

立法會
Legislative Council

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LC Paper No. CB(2)2759/11-12
(These minutes have been seen
by the Administration)

Panel on Home Affairs

Minutes of meeting
held on Friday, 13 January 2012, at 8:30 am
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Hon KAM Nai-wai, MH (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon Emily LAU Wai-hing, JP
Hon CHEUNG Hok-ming, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHEUNG Kwok-che
Hon Tanya CHAN
- Members absent** : Hon James TO Kun-sun
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Miriam LAU Kin-yea, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon Cyd HO Sau-lan
Hon CHAN Hak-kan
Hon WONG Sing-chi
Hon Paul TSE Wai-chun, JP
- Public Officers attending** : Agenda item IV
Home Affairs Bureau
Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

Ms Elaine MAK
Principal Assistant Secretary for Home Affairs
(Culture) 1

Leisure and Cultural Services Department

Mrs Betty FUNG, JP
Director of Leisure and Cultural Services

Ms Cynthia LIU
Deputy Director (Culture)

Agenda item V

Home Affairs Bureau

Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

Mr Benjamin MOK
Principal Assistant Secretary for Home Affairs
(Recreation and Sport)

Leisure and Cultural Services Department

Mrs Betty FUNG, JP
Director of Leisure and Cultural Services

Miss Olivia CHAN
Assistant Director (Leisure Services) 2

Independent Commission Against Corruption

Mr Kenny FOK
Principal Corruption Prevention Officer/A Group

Clerk in attendance : Mr Thomas WONG
Chief Council Secretary (2)2

Staff in attendance : Mr Raymond LAM
Senior Council Secretary (2)2

Miss Jasmine TAM
Council Secretary (2)2

Miss Emma CHEUNG
Legislative Assistant (2)2

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I. Confirmation of minutes

[LC Paper No. CB(2)774/11-12]

The minutes of the meeting on 15 November 2011 were confirmed.

II. Information papers issued since the last meeting

2. Members noted the following papers issued since the last meeting -

- (a) referral from the Complaints Division of the Legislative Council ("LegCo") Secretariat concerning the policy on support services, welfare and housing for street sleepers (LC Paper No. CB(2)738/11-12(01));
- (b) referral from the Complaints Division of the LegCo Secretariat concerning the implementation of the Building Management Ordinance (Cap. 344) (LC Paper No. CB(2)741/11-12(01)); and
- (c) the Administration's paper on open space in Area 117, Tin Shui Wai (LC Paper No. CB(2)788/11-12(01)).

3. Regarding the Administration's paper in paragraph 2(c) above, members raised no objection to the Administration's submission of the proposal to develop the open space in Area 117, Tin Shui Wai (LC Paper No. CB(2)788/11-12(01)) to the Public Works Subcommittee for consideration in February 2012.

III. Items for discussion at the next meeting

[Appendices I and II to LC Paper No. CB(2)772/11-12]

4. Members agreed that the following items would be discussed at the next regular meeting on 10 February 2012 at 8:30 am -

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- (a) Monthly tickets for the use of public swimming pools; and
- (b) Exhibition on Bruce LEE at the Hong Kong Heritage Museum.

5. Regarding item 17 of the List of outstanding items for discussion, members noted that the Administration had provided a written response on its burial policy relating to indigenous inhabitants and no member proposed to discuss the item at a Panel meeting. Members agreed that the item be deleted from the List of outstanding items for discussion.

6. Miss Tanya CHAN expressed concern about the media reports on columbarium facilities being found in premises claimed to be Chinese temples but not registered under the Chinese Temples Ordinance (Cap. 153). Members agreed that the Administration should provide a paper on whether and if so, when it would review Cap. 153 and whether the review would cover the aforesaid issue.

IV. Use of public open space

[LC Paper Nos. CB(2)772/11-12(01) and (02)]

7. At the Chairman's invitation, Secretary for Home Affairs ("SHA") briefed members on the use and management of public open space under the purview of the Leisure and Cultural Services Department ("LCSD").

