

立法會
Legislative Council

Ref : CB2/HS/1/06

LC Paper No. CB(2)2495/06-07
(These minutes have been seen
by the Administration)

**Subcommittee on Legislative Amendments Relating to the Proposed
Re-organisation of Policy Bureaux of the Government Secretariat**

**Minutes of the fifth meeting
held on Thursday, 31 May 2007, at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** :
- Hon TAM Yiu-chung, GBS, JP (Chairman)
 - Hon Howard YOUNG, SBS, JP (Deputy Chairman)
 - Hon James TIEN Pei-chun, GBS, JP
 - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Dr Hon LUI Ming-wah, SBS, JP
 - Hon Margaret NG
 - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
 - Hon CHAN Yuen-han, JP
 - Dr Hon Philip WONG Yu-hong, GBS
 - Dr Hon YEUNG Sum
 - Hon LAU Kong-wah, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Abraham SHEK Lai-him, JP
 - Hon Audrey EU Yuet-mee, SC, JP
 - Hon WONG Kwok-hing, MH
 - Hon Alan LEONG Kah-kit, SC
 - Dr Hon Fernando CHEUNG Chiu-hung
 - Prof Hon Patrick LAU Sau-shing, SBS, JP
 - Hon KWONG Chi-kin
 - Hon TAM Heung-man
- Members absent**
- Hon Bernard CHAN, GBS, JP
 - Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
 - Hon SIN Chung-kai, JP
 - Hon WONG Yung-kan, JP
 - Hon Jasper TSANG Yok-sing, GBS, JP
 - Hon LAU Wong-fat, GBM, GBS, JP
 - Hon CHOY So-yuk, JP
 - Hon Frederick FUNG Kin-kee, SBS, JP
 - Hon Daniel LAM Wai-keung, SBS, JP

Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

Public Officers : Item I
attending

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Miss Denise YUE Chung-yee
Secretary for the Civil Service

Mr Ian WINGFIELD
Solicitor General

Mrs Cherry TSE LING Kit-ching
Permanent Secretary for Constitutional Affairs

Miss Jennifer MAK Yee-ming
Deputy Secretary for the Civil Service

Ms Fanny IP Fung-king
Deputy Law Draftsman
(Bilingual Drafting & Adm) (Acting)

Ms Vicki LEE Yuet-ming
Senior Government Counsel

Mr Gary POON Wai-wing
Principal Assistant Secretary for Constitutional Affairs

Clerk in : Mrs Percy MA
attendance : Chief Council Secretary (2)3

Staff in : Mr Arthur CHEUNG
attendance : Senior Assistant Legal Adviser

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Action

I. Meeting with the Administration
(CAB F19/6/3/2(2007) - Legislative Council Brief on "Re-organisation of

Policy Bureaux of the Government Secretariat"

CAB F19/6/3/2(2007) - Legislative Council Brief on "Re-organisation of Policy Bureaux of the Government Secretariat : Legislative Amendments"

LC Paper No. CB(2)1868/06-07(01) - Marked-up copy of the draft Resolution under section 54A of Cap. 1

LC Paper No. CB(2)1972/06-07(01) - Background Brief prepared by the Legislative Council Secretariat

LC Paper Nos. CB(2)1969/06-07(01)-(08) - Eight papers provided by the Administration on transfer of statutory functions

LC Paper No. CB(2)1990/06-07(01) - Administration's paper on "Interpretation and General Clauses Ordinance (Replacement of Schedule 6) Order 2007"

LC Paper No. CB(2)2010/06-07(01) - Response to issue raised by members at the meeting on 28 May 2007

LC Paper No. CB(2)2010/06-07(02) - Administration's paper on "Transfer of Statutory Functions : Summary based on re-organised bureaux")

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. The Legal Service Division was requested to prepare a paper to address members' query on whether Legislative Council Members could further pursue their disagreement with any aspect of the re-organisation of the policy bureaux of the Government Secretariat.

(Post-meeting note : The paper prepared by the Legal Service Division was issued to members vide LC Paper No. LS90/06-07 on 11 June 2007.)

II. Any other business

3. The Chairman informed members that the next meeting would be held on 31 May 2007 at 2:30 pm.

4. The meeting ended at 10:30 am.

**Proceedings of the fifth meeting of the
Subcommittee on Legislative Amendments Relating to the
Proposed Re-organisation of Policy Bureaux of the Government Secretariat
on Thursday, 31 May 2007, at 8:30 am
in the Chamber of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000616 - 000733	Chairman	Opening remarks	
000734 -003424	Admin SALA2 Chairman	Briefing by the Administration on the transfer of statutory functions currently exercisable by the Secretary for Health, Welfare and Food (LC Paper No. CB(2)1969/06-07(07)) Scrutiny of the Resolution paragraph by paragraph with reference to Annex B to LC Paper No. CB(2)1969/06-07(07)	
003425 -005058	Admin Chairman Dr YEUNG Sum	Briefing by the Administration on the transfer of statutory functions currently exercisable by the Secretary for Home Affairs (LC Paper No. CB(2)1969/06-07(08)) Scrutiny of the Resolution paragraph by paragraph with reference to Annex B to LC Paper No. CB(2)1969/06-07(08)	
005059 -010128	Dr YEUNG Sum Chairman Admin Dr Fernando CHEUNG	Proposed transfer of the legal aid portfolio from the Administration Wing of the Chief Secretary for Administration's Office to the Home Affairs Bureau (HAB)	
010129 -010545	Admin Chairman SALA2	Scrutiny of paragraphs 12 to 14 of the Resolution	
010546 -020105	Chairman Ms Emily LAU Admin Dr YEUNG Sum Mr Alan LEONG Dr Fernando CHEUNG SALA2 Ms Margaret NG Mr Howard YOUNG	Views of members on the proposed transfer of legal aid portfolio to HAB - (a) the independence of the Legal Aid Department (LAD) would be undermined; (b) no prior consultation had been conducted with the Legal Aid Services Council, the two legal professional bodies and the public on the proposal; (c) there was potential conflict of interest for LAD to consider legal aid applications for judicial review against decisions made by HAB; (d) whether separate voting could be arranged for the proposal relating to	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>the transfer of legal aid portfolio when the package of proposals on the re-organisation was submitted to the Finance Committee for approval on 8 June 2007; and</p> <p>(e) some members indicated that they might have no choice but to vote against the re-organisation proposal if the Administration maintained its stance on the proposed transfer</p> <p>Advice of SALA 2 that -</p> <p>(a) as the proposed transfer did not involve the transfer of statutory functions by way of amendment to ordinances, any proposed amendment relating to the matter would fall outside the scope of the Resolution; and</p> <p>(b) the proposed transfer could be proceeded with by way of administrative arrangements even if the financial proposals and the Resolution were voted down by the Finance Committee and the Council respectively</p> <p>Response of the Administration -</p> <p>(a) the statutory functions of the Director of Legal Aid (DLA) were provided and safeguarded by law;</p> <p>(b) as HAD had established a close tie with the community, it was the appropriate party to oversee the provision of legal aid services to the general public; and</p> <p>(c) a mechanism was in place to enable persons who were aggrieved by the refusal of legal aid to lodge an appeal against the DLA's decision to the Registrar of the High Court</p> <p>The Legal Service Division was requested to prepare a paper to address members' query on whether LegCo Members could further pursue their disagreement with any aspect of the re-organisation of the policy bureaux of the Government Secretariat</p>	<p>SALA2 to follow up</p>