

立法會
Legislative Council

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LC Paper No. CB(2)1041/12-13
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 17 December 2012, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Paul TSE Wai-chun, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Emily LAU Wai-hing, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Kin-por, BBS, 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 Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Yuen-han, SBS, JP
Hon Alice MAK Mei-kuen, JP
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan

Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, JP
Dr Hon CHIANG Lai-wan, JP
Hon Tony TSE Wai-chuen

Member attending Dr Hon Fernando CHEUNG Chiu-hung

Members absent : Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon WONG Yuk-man
Dr Hon Kenneth CHAN Ka-lok

Public Officers attending : Item IV

Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs

Ms Anne TENG Yu-yan
Principal Assistant Secretary for 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 V

Mr Matthew CHEUNG Kin-chung
Secretary for Labour and Welfare

Ms Doris CHEUNG
Deputy Secretary for Labour and Welfare (Welfare) 1
Labour and Welfare Bureau

Mr Stephen SUI Wai-keung
Commissioner for Rehabilitation
Labour and Welfare Bureau

Mr CHEUNG Doi-ching
Principal Assistant Secretary (Constitutional and Mainland Affairs) 5
Constitutional and Mainland Affairs Bureau

Mr LAM Ka-tai
Assistant Director (Rehabilitation and Medical Social Services)
Social Welfare Department

Mr Godfrey KAN
Acting Senior Assistant Solicitor General
Department of Justice

Miss Hera CHUM Chui-chi
Principal Assistant Secretary (Special Education & Kindergarten
Education)
Education Bureau

Dr K L CHUNG
Chief Manager (Integrated Care Programs)
Hospital Authority

Ms LAM Sau-ching
Senior Labour Officer (Selective Placement)
Labour Department

Ms Kate TAM
Senior Labour Officer (Statutory Minimum Wage)
Labour Department

Mr Herman HUI
Chairman
Rehabilitation Advisory Committee

Mr Allen CHAN
Chairman
Rehabilitation Advisory Committee
Subcommittee on Access

**Attendance by : Item V
invitation**

The Hong Kong Joint Council for People with Disabilities /
The Hong Kong Council of Social Service

Ms Emily SHAM
Officer (Rehabilitation)

Concord Mutual-Aid Club Alliance

Mr HUI Wai-chun
Executive Officer

Miss Sophie CHEUNG Hing-yee

Sustainability Research Centre

晴女士

HK Human Rights Monitor

Mr LAW Yuk-kai
Director

Chosen Parents' Network

Ms Edith AU
Chairperson

Miss Carman TAM

Mr CHAN Tsun-kit

Mr LAI Tai-yiu

Chosen Power (People First Hong Kong)

Mr CHOW Tak-hung
Chairperson

Mr HUI Wai-man

Democratic Alliance for the Betterment and Progress of Hong Kong

Mr YEUNG Hok-ming
Deputy Spokesperson, Constitutional Affairs

Mr Thomas LAI

Arts with the Disabled Association Hong Kong

Ms Janet TAM Mei-hing
Executive Director

Labour Party

Mr LAW Wai-cheung

1st Step Association

Mr YIP Kin-keung
Organizer

Mr TSANG Kai

Centre on Research and Advocacy, HKSR

Ms Anchor HUNG
Manager

Association of Women with Disabilities Hong Kong

Miss CHAN Yuen-shan
Executive Secretary

Rehabilitation Alliance Hong Kong

Mr TSUI Kai-ming
Executive Committee Member

Heep Hong Parents' Association

Ms LEE Cheung-pui
Chairman

Mr MAK Hoi-wah

Hong Kong Association of the Deaf

Miss LAU Lai-fong
President of the Executive Committee

Folk Concern Group of Deaf

Mr Ken CHEUNG
Convener

Mr Michael CHOI Wai-hung

Deaf Power

Mr WONG Yiu-leung

Professor LAM Wai-sze

Ms TAN Chung-yan

Centre for Sign Linguistics and Deaf Studies, Chinese University
of Hong Kong

Mr YIU Kun-man
Senior Programme Officer

Miss MAK Siu-fan

Ms CHOI Tsz-wan

Peace Evangelical Centre Kindergarten (Ngau Tau Kok)

Ms Esther LI Lai-fan
Principal

**Clerk in
attendance** : Ms Joanne MAK
Chief Council Secretary (2) 3

**Staff in
attendance** : Mr Kelvin LEE
Assistant Legal Adviser 1

Miss Cindy HO
Senior Council Secretary (2) 3

Ms Wendy LO
Council Secretary (2) 3

Mrs Fonny TSANG
Legislative Assistant (2) 3

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I. Confirmation of minutes of meeting
[LC Paper No. CB(2)345/12-13]

The minutes of the meeting held on 19 November 2012 were confirmed.