Venues for street performances

8. Mr CHEUNG Kwok-che expressed concern about the availability of venues for street performances in Hong Kong. He noted that LCSD had launched the Open Stage pilot scheme under which the piazzas of the Hong Kong Cultural Centre ("HKCC"), Shatin Town Hall ("STTH") and Kwai Tsing Theatre ("KTT") were designated as places for public performances by individuals or organizations at no charge. He sought information on the response to the pilot scheme since its launch and whether the Administration would consider extending the scheme to other districts.

9. SHA advised that there was no legislation prohibiting street performances in Hong Kong at present. It was the Government's policy to bring the arts to the public and street arts performances would be welcomed so long as they did not cause nuisance to the public. Director of Leisure and Cultural Services ("DLCS") added that the Open Stage pilot scheme was generally well received and a total of 144 performances were held between July 2010 and June 2011. Following a review of the pilot scheme and in view of the relatively low level of patronage at HKCC and KTT,

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LCSD decided that the pilot scheme would only continue at STTH on a long-term basis. As street performers generally preferred to perform at venues with heavy pedestrian flow, the number of performers participating in the pilot scheme and the number of performances conducted were smaller than expected. Nevertheless, LCSD would continue to operate the scheme and explore whether more suitable LCSD-managed venues with heavy pedestrian flow could be made available for use under the scheme.

10. Mr CHEUNG Kwok-che asked whether two more LCSD-managed venues, one in Kowloon and the other on Hong Kong Island, could be made available for the scheme on a pilot basis. Referring to paragraph 5 of the Administration's paper, he sought information on whether LCSD could establish an application-and-approval mechanism for the staging of street performances at pedestrian precincts on holidays and co-ordinate the processing of such applications, which in his view would facilitate the conduct of street performances.

11. DLCS advised that the Open Stage pilot scheme was launched at LCSD-managed venues because LCSD was empowered by the relevant ordinances and regulations to manage those venues. LCSD had no statutory authority to maintain order or take necessary enforcement action, should any incident arise during the conduct of street performances at the pedestrian precincts. As the management of pedestrian precincts involved various government departments, such as the Transport Department, the Police and the Food and Environmental Hygiene Department ("FEHD"), the suggestion of making available pedestrian precincts for the staging of street performances could not be considered by LCSD alone but in conjunction with other relevant government departments.

12. SHA added that the LCSD-managed venues had clearly-delineated boundaries within which LCSD could exercise its authority in accordance with the relevant ordinances and regulations. While LCSD had been efficient, according to international standards, in managing the public open space under its purview, the management of public open space outside its purview (e.g. pedestrian precincts) was a much more complex issue involving not only the responsibilities of various government departments but also the need to balance the demands of different users and the views of local residents. As a wide range of activities, including arts and cultural performances and business promotional activities, might be conducted on streets and various stakeholders (such as pedestrians, nearby residents and shops) were involved, different departments of the Administration would study issues relating to street management in consultation with District Councils, and if necessary, convene meetings on different issues.

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13. Mr CHEUNG Kwok-che raised concern about the shortfall of open space in various districts (e.g. Shatin, Yuen Long and Tsuen Wan), and asked whether the Administration had any plan to increase the provision of open space in these districts in the next five years and how to deal with the demand for open space in new districts. SHA advised that the Government had put in place a wide range of leisure and recreational facilities in the past five years and would continue to do so in the next five years.

Regulation of street performances

14. Mr CHEUNG Man-kwong expressed support for street performances, which should be welcomed by tourists and local people. He opined that from the perspective of maintaining public order and protecting public safety, performances conducted on streets and in other public spaces (e.g. parks) could be regulated by way of imposing conditions on the performing venues or the performances to be conducted. The major difficulties faced by the Administration in handling street performances were the diverse and sometimes conflicting needs of the public and the unclear management responsibilities of the public spaces concerned. He considered that given the nomadic nature of street performers, it might be more appropriate and effective to regulate street performances, especially those conducted in crowded areas, by a licensing regime. For instance, the licensees might be required to stage their performances at a specific time and location within a designated area and the duration of their performances might not exceed a certain limit. He suggested that the Administration should make reference to the Taipei City Government's licensing scheme for street performers.

