidence and information obtained, and to discuss and finalize its Report. The total meeting time spent was 203 hours.

### **The Special Report tabled in Council on 2 June 2004**

1.42 A Special Report of the Select Committee entitled "Unauthorized Disclosure of Information" was tabled in Council on 2 June 2004 under Rule 79(8) of the LegCo Rules of Procedure. The Report details the outcome of an investigation into whether, in respect of two press reports, there was unauthorized disclosure of information relating to the contents of the relevant papers and internal deliberations of the Select Committee.

## **The Report**

1.43 Under Rule 78(4) of the LegCo Rules of Procedure, the Select Committee shall, as soon as it has completed consideration of the matter referred to it, report to the Council thereon and shall thereupon be dissolved. The Select Committee has duly completed consideration of the matters specified in the resolution of LegCo on its appointment and submits this Report to the Council.

1.44 The Report of the Select Committee consists of the main report, lists of written evidence and relevant documents, the minutes of proceedings, as well as the minutes of evidence in the form of verbatim transcripts in the original language used at the public hearings. For environmental protection purpose, the minutes of evidence are available on CD-ROM only. This Report is also accessible on the LegCo website at [www.legco.gov.hk](http://www.legco.gov.hk).

1.45 Chapters 2 to 12 of the main report contain an account of the hospital outbreaks selected for the Select Committee's inquiry, as well as the events and issues studied by the Select Committee. These Chapters also include the Select Committee's analyses of the finding of facts and its assessment of the performance and accountability of those concerned. Chapter 13 contains the discussion of the Select Committee on infection control measures in hospitals. Chapter 14 describes the command structure of the Government and HA in handling the SARS epidemic. Chapter 15 contains the conclusions and recommendations of the Select Committee.

1.46 Pseudonyms are used in place of the names of SARS patients in the Report to avoid revealing the identity of the persons concerned. A pseudonym was also used for the name of the hotel where the index patient of the SARS outbreak in Hong Kong had stayed. A list of the pseudonyms used in the Report is set out in Appendix V. The Select Committee used the same pseudonyms as those used in the Report of the SARS Expert Committee.

## **Tribute**

1.47 The SARS epidemic was probably the worst calamity that Hong Kong had experienced in its modern history. It affected the territory in all aspects and brought pain and suffering to those infected and their families. The Select Committee shares the sadness of the community that 1 755 people were infected and 299 of them died in the epidemic, including eight HCWs. The Select Committee wishes to offer its condolences to the families of the deceased. The Select Committee also wishes the surviving patients a speedy and full recovery.

1.48 There are serious lessons to be learnt from the calamity. The epidemic has highlighted the need for improvement to the territory's public health system and environmental hygiene. It has also highlighted the need for more vigilant and effective disease surveillance and notification as well as a high level of preparedness to deal with outbreaks of unknown infectious diseases.

1.49 On a more positive note, however, the epidemic underlined the key strengths of HCWs, in particular, their professionalism, great sense of responsibility and full commitment. Hong Kong is fully indebted to all HCWs who worked extremely hard and were fearless in the battle against SARS. They risked their own lives gallantly in trying to save others. The Select Committee commends all HCWs. The Select Committee also compliments all those in the Government, HA, the universities and other organizations concerned who made their best endeavours in the management of the epidemic. Last but not least, the epidemic also highlighted some of the best qualities of the people in Hong Kong. During the three months of the SARS epidemic, the community showed courage, compassion and solidarity and everyone contributed in his or her own way.