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II. Information papers issued since the last meeting

[LC Paper Nos. CB(2)227/12-13(01), CB(2)235/12-13(01) and CB(2)254/12-13(01)]

2. Members noted that the following papers were issued after the last meeting –

- (a) Administration's reply letter dated 16 November 2012 to the Panel on the declaration of interests made by the Chief Executive ("CE") [LC Paper No. CB(2)227/12-13(01)];
- (b) submission from a member of the public on enacting legislation to safeguard equal opportunities for and the basic rights of people of different sexual orientations [LC Paper No. CB(2)235/12-13(01)]; and
- (c) letter dated 19 November 2012 from Dr Kenneth CHAN to CE and copied to the Panel [LC Paper No. CB(2)254/12-13(01)].

III. Items for discussion at the next meeting

[LC Paper Nos. CB(2)347/12-13(01) to (02), CB(2)274/12-13(01), CB(2)305/12-13(01), CB(2)367/12-13(01) and (02)]

Regular meeting on 21 January 2013

3. Members agreed to discuss the following items proposed by the Administration at the next regular meeting to be held on 21 January 2013 at 2:30 pm –

- (a) briefing on the CE's 2013 Policy Address by the Secretary for Constitutional and Mainland Affairs; and
- (b) update on the work of the Office of the Privacy Commissioner for Personal Data ("PCPD").

4. Regarding the item referred to in paragraph (a) above, the Deputy Secretary for Constitutional and Mainland Affairs ("DSCMA") said that the Administration would take the opportunity to consult the Panel on the legislative proposal concerning the abolition of the District Council ("DC") appointed seats.

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5. Regarding the item referred to in paragraph (b) above, DSCMA said that following the passage of the Personal Data (Privacy) (Amendment) Ordinance 2012 ("PDPAO") by the Legislative Council ("LegCo") on 27 June 2012, most of its provisions had come into operation since 1 October 2012. At the next meeting, PCPD would brief members on the preparation for the implementation of the remaining provisions relating to direct marketing and the legal assistance scheme, which had yet to come into operation.

Functions of the Central Policy Unit ("CPU")

6. Referring to his letter dated 12 December 2012 [LC Paper No. CB(2)367/12-13(01)] to the Chairman, Mr LEE Cheuk-yan proposed that the Panel should hold a special meeting to discuss the additional functions of CPU, e.g., nurturing talents and drumming up public support for Government policies. Mr LEE further said that as the staffing proposal on the creation of a non-civil service position of Full-time Member in CPU was going to be discussed by the Establishment Subcommittee ("ESC"), the Panel should discuss the functions of CPU as early as possible. The Chairman reminded members that the Panel on Public Service ("PS Panel") was consulted on the staffing proposal at its meeting on 19 November 2012 and it supported submission of the proposal to ESC for consideration. The Chairman added that ESC might discuss the proposal at its meeting around early February 2013.

7. DSCMA advised that the functions of CPU fell outside the scope of policy responsibilities of the Constitutional and Mainland Affairs Bureau ("CMAB"). He also requested members to note that after discussion of the aforementioned staffing proposal by the PS Panel on 19 November 2012, detailed explanations had been made by the Chief Secretary for Administration ("CS") regarding the role and functions of CPU at the special meeting of the House Committee on 23 November 2012 and at the Council meeting of 28 November 2012 in reply to a LegCo question. As such, the Administration did not see the need for further discussion of the issue by any other committee.

8. Mr LEE Cheuk-yan remained of the view that the Panel should discuss the functions of CPU provided that the issue was under the purview of the Panel. He suggested that the Panel might invite CS and representatives of CPU to attend the meeting to answer members' questions. Mr LEE added that the Panel should hold a special meeting to discuss the issue in January 2013 before the staffing proposal was to be discussed by ESC.

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9. Mr IP Kwok-him and Mr Jeffrey LAM opposed discussion of the functions of CPU by the Panel as the Administration had already advised that the issue fell outside the scope of policy responsibilities of CMAB. Mr IP further suggested that the Administration could provide a paper to address members' concerns in this regard to the relevant committee of LegCo for consideration.

10. Ms Emily LAU said that at the last meeting on 19 November 2012, Mrs Regina IP, who was the Chairman of PS Panel, also said that some members of the PS Panel had expressed concern about the functions of CPU and suggested that the subject should be followed up by this Panel. Ms LAU considered that there was a need for the Administration to explain more clearly whether there were any changes in the functions of CPU as she found that there were discrepancies between the explanation made by the Head of CPU and that by CS in this regard. Ms LAU and Mr LEUNG Kwok-hung expressed support for Mr LEE Cheuk-yan's proposal.

