

立法會
Legislative Council

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LC Paper No. CB(2)132/12-13
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 19 March 2012, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man

Members absent : Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Dr Hon Samson TAM Wai-ho, JP
Hon LEUNG Kwok-hung

Public Officers attending : Item IV

Mr Raymond TAM Chi-yuen
Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary
(Constitutional and Mainland Affairs)

Mr LI Pak-hong
Chief Electoral Officer
Registration and Electoral Office

Mr SHUM Nam-lung
Deputy Chief Electoral Officer (Operations)
Registration and Electoral Office

Item V

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Ms Anne TENG Yu-yan
Principal Assistant Secretary
(Constitutional and Mainland Affairs)

Mr LI Pak-hong
Chief Electoral Officer
Registration and Electoral Office

Mr Anthony CHAN Shiu-lun
Principal Electoral Officer
Registration and Electoral Office

Item VI

Ms Adeline WONG Ching-man
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah
Deputy Secretary for Constitutional and Mainland Affairs

Ms Anne TENG Yu-yan
Principal Assistant Secretary
(Constitutional and Mainland Affairs)

**Attendance by
invitation**

Item VI

Democratic Party

Mr CHAI Man-hon
Spokesperson

HK Human Rights Monitor

Mr LAW Yuk-kai
Director

Yat Tung Community Network Association

Mr KWOK Chung-man

Mr TING Chi-wai, Roy
Member of Wong Tai Sin District Council

D Dong

Mr Ken TSANG K C
Vice Chairman

Young Democratic Alliance for the Betterment and Progress of Hong Kong

Mr CHONG Chak-kuen
Committee Member

Mr LO Kin-hei
Member of Southern District Council

Mr CHAN Leung-wai

Bolshevik Bourgeois Policy Institute

Mr LEE Tat-yi
Chairman

Mr TING Yin-man, Cyril

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Miss Evelyn LEE
Assistant Legal Adviser 10

Miss Cindy HO
Senior Council Secretary (2)3

Ms Wendy LO
Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Confirmation of minutes of meeting

[LC Paper No. CB(2)1407/11-12]

The minutes of the meeting held on 21 November 2011 were confirmed.

II. Information papers issued since the last meeting

[LC Paper Nos. CB(2)1389/11-12(01) and CB(2)1404/11-12(01)]

2. Members noted that the following papers had been issued since the last meeting –

- (a) Letter from the Secretary for Constitutional and Mainland Affairs ("SCMA") on "Polling Day for the 2012 Legislative Council ("LegCo") Election and Related Arrangements" [LC Paper No. CB(2)1389/11-12(01)]; and

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- (b) Office of the Privacy Commissioner for Personal Data ("PCPD")'s paper on "Work of the Office of PCPD in 2011" [LC Paper No. CB(2)1404/11-12(01)].

III. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1394/11-12(01) to (02) and CB(2)1364/11-12(01)]

3. Members agreed to discuss at the next regular meeting to be held on 16 April 2012 the following items proposed by SCMA –

- (a) Proposed Guidelines on Election-related Activities in respect of the LegCo Election issued by the Electoral Affairs Commission ("EAC"); and
- (b) Practical arrangements for the 2012 LegCo Election.

4. Due to the cancellation of the Special Meeting scheduled for 1 March 2012, the Chairman proposed and members agreed that the issue of "Declaration of interests and avoidance of potential conflict of interest by the Chief Executive" should be discussed at the next regular meeting on 16 April 2012. At the request of the Chairman, SCMA undertook to provide a paper on the current arrangements. The Chairman said that the meeting would be extended to 5:30 pm to allow sufficient time for discussion of all items on the agenda.

Initial Report of HKSAR of the People's Republic of China under the United Nations Convention on the Rights of Persons with Disabilities ("UNCRPD")

5. At the request of Ms Emily LAU and further to her letter dated 5 March 2012 to the Panel Chairman [LC Paper No. CB(2)1364/11-12(01)], members agreed that the Panel should receive public views on the HKSAR's initial report under UNCRPD at a future meeting within the current LegCo term.