15. The Chairman concurred with the adoption of a licensing approach to street performances. The Deputy Chairman also considered that the Administration might devise a regulatory regime for street performances with reference to the arrangements adopted by overseas places.

16. The Chairman and the Deputy Chairman called on the Administration to adopt a proactive approach to promote street performances and expedite the provision of more public open spaces (e.g. pedestrian precincts and harbourfront areas) for the staging of such performances, which was conducive to the vibrancy of the community.

17. SHA said that introducing a licensing requirement for street performances would have the effect that those persons who had not obtained a licence would be forbidden to conduct street performances. This would be a drastic change from the present arrangement in Hong Kong and

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had to be considered carefully having regard to public acceptability and other relevant issues.

Applications for non-designated uses of LCSD-managed venues

18. The Chairman pointed out that the public leisure venues managed by LCSD had been frequently used for conducting various community activities. He noted that in applying for the use of such venues, activity organizers were often required to file separate applications to various government departments for approval or obtaining licences for the activities concerned. The Chairman and the Deputy Chairman expressed worry that some organizers might be unfamiliar with or unaware of all the related requirements and contravene the law inadvertently. The Chairman sought information on whether LCSD would consider providing a one-stop service to facilitate organizers to comply with the statutory requirements.

19. DLCS advised that -

- (i) LCSD processed more than 2 000 applications for non-designated uses of venues under its management every year. Applicants had been advised to submit their applications as early as possible in order to allow sufficient time for processing. Nevertheless, LCSD had exercised flexibility in handling urgent venue applications;
- (ii) in processing such applications, LCSD would consult the relevant government departments, including the Police, the Environmental Protection Department, the Social Welfare Department ("SWD"), the Fire Services Department and the Architectural Services Department, to see if they had any objection on public safety and public order grounds. The consultation process generally would not take long; and
- (iii) depending on the activities to be conducted, the organizers might need to obtain separate approval or licences from various government departments. The more common types of licences/permits involved included the Public Subscription Permit issued by SWD for fund-raising activities, the Temporary Food Factory Licence issued by FEHD for cooking activities, the Amusements with Prizes Licence issued by the Television and Entertainment Licensing Authority for activities involving amusement games with prizes, and the Permit to Use and Operate Amusement Rides issued by the

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Electrical and Mechanical Services Department for activities involving the operation of amusement rides. In handling the venue applications submitted by activity organizers, LCSD had all along reminded them to obtain the necessary approval or licences for their activities where applicable. LCSD might explore whether further assistance could be provided to refer the organizers to the relevant government departments to apply for the required licenses/permits but it could not submit the applications for the organizers.

20. The Deputy Chairman called on LCSD to consider refining the design of its venue application forms to enable applicants to indicate the licences/permits for which they intended to apply for the activities to be conducted and assisting in forwarding the completed application forms to the relevant government departments for onward processing. He suggested that LCSD should make reference to the similar arrangements adopted by FEHD in handling applications for food business licences.

21. DLCS advised that the venue application forms currently used by LCSD had already set out the common types of licences/permits that might be required to be obtained for the activities concerned and provided the relevant information on the responsible government departments for venue applicants' reference. LCSD might explore, in consultation with the relevant government departments and having regard to the relevant statutory requirements, the feasibility of combining the application for use of a LCSD-managed venue and that for licences/permits for individual activities into a single application for processing by all the relevant government departments.

V. Governance and monitoring of and funding for National Sports Associations

[LC Paper Nos. CB(2)772/11-12(03) and (04)]

22. Members noted the Best Practice Reference for Governance of National Sports Associations ("BPR") provided by the Independent Commission Against Corruption ("ICAC"), which was tabled at the meeting.

(Post-meeting note: The BPR tabled at the meeting was circulated to members vide LC Paper No. CB(2)851/11-12 on 17 January 2012.)

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23. At the Chairman's invitation, Secretary for Home Affairs ("SHA") briefed members on the latest position regarding LCSD's measures to improve the monitoring of the use of funding provided to and the governance of National Sports Associations ("NSAs").