11. Mr Alan LEONG said that members belonging to the Civic Party supported Mr LEE Cheuk-yan's proposal. He said that the changes in the functions of CPU as explained by the Head of CPU had given rise to wide public concern, and he considered that the Panel was the appropriate forum to discuss the issue. Dr Helena WONG also expressed support for Mr LEE Cheuk-yan's proposal and pointed out that the higher education sector was very concerned about the rationale and implications of the CPU's takeover of control of public policy research fund allocation. Mr WONG Kwok-kin said that he had no objection for the Panel to discuss the matter, but he did not see the need to hold a special meeting. He suggested that the Administration could submit the relevant staffing proposal to ESC later.

12. Summing up, the Chairman said that he would relay members' views to CS and discuss with her the appropriate arrangements to be made. Ms Emily LAU requested the Chairman to advise CS that the Administration must not seek to push through the staffing proposal before members' concerns on the functions of CPU were addressed.

Chairman

Amending the Prevention of Bribery Ordinance (Cap. 201) ("POBO") to apply sections 3 and 8 to CE

13. With reference to his letter dated 12 December 2012 [LC Paper No. CB(2)367/12-13(02)] to the Chairman, Mr Dennis KWOK suggested that the

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Panel should follow up the progress of introducing amendments to apply sections 3 and 8 of POBO to CE. DSCMA said that as explained by CS at the Council meeting of 5 December 2012, LegCo would be consulted on the findings of the Administration's study regarding the recommendations on amending POBO once there was further progress. In response to Mr KWOK's further enquiry, DSCMA said that there was no timetable for the study but the Administration would revert to the Panel once there was further progress.

Third Report of the Hong Kong Special Administrative Region ("HKSAR") in the light of the International Covenant on Civil and Political Rights ("ICCPR")

14. Referring to her letter dated 23 November 2012 to the Chairman [LC Paper No. CB(2)274/12-13(01)], Ms Emily LAU said that as the United Nations ("UN") Human Rights Committee would conduct a hearing in March 2013 on the third report of HKSAR submitted in the light of ICCPR, the Panel should hold a meeting to receive views from deputations on the report prior to the UN hearing. The Chairman said that the proposed item would not be discussed at the next meeting as there would not be adequate time. Nevertheless, he would arrange the item to be discussed before the UN hearing.

Newspaper article by Mr ZHANG Xiaoming, deputy director of the Hong Kong and Macao Affairs Office of the State Council

15. Referring to her letter dated 3 December 2012 to the Chairman, Ms Emily LAU expressed concern about an article written by Mr ZHANG Xiaoming, deputy director of the Hong Kong and Macao Affairs Office of the State Council, in a newspaper on 22 November 2012, and considered that the Panel should follow up the article in which Mr ZHANG stated that there was a need to "perfect the system" in the three areas as cited in Ms LAU's letter under reference. Ms LAU said that the three areas all concerned the internal affairs of HKSAR and that the Administration should seek clarifications on Mr ZHANG's comments in order to allay the concern of members and the public.

16. DCSMA explained that the Administration's understanding was that the newspaper article by Mr ZHANG Xiaoming was his interpretation of the report of the Chinese Communist Party's 18th Congress. As Mr ZHANG was not an official of the HKSAR Government ("HKSARG") and neither did

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Mr ZHANG provide any further information in relation to his article, the Administration was not in a position to interpret the comments made by Mr ZHANG in his article.

Admin

17. Ms Emily LAU considered the Administration's response unacceptable and reiterated that the comments made by Mr ZHANG Xiaoming in his article were serious issues which had far-reaching implications on the political system of HKSAR. The Chairman suggested that the Administration should provide an information paper on the operation of the relevant systems in respect of the three areas referred to by Ms LAU in her letter. Mr LEUNG Kwok-hung said that the Administration was obliged to clarify whether the comments made by Mr ZHANG Xiaoming in his article were inconsistent with the provisions of the Basic Law ("BL"). Ms Cyd HO expressed concern about Mr ZHANG's comments on the power of the Standing Committee of the National People's Congress ("NPCSC") to supervise the legislation of HKSAR. She considered that the Administration should explain its understanding of the comments. Mr Dennis KWOK said that he had also raised the issue regarding Mr ZHANG's view on the need to perfect the system under which laws enacted by the legislature of HKSAR were reported to NPCSC for the record with the Secretary for Justice ("SJ") at another meeting. He recalled that SJ's response was that there was always room for improvements with any system. Mr KWOK considered that the Administration should provide more details of what SJ meant.

