

Bills Committee on West Kowloon Cultural District Authority Bill

**Points raised by individual members at the meeting on 29 April 2008
on which the Administration is requested to provide written response**

The Administration's response to the points raised by individual members at the meeting on 29 April 2008 is set out below –

(1) The Administration should consider specifying as one of the purposes of the West Kowloon Cultural District Authority (WKCDA) in the Bill the provision of input/recommendations to the Administration with regard to the introduction of legislation to regulate museum services.

Administration's Response:

Although the WKCDA will be responsible for building and managing a cultural institution with museum functions (temporarily entitled M+), it is not intended to be a regulatory or advisory body on museum matters in Hong Kong. We do not consider it appropriate to include the provision of input/recommendations to the Administration with regard to the introduction of legislation to regulate museum services as a function or purpose of the WKCDA.

The Government will consider whether museum services should be regulated by legislation in the context of our cultural policy on provision and development of museum services. The WKCDA will be a future provider of museum services. In considering this matter, the Administration would, if necessary, consult stakeholders, including the WKCDA.

(2) The Administration should explain whether and how general users of arts and cultural facilities will be represented on the WKCDA Board.

Administration's Response:

Clause 6 of the Bill provides that the WKCDA Board should include, among others, at least 5 non-public officer members who, in the opinion of the Chief Executive, have knowledge of, experience in, or exposure to, arts and cultural activities. They should be able to reflect the views of general users of arts and cultural facilities.

Clause 9 of the Bill provides that the WKCDA Board may, for the purpose of performing any of its functions, establish such committees as it considers necessary or expedient to deal with any matter, including, in particular, matters relating to operation of arts and cultural facilities. The views of users of arts and cultural facilities could also be canvassed by and reflected on committees relating to operation of arts and cultural facilities.

Clause 17 of the Bill provides that the WKCDA shall, in relation to matters concerning the development or operation of arts and cultural facilities,

related facilities, ancillary facilities and any other matters as the Authority considers fit, consult the public at such time and in such manner as it considers appropriate. The public, including general user of arts and cultural facilities, will have ample opportunities to express their views as to how the arts and cultural facilities should be developed and operated through the public consultation process.

(3) On the issue of whether the appointment and removal of the Chief Executive Officer should require the prior approval of the Chief Executive, the Administration should provide information on relevant legislative provisions for comparable public statutory bodies.

Administration's Response:

A table setting out the relevant legislative provisions for comparable public statutory bodies regarding the appointment and removal of the Chief Executive Officer is at **Annex**.

(4) The Administration should consider whether an appeal mechanism should be included in the Bill.

Administration's Response:

The WKCDA is not a regulatory body. It is an executive organization with a wide scope of duties encompassing different matters ranging from planning, developing and operating arts and cultural facilities and commercial facilities, commissioning of arts and cultural programmes, etc. It would not be practicable to identify and specify in the Bill the specific types of decisions of the WKCDA which should be subject to appeal. We note that the legislation of comparable statutory bodies such as the Airport Authority and Hong Kong Arts Development Council does not contain any appeal mechanism. We consider it more appropriate for the WKCDA to set up its own complaints handling mechanism or procedures in the light of operational experiences, rather than stipulating an appeal mechanism in the Bill.

As a measure to safeguard public interest, the WKCDA will be included in Part I of the Schedule to the Ombudsman Ordinance (Cap. 397) (c.f. Clause 39 of the Bill). Accordingly, the Ombudsman may investigate any action taken by or on behalf of the WKCDA in the exercise of its administrative functions in any case where a complaint is made by a person who claims to have sustained injustice in consequences of maladministration in connection with a decision of the WKCDA or if the Ombudsman is of the opinion that any person may have sustained injustice in consequence of maladministration in connection with an action of the WKCDA.

**Home Affairs Bureau
May 2008**

**Comparison between the proposed West Kowloon Cultural District Authority and other comparable statutory bodies in Hong Kong
in respect of the appointment and removal of the Chief Executive Officer/Managing Director/Executive Officer**

	West Kowloon Cultural District Authority	Airport Authority (Cap. 483)	Hong Kong Science and Technology Parks Corporation (Cap. 565)	Hospital Authority (Cap. 113)	Urban Renewal Authority (Cap. 563)	Hong Kong Arts Development Council (Cap. 472)
Appointment of the Chief Executive Officer/Managing Director/Executive Officer	<ul style="list-style-type: none"> The Authority may, with the prior approval of the Chief Executive, appoint a person to be the Chief Executive Officer of the Authority who is to be an employee of the Authority. (c.f. Clause 7 of the WKCDA Bill) 	<ul style="list-style-type: none"> The [Airport] Authority may, with the Chief Executive's prior approval, appoint a person to be the Authority's chief executive officer (the "Chief Executive Officer"). (c.f. Section 15(1)(a) of Cap. 483) 	<ul style="list-style-type: none"> The Board shall, subject to the prior approval of the [Financial] Secretary appoint a person, who may be a public officer, to be the Chief Executive Officer of the Corporation. (Section 14(1)(a) of Cap. 565) 	<ul style="list-style-type: none"> The [Hospital] Authority shall determine the terms and conditions of employment of the principal officers but shall obtain the approval of the Chief Executive to any proposed employment of a principal officer (including the terms and conditions thereof) and to any suspension or dismissal of the principal officers. (c.f. Section 3(1) of Schedule 3 to Cap. 113) Note: "principal officer" (主要行政人員) means a person employed by the [Hospital] Authority to be a principal officer of the [Hospital] Authority (c.f. Section 2 of Cap. 113) 	<ul style="list-style-type: none"> An executive director, including the Managing Director, shall hold office on such terms and conditions of appointment, including remuneration and allowances, as the Chief Executive may from time to time determine in respect of an executive director. (c.f. Section 1(2) of the Schedule to Cap. 563) 	<ul style="list-style-type: none"> The [Hong Kong Arts Development] Council shall appoint a person to be the executive officer to perform the function of leading and managing the facilities and staff of the [Hong Kong Arts Development] Council and of representing the [Hong Kong Arts Development] Council to and dealing with other persons and bodies in the ordinary course of the day-to-day business and functions of the [Hong Kong Arts Development] Council that the Council considers do not require the involvement of the Chairman, Vice-chairman, any member of the [Hong Kong Arts Development] Council or any committee of the [Hong Kong Arts Development] Council. (c.f. Section 6(1) of Cap. 472)
Removal of the Chief Executive Officer/Managing Director/Executive Officer	<ul style="list-style-type: none"> The Authority may, with the prior approval of the Chief Executive, remove the Chief Executive Officer. (c.f. Section 10 of the Schedule to the WKCDA Bill) 	<ul style="list-style-type: none"> The [Airport] Authority shall not dismiss the Chief Executive Officer from his office as such nor suspend that officer from all or any of his duties as Chief Executive Officer, other than with the prior approval of the Chief Executive. (c.f. Section 15(3) of Cap. 483) 	<ul style="list-style-type: none"> The Board shall, subject to the prior approval of the [Financial] Secretary determine all matters relating to the terms and conditions of service of the Chief Executive Officer, including his remuneration, suspension and dismissal from office. (Section 14(1)(b) of Cap. 565) 	<ul style="list-style-type: none"> Provided for in Section 3(1) of Schedule 3 to Cap. 113 cited above. 	<ul style="list-style-type: none"> No specific provision. 	<ul style="list-style-type: none"> No specific provision.