(Post-meeting note: The Panel subsequently discussed the HKSAR's initial report and met with deputations and the Administration on 18 June 2012.)

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IV. 2012 Voter Registration Campaign

[LC Paper Nos. CB(2)1366/11-12(01) and CB(2)1394/11-12(03)]

6. At the invitation of the Chairman, SCMA briefed members on the main features of the 2012 Voter Registration ("VR") Campaign as set out in the Administration's paper [LC Paper No. CB(2)1366/11-12(01)]. With the objectives of encouraging eligible persons to register as electors and reminding registered electors who had changed addresses to update their registration particulars (including residential addresses), the 2012 VR Campaign for new registration would be launched from late March to 16 May 2012, while the publicity drive on change of particulars would last until 29 June 2012. A variety of activities would be organized to promote VR. A total amount of \$36 million had been earmarked in 2012-2013, including publicity and operating expenses for processing the registration forms received and for compiling and publishing the provisional and final registers.

Proposed measures to improve Voter Registration System

7. Following the Public Consultation on Improvement Measures of VR System conducted between 16 January and 2 March 2012, SCMA briefed members on a summary of views received during the consultation and the Administration's initial position as set out in the Administration's paper which was tabled at the meeting [which was subsequently issued to members vide CB(2)1453/11-12(01) on 20 March 2012]. The Administration would publish a report on the outcome of the consultation and its way forward.

(Post-meeting note: The "Consultation Report on Improvement Measures of VR System" published by Constitutional and Mainland Affairs Bureau ("CMAB") which set out the outcome of the public consultation and the Administration's final position on the proposed measures was circulated to members on 16 April 2012 vide LC Paper No. CB(2)1722/11-12(01).)

8. Mr Jeffrey LAM said that sufficient time should be allowed for the Panel to consider any new measure for improvement of VR System to be implemented by the Administration. Mr Paul TSE suggested that in determining whether or not a proposed new measure should be pursued, the Administration should adopt a consistent approach on the basis of sound reasoning and justifications apart from the sheer number of submissions received. SCMA said that having regard to the views received during the public consultation, the Administration was inclined not to pursue the following proposals: the proposed requirement for address proof, the proposed penalty for

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not updating a registered address, and the proposed requirement for production of poll cards for casting vote. Besides, the proposed amendment to the statutory deadlines would not be pursued in the current VR cycle since there were only a few submissions which had expressed their views on the issue; and there had been concerns previously raised by members requesting that the statutory deadlines should be shortened instead. Nevertheless, the following administrative measures to improve the VR system would be further considered: setting out electors according to their registered addresses in voter registers taking account of the views of the PCPD; the proposed transfer of the existing offences on false declaration under the EAC (Registration of Electors) (LegCo Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") taking account of the views of the Registration and Electoral Office ("REO"), the Department of Justice and the relevant law enforcement agencies. The Administration would also step up its efforts in ensuring the accuracy of the voter registers by increasing the extent of random checks including using a more targeted approach. Mr IP Kwok-him indicated support to the proposed way forward as outlined by SCMA as the original proposals of requiring address proof and imposing penalty might discourage people from registering as electors.

9. Ms Audrey EU considered that a random checking rate of three to five per cent of all electors as proposed by the Administration was insufficient to achieve a deterrent effect. In her view, a 10% check would provide appropriate checks and balance. Mr Paul TSE enquired about the appropriate percentage of random sampling according to the statistical practice. The Chief Electoral Officer ("CEO") for the REO said that in coming up with the checking rate, the REO had taken into account the professional advice rendered by the Census and Statistics Department on the matter having regard to the purpose of the exercise. CEO added that some electors selected for random checking had expressed negative sentiment when being approached for providing address proof since there was no objective evidence to suggest that their addresses had changed; and it was noted that the number of applications for de-registration this year was remarkably higher as compared with that of previous years. Hence, the REO would adopt a more targeted approach in conducting the random checks. For instance, where there had been a sudden upsurge in the number of registered voters in a geographical constituency ("GC") with small electorate base, there would be a sufficient ground for taking a closer look to see if any irregularity was involved.