Admin

18. DSCMA said that HKSARG had all along acted in strict accordance with the provisions of the BL, and had ensured the full implementation of the principles of "One Country, Two Systems", "a high degree of autonomy" and "Hong Kong people ruling Hong Kong". He agreed to relay members' views and concerns to the Administration for a written response. Ms Emily LAU said that the Administration in its paper should also clarify whether it had received any directive to make changes to the existing systems in HKSAR. DSCMA said that the Administration had not received any such requests.

(Post-meeting note: The Administration's written response was issued vide LC Paper No. CB(2)552/12-13 on 24 January 2013.)

IV. Electoral Affairs Commission ("EAC") Report on the 2012 LegCo Election

[LC Paper Nos. CB(2)306/12-13, CB(2)335/12-13(01) and CB(2)347/12-13(03)]

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19. DSCMA briefed members of the salient points of the Administration's paper [LC Paper No. CB(2)335/12-13(01)]. He said that the Administration accepted the findings and recommendations of the EAC Report on the 2012 Legislative Council Election ("the Report") and would work closely with EAC to pursue the follow-up actions. Chief Electoral Officer, Registration and Electoral Office, ("CEO") highlighted that the Report's major findings and recommendations were set out in Chapter 14. In particular, he took members through the findings and recommendations in these areas: registration of electors, promotion of environmental protection in electoral arrangements, central platform for election advertisements ("EAs"), choice of location for the central counting station, and display of counting results through two newly developed systems (namely, the Counting Information Display System and the Interim Counting Results System).

20. Members noted the background brief prepared by the LegCo Secretariat on this item [LC Paper No. CB(2)347/12-13(03)].

Discussion

Electorate of functional constituencies ("FC")

21. Mr Charles Peter MOK expressed the following concerns regarding the electorate of the Information Technology ("IT") FC –

- (a) in the run-up to the polling day of the 2011 Election Committee ("EC") Subsector Elections, it was reported by the media that some members of Internet Professional Association Limited ("iProA") were no longer paid up members of the Association but were still eligible for registration as voters of the IT subsector. To address the concerns, the Registration and Electoral Office ("REO") had issued letters to all umbrella organizations before the poll setting out the legislative provisions relating to disqualification from voting and the relevant offence. REO had also issued reminder letters to the voters concerned reminding them that if they had ceased to be eligible to vote in a FC election, they should not vote and the legal consequence if they voted at the elections;
- (b) in the 2012 LegCo Election, the media also reported that a few hundreds of members of iProA were found to be ineligible to be registered as electors of IT FC after the final registers were

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published. It should be noted that the issue could have significant bearing on the election results given the relatively small electorate base of the IT FC; and

- (c) regarding the inclusion of the Hong Kong Information Technology Joint Council Limited ("HKITJC") into the electorate of the IT FC by the LegCo (Amendment) Ordinance 2011, Mr MOK noted from the information then provided by the Administration to LegCo that the membership of HKITJC was about 100. However, media reports in July 2011 revealed that the membership of HKITJC had actually run up to over 400 upon a revision to its admission requirements.

22. CEO explained that as provided for in the electoral legislation, the electorate of traditional FCs consisted of individual and corporate electors who were: (a) listed bodies; (b) holders of licences/franchises/registration under specified ordinances; (c) staff employed by specified institutions; or (d) members of specified bodies. He said that the relevant issues referred to by Mr MOK might involve electors under category (d) above as the eligibility for registration of which was according to the electoral legislation tied to designated membership with the specified bodies. Under the existing legislation, it was the responsibility of the specified bodies to provide the relevant membership information to REO for voter registration ("VR") purposes. Before a LegCo election or an EC Subsector election was held, REO would write to these specified bodies to collect updated information on their membership, as reference for verifying the registration eligibility of existing electors and, also, identifying eligible persons or organizations for new registration in their respective FCs. If a FC elector ceased to be eligible for registration in a FC after the publication of the FC Final Register, he would be disqualified from voting in that FC election. CEO said that REO would listen to the views of the community to see if there was room for improvement to the existing arrangements; the views collected would, in line with past practice, be reviewed by the EAC along with other relevant electoral arrangements before the next election.

REO

23. At the request of Mr Charles Peter MOK, CEO undertook to provide the number of reminder letters issued to FC electors and EC subsector voters concerning their eligibility to vote in the past two rounds of LegCo elections and EC Subsector elections.

(Post-meeting note: The supplementary information provided by REO was issued vide LC Paper No. CB(2)532/12-13 on 21 January 2013.)