Transparency of the financial situation of NSAs

24. The Deputy Chairman called on NSAs to upload their financial statements onto their websites for public inspection. SHA responded that information on the amount of subvention granted to the NSAs had already been made available to the public on LCSD's website. While NSAs received subvention from the Government, some of them had income from other sources as well. ICAC had drawn up BPR in consultation with LCSD, HAB and some NSAs with a view to assisting the NSAs to enhance transparency in their operation and governance. Director of Leisure and Cultural Services ("DLCS") advised that most NSAs had been registered as limited companies under the Companies Ordinance (Cap. 32) and they had to submit their financial statements to the Companies Registry which could be accessed by the public. The Administration would encourage NSAs to upload their financial statements onto their respective websites. Under the subvention agreement signed by NSAs with LCSD, they had to report their expenditure positions and the progress of their activities to LCSD at regular intervals. In addition, LCSD staff also conducted on-site inspections of subvented programmes and its Quality Assurance Section carried out quality assurance checks on NSAs' compliance with proper accounting procedures and terms of the subvention agreement.

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25. Miss Tanya CHAN asked whether benchmarks to be attained by NSAs were set out in the subvention agreement between LCSD and NSAs. She requested the Administration to provide a sample of the subvention agreement for members' reference. Assistant Director (Leisure Services)2, Leisure and Cultural Services Department ("AD/LCSD") advised that the terms and conditions of the subvention agreement were standard but the amount of subvention provided to and activities to be delivered by each NSA were different and set out in detail in the attachments to the subvention agreements with individual NSAs.

(Post-meeting note: The sample agreement between LCSD and NSAs was provided to members vide LC Paper No. CB(2)2125/11-12(01) on 17 May 2012.)

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Implementation of BPR

26. The Deputy Chairman asked how the Administration would promote BPR among NSAs. Ms Emily LAU asked how the Administration would ensure that BPR, especially the parts on selection of athletes and administration of membership, would be implemented by NSAs.

27. DLCS advised that LCSD and ICAC would join hands to approach all NSAs proactively in 2012 to provide tailor-made advice and services to help individual NSAs to implement the measures recommended in BPR according to their individual needs and mode of operation. She informed members that "corporate governance and compliance" was one of the four key performance areas identified during the comprehensive review of the Sports Subvention Scheme conducted by LCSD in 2010 to assess the performance of the NSAs. While the Administration had no intention of interfering with the internal affairs of the NSAs, it did request the NSAs to establish a transparent mechanism for the selection of athletes. The selection criteria and appeal mechanism should be set out in writing and disclosed to athletes and members of the public ahead of the selection. The Administration had also requested NSAs to increase their transparency of the administration of membership and upload the relevant information, including eligibility for membership and membership fee, onto their websites.

28. Ms Emily LAU and Miss Tanya CHAN sought information on NSAs' compliance with BPR. Ms Emily LAU considered that a mechanism should be established for the ongoing monitoring of NSAs. Referring to paragraph 16 of the background brief prepared by the LegCo Secretariat, Miss CHAN asked when the one-year grace period for compliance with the new monitoring mechanism would expire and whether any NSA had requested extension of the grace period.

29. DLCS responded that a series of improvement measures on the administration and monitoring of the Sports Subvention Scheme was introduced since 1 April 2011 as a result of the comprehensive review. NSAs had been given a one-year grace period to familiarise with the streamlined reporting system before the implementation of the subvention adjustment system under which subvention would be deducted for late submission of reports. No NSAs had so far requested extension of the grace period. Since the BPR had just been launched and the improvement measures would be fully implemented in 2012-13, the Administration would provide a further paper to the Panel on the performance of NSAs after the full implementation of the various improvement measures, i.e. about one year after the expiry of the grace period by 31 March 2012.

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30. The Deputy Chairman considered that NSAs should be required to fully implement BPR within two years' time. The Chairman welcomed the introduction of BPR and hoped that LCSD and ICAC would organise more briefings on BPR for NSAs. DLCS responded that at the seminar on BPR jointly organized by ICAC and LCSD for NSAs on 16 December 2011, NSAs were encouraged to implement as soon as possible within one or two years the best practices in BPR, in particular those relating to enhancement of transparency, selection of athletes, procurement, declaration of interests and uploading of audited financial statements onto their websites. However, measures which involved additional resources and change of the NSAs' established culture might need more time to implement.