10. Referring to the letters issued by the REO to all registered electors in February 2012 explaining the registration arrangements regarding the new

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District Council (second) functional constituency ("DC (second) FC") for the 2012 LegCo Election, Mr IP Kwok-him and Mr Paul TSE noted that the wording was too technical and suggested that plainer language should be used in order to make its content more comprehensible to the general public. SCMA undertook to use more user-friendly terms in promoting VR and explaining relevant registration arrangements to the general public. Furthermore, the Chairman said that in connection with the wording of the REO's letters requesting registered electors to confirm their addresses recorded in the current final register, it had unavoidably given the impression that the reported addresses were suspected to be untrue. He noted that some electors would rather apply for de-registration in order to avoid trouble. CEO explained that the letter mentioned by the Chairman was an inquiry made in response to undelivered poll cards returned to the REO after election and hence there was reasonable ground to doubt that the electors' address provided might no longer be valid.

11. Mrs Sophie LEUNG said that some electors would simply apply for de-registration to avoid the checks conducted on existing electors. She suggested that the Administration should explore other options to cater for any change in the information registered in relation to eligible electors, including the suggestion of authentication by a notary public free of charge as adopted by some overseas countries.

New DC (second) FC

12. Noting that existing electors of traditional functional constituencies ("FCs") might choose to be registered in the new DC (second) FC instead of the FCs in which they were currently registered, Mr Jeffrey LAM enquired about the possible reduction in the electorate of traditional FCs according to the estimation of the Administration after a considerable number of its registered electors might switch to the new DC (second) FC; and how the Administration would broaden the electorate base of these traditional FCs. SCMA assured the meeting that electors of traditional FCs with a relatively small electorate base would remain to be registered in that FC and would not be given a choice. However, the electoral laws had not provided for broadening the electorate base of traditional FCs at the same time. He undertook to keep the situation under review in the light of operational experience. Mr WONG Yuk-man expressed dissatisfaction that the arrangement would lead to a significant reduction in the number of electors of traditional FCs (which already had a narrow electorate base) but the current-term Government did not seek to redress the problem. In his view, the arrangement was fundamentally flawed. SCMA said that the

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Administration would strive to give wider publicity in the VR Campaign with the aim of encouraging registration of new eligible electors, but the issue of broadening the electorate base of traditional FCs would have to be considered by the fourth-term Government through legislative means if necessary.

The definition of "ordinarily resident in Hong Kong"

13. Mr IP Kwok-him asked whether the definition of "ordinarily resident in Hong Kong" had been defined in the Administration's paper. SCMA said that this complicated issue was outside the scope of the consultation paper and had to be handled carefully by the next-term Government, especially as it involved the fundamental right to vote by Hong Kong permanent residents. Mr IP Kwok-him requested the Administration to provide clear guidelines to dispel doubts on the issue. Mr IP asked whether a workplace in Hong Kong might be accepted as the registered address for the purpose of VR. SCMA said that an address genuinely used as the principal residence of the elector concerned should be used for VR purpose, adding that a person's continuing connections with Hong Kong would also be taken into account on the merit of each case. The Chairman and Ms Emily LAU expressed concerns that some permanent residents of Hong Kong had moved to the Mainland but commuted to Hong Kong to work, and invariably they might report residential addresses of their parents and siblings for VR purpose.

14. SCMA advised that the address so provided should be a residential address and it should be the elector's only or principal residence in Hong Kong, and each case would have to be considered on its own merits. SCMA further explained the relevant considerations as set out in paragraph 3.3 of the "Guidelines on Election-related Activities in respect of the District Council ("DC") Election". A person was considered to have ordinarily resided in Hong Kong when he had habitually and normally lived there lawfully for a settled purpose, apart from temporary and occasional absences such as holidays and absence abroad for studying purposes. Each case had to be examined upon its own facts. As provided for in the Immigration Ordinance, matters like the length of the person's absence, the reason for absence, the location of the home, the home of the spouse, children or parents and the maintenance of connections with Hong Kong were all relevant factors in considering whether a person ordinarily resided in Hong Kong.