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Voter registration and removal of registered electors from voter registers

24. Ms Cyd HO expressed concerns about the removal of some 200 000 registered electors from the final registers of electors for the 2012 LegCo Election, due to failure of the electors concerned to provide an updated address or address proofs. Ms HO said that for these 200 000 electors, REO should take the initiative to follow up those who had proved to have practical difficulties in providing an updated address by the statutory deadline and help them get re-registered.

25. CEO explained that under the current system, if REO was satisfied on reasonable grounds that an elector no longer resided at the residential address recorded against the elector's name in that existing register but the new address was not known to REO, where circumstances permitted, REO would attempt to contact the electors before resorting to the formal inquiry process. If the elector could not be contacted, a letter of inquiry would be sent by registered mail to the elector concerned requesting submission of a proof of residential address or other information for verification. If the elector failed to give a reply by the specified date to confirm his only or principal residential address, his name would be included in the omissions list and subsequently removed from the final register. He added that in situations where the electors concerned could only provide the updated residential address after the publication of the 2012 final registers, their registration could not be immediately reinstated to the registers and would have to be put back on the registers of the next VR cycle. CEO added that whilst introducing various checking measures, a massive publicity campaign had been launched to remind electors to update their residential addresses or lodge claims for reinstatement of their registration before the statutory deadline. As an additional measure, REO had sent letters to some 231 000 electors on the omissions list in mid-June 2012 to remind them to confirm/update their residential addresses. About 13 600 of them had confirmed or updated their latest residential addresses to the satisfaction of REO by the statutory deadline and their names had been put back to the 2012 final register, while the remaining 217 400 electors had failed to respond. The latter were subsequently removed from the final registers.

26. Mr CHAN Chi-chuen enquired how many electors had requested for reinstating their registration after the final registers were published and whether the Administration had looked into the reasons of their failure to reply to REO's inquiry letters in time. He also asked whether there was room for improvement in the arrangements.

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27. CEO said that the investigation findings revealed that the inaccuracies detected in respect of registered addresses in most cases were due to the failure of electors to provide updated addresses in a timely manner after moving home. CEO further explained that the checking measures in the 2012 VR cycle had been implemented under a tight statutory time frame and, within this time frame, there was only limited time allowed for publicity work. REO would step up its educational and publicity efforts in non-election years to remind registered electors to notify REO of change of residential addresses.

28. Dr Priscilla LEUNG urged the Administration to clearly define the eligibility for voting by Hong Kong permanent residents residing on the Mainland and questioned whether any eligible electors had been removed from the final registers because they resided on the Mainland. She noted that in some cases, the electors concerned were university students, and they had been removed from the final register of electors solely because they did not report changes in their registered addresses to REO timely after moving from one student quarter to another. She said that these issues should be followed up closely by the Administration.

29. Mr YIU Si-wing said that the duration for the public to update their residential addresses or lodge claims for reinstating their registration was too short. He pointed out that many electors had the experience that when they realized that they had not yet reported changes of residential address after moving home, it was already too late to reinstate their registration as the statutory deadline was past. Mr YIU requested the Administration to consider shortening the period for VR so as to allow more time for the reinstating process.

30. CEO said that a similar concern on whether the statutory time frame could be suitably adjusted had been raised in the last legislative session. He explained that electors whose names were included in the omissions list and wished to reinstate their registration had to update their registered residential addresses or lodge a claim by the statutory deadline of 29 June 2012. If the statutory deadline was deferred, the date on which the final register would be published might also need to be deferred. This would then impact on the electioneering activities by candidates who would have less time to conduct such activities.

31. Dr Priscilla LEUNG said that she had raised concerns on privacy implications in previous discussion regarding the new measure of setting out

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electors by residential address in the voter register. In her view, this would have the effect of divulging co-habitation relationship under the same residential address which otherwise might not be easily identified if electors were only set out according to their names. She asked whether electors would be allowed to choose how their VR records were set out. CEO said that in providing for the publication of an additional version of the voter registers to set out electors in accordance with their principal residential addresses, REO had to strike a balance between upholding the accuracy and integrity of the VR system and safeguarding individual's privacy. The relevant amendment to the register format was provided for in the law. The issue might require careful consideration because the legislative intent would be compromised if electors were to be given an option.

Exit poll

32. Referring to paragraph 10.7 of the EAC Report, Ms Emily LAU said that while the organizations to conduct the exit polls were required to sign an undertaking not to release the results of the exit polls before the close of polls to the specified parties, EAC should look into whether the organizations concerned had contravened the undertakings signed and whether the sanction for such contraventions had sufficient deterrent effect.