31. Mr CHEUNG Kwok-che expressed concern that some NSAs were reported having the same chairman and vice-chairman for 20 years. He asked whether the Administration would take any action on NSAs which did not implement BPR to improve their governance. DLCS advised that the BRP had suggested NSAs to set out the maximum tenure of key board members. As BPR had just been launched, it was too early to consider the action to be taken on NSAs which failed to improve their governance.

Promotion of anti-corruption values among NSAs

32. Mr CHEUNG Man-kwong expressed concern about a case in 2011 in which a football player was convicted of offering bribes to his teammates for assistance in fixing a match between the Hong Kong Youth Representative Team and the Russian National Youth Team on 15 November 2011 ("the match"). He considered that the Hong Kong Football Association ("HKFA") had handled the case appropriately. Expressing concern about cross-boundary football match fixing, he said that the Administration and ICAC should actively prevent and combat such crime, given the gravity of the football betting problem on the Mainland. The Deputy Chairman asked whether the corruption prevention education among football players would be conducted on a long-term basis.

33. SHA advised that HKFA had received intelligence about the offering of bribes before the match and the football player offering bribes was not deployed in the match. The refusal of other players in the team to accept bribes and their reporting of the matter to ICAC was a good reflection of the integrity of our young sportsmen generally. Principal Corruption Prevention Officer (A Group)/ICAC ("PCPO/ICAC") added that no persons had accepted bribes in the case concerned, reflecting the generally positive and corruption-free values among the football players. ICAC and LCSD had jointly organised anti-corruption workshops for NSAs to

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enhance their corruption prevention knowledge. ICAC would continue to launch similar programmes to promote positive values and integrity in the sports sector.

Transparency of selection of athletes and appeal mechanism

34. Miss Tanya CHAN asked whether athletes were made aware of NSAs' criteria for selection of athletes and whether there was transparency in the appeal mechanism of NSAs. She considered that there should not be any overlapping membership between the selection panel and the appeal board.

35. AD/LCSD advised that due to the different nature of the sports involved, different NSAs would have different criteria for the selection of athletes. To her knowledge, most NSAs did have their own set of criteria for selection of athletes and some had also established an appeal mechanism. However, these were not always set out systematically in writing nor uploaded onto their websites. In the coming year, LCSD would focus its work on helping NSAs to improving the governance and transparency in this aspect.

36. The Chairman asked how the Administration would increase the transparency of NSAs and address disputes over the selection of athletes by NSAs. DLCS responded that NSAs were requested to adopt consistent criteria in the selection of athletes and inform the athletes of the criteria timely. AD/LCSD added that following the introduction of BPR, the Administration was encouraging NSAs to establish a transparent mechanism for the selection of athletes and disclose the criteria, establish an appeal mechanism, as well as upload the relevant information onto their websites. NSAs had also been informed of the requirement that overlapping of membership between the selection board and the appeal board should be avoided as far as possible.

Tailor-made corruption prevention advice

37. Ms Emily LAU sought information on the number of NSAs which had sought tailor-made corruption prevention advice from the Advisory Services Group of the Corruption Prevention Department of ICAC. PCPO/ICAC advised that less than 10 NSAs had sought ICAC's assistance to provide such advice at the seminar on 16 December 2011. This might be due to the fact that NSAs had been informed at the seminar that ICAC would join hands with LCSD to approach all NSAs proactively in 2012 to provide such advice and services.

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38. Mr CHEUNG Man-kwong said that when seeking to improve the governance and transparency of NSAs and fostering a corruption-free culture in the sports sector, the Administration should bear in mind the need to keep its monitoring work to a reasonable level so that the enthusiasm of NSAs in sports and athlete development could be maintained.

VI. Any other business

39. There being no other business, the meeting ended at 10:23 am.

Council Business Division 2
Legislative Council Secretariat
10 September 2012