15. Dr Priscilla LEUNG remained dissatisfied with the Administration's response. She expressed concerns over the eligibility of citizens living outside Hong Kong but still had a close connection with Hong Kong and suggested that

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the relevant issues had to be carefully examined by the Administration before those eligible electors would be deprived of their voting rights. SCMA noted that the question at issue was rather the use of non-existent addresses or non-residential units by some electors as their residential addresses for the purpose of VR which could possibly constitute a criminal offence. In the light of the concerns expressed by members, SCMA said that the Administration would clarify issues of concern of the general public through the VR Campaign. Dr Priscilla LEUNG requested the Administration to provide a written reply on the issue.

Publicity measures

16. Ms Audrey EU enquired if the use of false address for the purpose of VR to be subject to criminal liability would be made a focus of the Administration's publicity efforts. SCMA agreed that the Administration should strengthen the message on the importance for applicants for new registration to provide true and correct information and for registered electors to update their residential addresses. Ms Audrey EU further enquired whether voting in the following circumstances would be subject to criminal liability: (a) an elector failing to make a timely report of the change of residential address with the GC for which he was entitled to vote remaining unaffected; and (b) an elector failing to make a timely report of the change of residential address, leading otherwise to a change of GC for which he was entitled to vote. SCMA confirmed that the elector in both scenarios would be entitled to vote only in the constituency for which he was registered. The Administration was also inclined not to implement the proposal of imposing penalty for electors failing to report a change of registered address having regard to the views received during the public consultation.

Investigation of complaints

17. Ms Emily LAU and Ms Audrey EU suggested that the investigation of alleged vote-rigging cases by the law enforcement agencies should be expedited. In particular, Ms LAU said that some complaint cases referred to the REO by the Democratic Party were referred back to the complainant by the ICAC on the ground that the persons involved had not voted. She said that these cases should be investigated by the Police instead and should not be referred to the ICAC because it was outside the scope of the ECICO.

18. CEO said that following the 2011 DC Election, the REO had followed up on some 9 900 electors in response to the complaints received through different channels. Of these, no follow-up action was required for around 2 700 of the

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electors because there was no prima facie irregularity, or the complainant did not provide sufficient information for follow-up. The REO had sent letters to the remaining electors and had requested about 7 200 of the electors to provide address proofs. If the electors concerned did not provide valid proof to the satisfaction of the REO before the specified deadline, their cases would be referred to the law enforcement agencies for follow-up. They would also be put on the omissions list of the next voter register as a result of the statutory inquiry process. It was expected that the REO would complete the inquiry process by mid-April 2012 and the REO would reply to the complainants after the relevant investigation/inquiry process.

V. Electoral Affairs Commission Report on the 2011 District Council Election

[LC Paper Nos. CB(2)1267/11-12, CB(2)1366/11-12(02) and CB(2)1394/11-12(04)]

19. At the invitation of the Chairman, Deputy Secretary for Constitutional and Mainland Affairs ("DSCMA") and CEO introduced the paper which summarized the major findings and recommendations in the EAC Report on the 2011 DC Election ("the EAC Report").

20. Noting that the 2011 DC Election was the first DC ordinary election in which dedicated polling stations ("DPSs") were set up in prisons for registered electors who were serving prison sentences to vote, Mr Paul TSE enquired about the number of electors who had voted in the DPSs on the polling day, and whether there was room for improvement on the arrangement. DSCMA and CEO said that of concern was the procedure in relation to sorting of ballot papers cast at DPSs before they were delivered to the respective main counting stations for counting. The process was generally smooth and a total of 735 prisoners out of about 2 000 prisoners under the custody of penal institutions had cast their votes in the election.

21. Noting that some electors had been allocated to an incorrect polling station which was within the respective constituency but not the one closest to the electors' registered addresses, the Chairman asked that REO should ensure accuracy of information to avoid recurrence of similar incidents. CEO said that subsequent investigation revealed that such misallocation of polling stations was in a large part due to the inputting of incorrect data into the relevant computer system and the failure to spot the errors during the subsequent accuracy checks performed by the staff concerned. Steps had been taken by REO to review and strengthen the internal control procedures.