33. CEO said that REO had taken note of the views relating to exit poll expressed by members in previous discussions and hence additional guidelines had been provided in the 2012 LegCo Election. He emphasized that in drawing up the guidelines to regulate the conduct of exit polls, it was necessary to avoid giving the impression that the guidelines were intended to undermine the freedom of expression and academic freedom. CEO further said that to ensure transparency, the list of the approved organizations to conduct exit polls was uploaded onto the election website and was displayed in a prominent place outside the polling stations for public inspection. In the event of a prima facie case of a possible breach of the undertaking signed by the organization concerned, the Administration would take it up with the organization which would have to bear the legal consequences.

Election Advertisements

34. In respect of the current regulatory regime on submission and declaration of EAs, Mr SIN Chung-kai considered that there might be room for exempting certain types of EAs from the cost declaration requirement such as those displayed through electronic means or social networking platforms on

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the Internet as the cost involved was only minimal. He said that the photos taken by a candidate of the activities organized by him might be uploaded onto the candidate's Facebook account and such photos should also be exempted from the relevant regulatory requirement. In his view, this would alleviate the workload of both the candidates and REO.

35. CEO said that the requirement of declaration of EAs was made for the purposes of ensuring the accuracy of all factual statements in the EAs as well as monitoring the election expenses. Mr SIN's views would be taken into account when REO examined if there was room for relaxation of the relevant requirements.

Allocation of designated display spots

36. Dr Priscilla LEUNG said that there were not sufficient display spots for candidates contesting in the geographical constituency ("GC") elections to display election publicity materials. CEO undertook to examine the issue in consultation with government departments concerned.

Election forums

37. In connection with the large number of candidates/lists of candidates contesting in the 2012 LegCo Election, Ms Cyd HO and Mrs Regina IP said that some academics had queried the existing arrangement whereby organizers of election forums had to provide equal time to all candidates according to the "equal treatment principle" in election-related programmes on the television and radio. They had raised concern on the effectiveness of these forums in enabling the public to understand candidates' election platforms since each candidate was given very limited speaking time. It was suggested that candidates could be arranged into small groups for a more meaningful discussion. Mrs IP said that some candidates were verbally insulted by members of other electioneering teams during some of the election forums. She urged the Administration to review the relevant arrangements. Ms HO suggested that EAC should consult the relevant stakeholders including political parties and academics on the possible improvement measures.

38. CEO noted the above concerns and undertook to examine the issues raised. CEO said that with regard to the "fair and equal treatment" principle, broadcasters were no longer mechanically required to give equal time to each of the candidates taking part in these forums as long as the principle of "fair and equal treatment" was not compromised. Regarding the suggestion of

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further relaxing the principle, e.g. whether every single list of candidates was bound to be invited to participate in the forums, CEO said that REO was open-minded in this regard and would conduct research and further listen to the views of the community on the matter.

Joint election mails for free postage

39. Mr CHAN Chi-chuen asked how the new arrangement for candidates to post joint promotional letters using the free-of-postage facility arrangement had achieved economy in the use of paper. CEO explained that the arrangement was intended to allow greater flexibility for candidates/lists of candidates to jointly promote themselves in multiple-seat constituencies and constituencies with overlapping electorate (as in the case of GC and DC (second) FC). While the arrangement was at the same time expected to help reduce the consumption of paper, CEO acknowledged that, judging from the experience in the 2012 LegCo Election, where as all contesting candidates had utilized their entitlement to sending a free election mail to electorates, the effect of reducing paper consumption was not apparent. Mr CHAN considered that the arrangement only favoured large political parties contesting in both GC and FC elections and was unfair to independent candidates and small political parties. CEO said that as a case had been filed to the court for a judicial review of the concerned electoral laws, he would refrain from making further comments.

Use of 'household' mailing labels

40. Dr Helena WONG considered that there was not enough flexibility allowed for GC candidates in the provision of mailing labels by REO as candidates could only choose between obtaining either 'individual' or 'household' mailing labels. Dr WONG said that for candidates including herself who had opted for the "household" mailing labels, they had difficulty in issuing election mails to electors of their constituency who resided in subdivided flats. Dr WONG said that in the 2012 LegCo Election, she had requested REO to provide her with 'individual' mailing labels for certain areas of her GC where many subdivided flats existed but her request had not been acceded to. Dr WONG requested REO to review the arrangement.

41. CEO said that REO had to work under constraints such as a very tight timeframe for the printing job and the large quantity of mailing labels required in the exercise. REO was therefore unable to make custom-made printing arrangements to suit the particular requirements of individual candidates.

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That said, REO agreed to consider if there was room for improvement in the delivery of election mails and the supply of mailing labels so as to allow candidates to have greater flexibility.