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22. Mr Paul TSE enquired about the coverage of the media reports and complaints about inaccurate or false registered addresses in the register of electors, DSCMA said that a chapter of which was on matters attracting public and media attention under section 7 of the EAC Report.

Order in polling station

23. In respect of the 2012 CE Election to be held on 25 March 2012, Ms Audrey EU enquired whether access to a polling station by eligible electors would be obstructed by people who were against small-circle election. DSCMA and CEO said that to facilitate the exercise of voting rights of Election Committee ("EC") members, "no canvassing zone" would be designated for the purpose of prohibiting canvassing activities outside polling stations on the polling day in order to maintain free and safe passage for electors; and the Police would ensure that there should be a clear passage for access to the polling station and that electors were not unduly harassed on their way to the polling station.

24. Ms Audrey EU asked whether a person committed an offence by asking eligible EC members to cast a blank vote. CEO said that it would be an offence for a person to directly or indirectly induce an elector to display the elector's ballot paper after the elector had marked it, so as to make known to any person the elector's vote. In its appeal letters sent to all EC members, they were reminded of the behavior which was prohibited inside the polling station, including that EC members should not communicate with others inside the polling station in order to protect secrecy of votes. Mr Paul TSE and Mrs Regina IP enquired about the use of camera-equipped mobile telephones for taking photographs of the ballot papers marked by electors inside polling station and the related sanction. CEO said that it was an offence for electors to take photographs inside the polling station under the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J) and a person who committed the offence would be liable to a fine at level 2 and to imprisonment for 6 months.

VI. Consultation Paper on the District Council Appointment System

[Consultation Paper on the District Council Appointment System, LC Paper Nos. CB(2)1097/11-12(03) and (04)]

25. At the invitation of the Chairman, 10 deputations and individuals presented their views on the Consultation Paper on the DC Appointment System issued by CMAB on 20 February 2012.

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Presentation of views by deputations/individuals

26. Mr CHAI Man-hon presented the views of Democratic Party as detailed in its submission [LC Paper No. CB(2)1426/11-12(01)]. He indicated support for the abolition of the appointed seats. For further development, he proposed that there should be further devolution of powers to DCs on district administration and that the appointed seats should be replaced by a corresponding number of elected seats to be returned by the proportional representation system. He urged that the opportunity should be taken to consider the development of DCs through expanding the role of DCs as well as providing them with more resources, including an independent secretariat for DCs and District Officers of 18 districts should be returned by election.

27. Mr LAW Yuk-kai of the Hong Kong Human Rights Monitor emphasized that people should have the right to decide who should represent them in a DC and it was essential that DCs members should be elected and serve DCs with public mandate. However, the appointment of DC members by CE would be tantamount to changing the results of voting by the public. He considered that the appointed members might not always represent the interests of the people as they tended to vote in favour of Government's proposals. Moreover, the restoration of appointed seats was considered a retrogressive step in democratic development and he urged that appointed seats should be abolished in one go. He suggested that the democratic representation in the DCs election should be enhanced and the suggestion of introducing proportional representation system should be further explored by the Administration.

28. Mr KWOK Chung-man presented the views of Yat Tung Community Network Association as detailed in its submission [LC Paper No. CB(2)1457/11-12(01)]. He urged the Government to abolish all appointed and ex-officio seats as soon as possible in view of the fact that the appointment system was inconsistent with the constitutional development. He pointed out that ex officio members reflected the inadequacy in their democratic representation and urged that the Administration should deal with the problem through enhanced communication with Rural Committees.

29. Mr TING Chi-wai, Roy chose not to speak on the subject.

30. Mr Ken TSANG presented the views of D Dong as detailed in its submission [LC Paper No. CB(2)1394/11-12(05)]. Mr TSANG said that D Dong supported the abolition of the DC appointment system in one go from

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the fifth-term DCs. He stressed that the functions of DCs should be enhanced. He raised various issues which the Administration had to consider for a joint reform of the DCs and Home Affairs Department ("HAD") to increase the efficiency of district administration. He called for a review of HAD's district administration function and considered that HAD should become an executive branch of DCs.

31. Mr CHONG Chak-kuen of Young Democratic Alliance for the Betterment and Progress of Hong Kong said that it supported the Administration's inclination to abolish the appointed seats in one go which would be in line with the constitutional development of Hong Kong. He recognized that the appointed DC members had been promoting the general well-being of the whole districts and over the years appointed members had made significant contributions in district issues. Noting that the Administration considered that the number of elected seats would not be increased after abolition of the appointed seats, the Alliance requested the Administration to fully consider its impact on the operation of DCs to ensure continuity and smooth functioning of the district administration.

32. Mr LO Kin-hei indicated support for abolition of appointed seats. He said that the population quota had given rise to small constituencies which resulted in some DC members putting emphasis on narrow parochial interests. Consideration might therefore be given to increasing the size of the constituencies to facilitate the grooming of political talents with a broader outlook. He also proposed that on top of the existing 412 DC constituency areas ("DCCAs") which would each return a DC member, several DCCAs might be merged to form bigger DCCAs with its members to be returned from 18 DCs by the proportional representation system. He also stressed the importance of a District Officer returned by election to ensure smooth implementation of policies at district level.

33. Mr CHAN Leung-wai expressed the view that there were merits in retaining a certain number of appointed seats to facilitate the participation of professionals in district work. This would minimize the impact on the operation of DCs and ensure that DCs would continue to provide comprehensive services to the public. He said that most of the appointed members were not affiliated to a political party and they would be instrumental to provide impartial and practical advice on district issues; and there was also no guarantee that an elected DC member would perform effectively his role in district affairs.

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34. Mr LEE Tat-yi of Bolshevik Bourgeois Policy Institute commented that some professionals might consider spending resources and time for running an election campaign would incur too high a cost and hence direct election might not be attractive to young talents. Instead, he suggested that the retention of a small number of appointed DC members who were not remunerated in order to maintain their professional input in district administration. For future development, he suggested that the appointed seats should be replaced by elected seats to be returned by the proportional representation system. Mr LEE also suggested that the work of the District Officers should be taken up by DCs members to achieve cost effectiveness in district administration.

35. Mr TING Yin-man, Cyril said that appointed DC seats were "political free lunch" to Government supporters and should be abolished. Mr TING suggested that elected seats should be increased correspondingly after the abolition of the appointed seats in DCs; ex officio members were not necessarily elected and they should also stand for election and compete with other contesting candidates. Mr TING expressed further concerns about the long term development of the role and functions of DCs, and in particular, its role in land use and development of the district should be enhanced.

36. Members also noted the written submissions from Mr CHENG Tsuk-man, member of Shatin District Council and a Peng Chau resident which were tabled at the meeting [subsequently issued vide LC Paper Nos. CB(2)1394/11-12(06) and CB(2)1457/11-12(02) respectively].

Response of the Administration

37. Under Secretary for Constitutional and Mainland Affairs ("USCMA") thanked the deputations for their views and gave a preliminary response as follows –

- (a) appointed membership – while there were diverse views as to whether appointed seats in DCs should be abolished in one go or in phases, it was the Administration's inclination to abolish the remaining 68 seats in one go by 1 January 2016 having regard to the constitutional development of Hong Kong and the changes to the role of the appointed DC members in the LegCo and the EC Subsector elections;
- (b) size of DCCAs – regarding the views on the election system of DCs, including the number of elected seats and the related question of the size of each DCCAs, the Administration had considered that the present election system would facilitate communication

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between the electors and members of the DCCA concerned; and the size of the DCCAs in relation to its population was considered appropriate for the DC members to maintain close liaison with the residents of the relevant DCCAs. As regards the proposal of merging several DCCAs to form a bigger DCCA, while such arrangement would enable an elected member to represent the interests of a bigger DCCA or even the whole DC, a significant drop in the number of elected seats would mean that there would be a keen competition for seats and candidates would need to spend more resources and time for running an election campaign. Hence, the impact arising from changes in the election system would need to be fully considered;