Polling arrangements and staff training

42. Dr Helena WONG expressed concern that some electors had complained that they were not given DC (second) FC ballot papers but only GC ballot papers in the 2012 LegCo Election. She requested CEO to provide the number of such cases and explain why this had happened.

43. CEO said that under the "one person, two votes" arrangement, a registered GC elector would be entitled to vote in the DC (second) FC if he was not already registered under the traditional FCs, unless the elector concerned had opted out from registering for the DC (second) FC. CEO said that the number of incidents reported to REO involving the problem mentioned by Dr WONG was not large. CEO said that it could be due to the fact that the elector concerned was already a registered elector of a traditional FC. Another possible reason was that the elector concerned had been an elector of a traditional FC but he later became ineligible for reasons such as change of membership in the specified bodies and it was too late to put him back as an elector of DC (second) FC. CEO undertook to consider whether any changes should be made to the future arrangements to cater for these situations.

44. Mr Steven HO said that some electors had reflected that the polling staff were not fully familiar with the polling and voting arrangement for FC elections. Apart from the situation mentioned by Dr Helena WONG above, Mr HO said that for the four special FCs which were subject to a different voting arrangement (i.e. an elector was to use the pen provided to mark the ballot paper to indicate his preference in descending order), some electors were not provided with the pen and had to use the chop (provided for the GC election) to stamp a 'tick' on the FC ballot paper. As a result, this had rendered their votes invalid. Mr HO asked whether adequate training on the relevant voting methods and procedures had been provided to the polling staff; and what measures would be taken to prevent recurrence of similar incidents in future elections. He added that REO should step up public education on the voting methods pertaining to the relevant FC elections to avoid the confusion mentioned above.

45. CEO said that before the election, REO had provided necessary training to all polling staff on the ballot paper issuing procedures and particular

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emphasis was given to the new DC (second) FC ballot paper and the need to be careful when issuing ballot papers to electors. Training sessions were held to equip the general polling staff with the necessary knowledge for discharging their duties. Referring to the incidents mentioned, CEO said that there could be room for improvement and REO would continue to strengthen the training of polling staff with a view to ensuring that they were fully familiar with all major aspects of the ballot paper issuing procedures.

Location of polling stations

46. Dr CHIANG Lai-wan noted that some electors were assigned to a polling station different from the DC election which was held less than a year ago. For example, electors in the Nam Cheong North constituency in the 2011 DC Election were assigned to the polling station at St. Francis of Assisi's English Primary School but in the 2012 LegCo Election, some of them were assigned to another polling station at Shek Kip Mei Community Hall. This had caused confusion to the electors concerned on the polling day, in particular electors who were elderly people. The Chairman considered that such changes of polling stations would cause confusion to electors and should be avoided as far as possible.

47. CEO said that an elector of a particular constituency would be assigned to a polling station close to his principal residence, and a polling station for a constituency was normally situated within the boundaries of the constituency. However, as DC constituencies were much smaller than LegCo GC, the polling station assigned to an elector in a LegCo election might be different from that assigned to the elector in a DC election.

48. Dr Priscilla LEUNG noted that some electors in Kowloon West GC, including electors who were elderly people or wheelchair users, were not assigned to polling stations located in their neighbourhood. She urged that the arrangement be reviewed or else it was tantamount to depriving electors of their voting right if the location of polling station was too remote or less accessible. CEO said that a total of 549 polling stations were assigned in the 2012 LegCo Election which was a record high figure. As to whether the number could be further increased, it would depend on factors such as the availability of suitable venues for setting up polling stations. Dr LEUNG considered that every effort should be made to tackle the accessibility problem of polling stations faced by elderly electors and where necessary, REO should consider re-allocating these electors to another polling station accessible to them.

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Seating arrangement for the public to observe vote counting

49. Mr YIU Si-wing considered that there was room for improvement in the seating arrangement in the central counting station in Asia World Expo ("AWE"). He said that the seats in the public gallery had been occupied by electioneering teams of political parties who had arrived earlier. Even when some seats were vacated later when some members of the public in the public gallery started to gradually leave the venue after the declaration of election results, other members of the public awaiting admission at the entrance were still denied entry until a complaint was lodged with the venue management.

50. CEO explained the public seating arrangement in the central counting station in AWE, including a designated area with about 1 400 seats for candidates and agents, and another designated public gallery with about 1 000 seats for the public to observe the counting of FC votes and declaration of election results. REO had also set up a reserve public seating area with 700 spare seats. CEO emphasized that crowd control and public safety were important considerations when regulating the admission of the public. A balance would need to be struck between public convenience and safety and the need to guard against any unwarranted disturbance or interference at the venue. Regarding the allocation of seats in the public gallery, CEO said that admission of the public was arranged on a first-come-first-served basis to ensure fairness. He said that the relevant arrangements would be reviewed in the light of the above concerns.