- (c) number of elected seats – as to whether the number of elected seats should be correspondingly increased after the abolition of the appointed seats in the DCs, the number of elected seats and its increase was generally linked to the population. The number of elected seats was based on a population quota (now stood at 17 282). The Administration considered that rapidly increasing the number of elected seats would mean a drastic decrease in the population to seat ratio and deviate from the well-established arrangement;
- (d) devolution of power – as regards the suggestion that the Administration should review the structure of district administration (including the functions of the DCs and whether the District Officers should be returned by election), it was noted that the posts of District Officers were served by civil servants who were the head of the District Office under the HAD responsible for district liaison, implementation of district affairs and participation of the public in district affairs. This involved a lot of administrative duties and coordination. The Administration considered it appropriate for these posts to be taken up by civil servants with extensive executive experience. Following the consultation exercise in 2006, the functions of 18 DCs were enhanced to enable DCs to have greater involvement in the management of designated district facilities; and
- (e) ex officio members – the issue was outside the scope of the consultation but the relevant views received would be collated by the Administration for the consideration of the next-term Government.

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Discussion with deputations

38. Ms Audrey EU expressed disappointment that the Administration had not heeded the long standing call for an immediate abolition of all appointed seats. As the appointed seats had been reduced by one-third by the Administration in the fourth-term DCs without consultation, Ms EU queried the need for a consultation on the remaining 68 appointed seats. Ms EU enquired whether the Administration would conduct a review on the role, functions and power of DCs for its on-going development and if so, the timetable. In her view, the GCs of the LegCo were overly large while the present size of DC constituencies was too small. She suggested that the existing 412 DCCAs should be merged into bigger DCCAs with its members to be returned from 18 DCs by the proportional representation system. She sought the deputations' views on the proposed review on the role, functions and power of DCs and how the Administration might deal with the ex officio seats.

39. Responding to Ms EU, Mr CHAI Man-hon suggested that the number of appointed seats should be replaced by a corresponding increase in elected seats which should be returned by the proportional representation system. In his view, this would help address the problems that the present size of DC constituencies was too small and DC members were putting emphasis on narrow parochial interests.

40. USCMA said that a review of the functions and composition of DCs was outside the scope of the consultation exercise. She was also mindful that district administration was within the purview of Home Affairs Bureau which had to be consulted on the relevant views received. As regards the proposal of adopting the proportional representation system in the DC election, USCMA reiterated that views were diverse on the scope of work of DC members and there were also concerns that a candidate would have to spend more resources for running an election campaign for a bigger DCCA.

41. Mr Ronny TONG said that there was no need for a consultation given the very clear indication of both the incumbent CE and the candidates for CE Election for abolishing the appointed seats in DCs; and the community also had a broad consensus over the issue. He proposed that the opportunity should be taken to examine whether and how DCs should be improved. He considered that a further devolution of powers for the purpose of further giving play to the functions of DCs and DC members would help improve the operation of DCs. Mr TONG enquired about the long-term policy of the Government in this

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regard and whether the Government would conduct public consultation on the review of DCs in the near future. USCMA said that as the relevant issues would bring fundamental changes to the DC system which was beyond the term of the current Government, and views collated after the consultation would be reflected in its report for consideration of the fourth-term Government.

42. Regarding ex officio seats of the DCs, Mr LAW Yuk-kai said that from the human rights angle, it was necessary to protect minority interests groups so that they would have equal participation and fair play. In the case of ex officio seats, however, it was considered an exceptional privilege to the indigenous people rather than a minority group. He said that in Island District, there were 10 elected DC members but the appointment of eight DC members by CE would be tantamount to changing the results of voting by the public which was unacceptable.

43. Mr LO Kin-hei suggested that the proportional representation system would complement the present DC election system. He said that co-existence of election systems was commonplace in some overseas parliaments. Mr LO requested the issue be considered together with the current exercise in a holistic approach and not to wait until the next-term government. USCMA, however, said that the relevant issues would require further exploration and its implication would have to be considered more thoroughly.

44. Responding to Mr LAW Yuk-kai and Mr KWOK Chung-man, USCMA said that other views collated would also be considered at the end of the public consultation exercise. The Administration would consider carefully the community's views, including the Panel's, before concluding its recommendations in the consultation report to be published after the consultation exercise.

VII. Any other business

45. There being no other business, the meeting ended at 5:15 pm.