Electioneering at buildings

51. Mr NG Leung-sing enquired whether there were complaints about non-compliance with the principle of "fair and equal treatment" of all candidates on GC lists competing in the same constituency for the purpose of electioneering by building management bodies and the sanction imposed on established cases.

52. CEO said that there were instances in the 2011 DC Election where complaints of unfair or unequal treatment of candidates by building management bodies were received. In some cases, EAC publicly censured the concerned building management bodies for breaching the EAC guidelines. He said that not too many similar complaints were received in the 2012 LegCo Election. EAC would take any such complaint seriously and if it was satisfied that a blatant breach of the EAC guidelines was involved, it could issue a public statement to reprimand the management bodies concerned.

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Election-related complaints

53. Referring to Appendix XI(E) of the EAC Report, Ms Emily LAU noted that of the total 162 complaints received by the Independent Commission Against Corruption ("ICAC"), 130 were directly received from members of the public while 32 were referred from government departments or other parties. She asked about the progress of investigation and whether ICAC had the resources to deal with these complaints expeditiously. CEO responded that some cases were still undergoing investigation and the relevant results would be announced by ICAC upon completion of its investigation.

54. Mr TSE Wai-chuen enquired about the number of complaints in relation to dissemination of EAs through electronic means and whether they had to do with inadequacy of the guidelines provided in this regard. CEO said that there was a rising trend for EAs to be disseminated through electronic means. At present, irrespective of whether disseminated through electronic means, all EAs were subject to the same regulatory regime. CEO added that reference had been made to overseas experience and it was noted that, generally speaking, the control imposed overseas on the dissemination of EAs on the Internet was less stringent than in Hong Kong.

55. Referring to the CD-ROM containing electors' information provided by REO, Mr SIN Chung-kai said that some electors queried why their e-mail addresses were made known to candidates for electioneering purpose upon receiving the election publicity materials delivered to their e-mail account. As it was time-consuming for candidates to respond to individual electors, Mr SIN suggested that for future arrangement, REO should take the initiative to inform the registered electors before transferring the relevant information to candidates. CEO said that applicants upon new registration would be encouraged to provide their e-mail addresses which would be provided to the candidates of the constituencies concerned for the purpose of sending EAs, and it had been so indicated on the VR application form. He noted that some electors might not be aware of this possible use of the relevant data. In situations where electors had expressly indicated that they did not wish to have their e-mail addresses transferred to other parties, REO would accede to these requests.

56. Dr Priscilla LEUNG expressed concern that some unsubstantiated and trivial complaints had been referred by REO to ICAC for investigation and in her view it was a waste of the manpower of ICAC. CEO said that REO

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would make a referral to ICAC for follow up only after considering whether there was prima facie evidence to support the alleged offence.

57. In concluding the discussion, the Chairman said that members who had other suggestions or further views to make could provide their suggestions/views in writing to the Administration for follow-up after the meeting.

V. Concluding Observations by the United Nations Committee on the Rights of Persons with Disabilities on the Initial Report of the HKSAR of the People's Republic of China under the Convention on the Rights of Persons with Disabilities

[LC Paper Nos. CB(2)119/12-13(01), CB(2)335/12-13(02) and CB(2)347/12-13(04) to (26), CB(2)367/12-13(03) to (07), CB(2)381/12-13(01) to (11)]

58. Members noted that the United Nations Committee on the Rights of Persons with Disabilities ("the UN Committee"), after considering the Initial Report of HKSAR under the United Nations Convention on the Rights of Persons with Disabilities ("the Convention"), as part of the People's Republic of China's report, at its eighth session held in Geneva from 18 to 19 September 2012, had published the concluding observations on 11 October 2012 [Annex A to LC Paper No. CB(2)335/12-13(02)].

59. Members noted the updated background brief on this item prepared by the LegCo Secretariat [LC Paper No. CB(2)347/12-13(04)].

Presentation of views by deputations/individuals

The Hong Kong Joint Council for People with Disabilities / The Hong Kong Council of Social Service

[LC Paper No. CB(2)347/12-13(05)]

60. Ms Emily SHAM made a number of suggestions as detailed in the submission, including : (a) introducing "mainstreaming of the rights of persons with disabilities" in government policies to ensure that the needs and interests of persons with disabilities were fully taken into account; (b) standardizing the definition of "disability" in consultation with persons with disabilities, their families and relevant professions; (c) upgrading the ranking of the Commissioner for Rehabilitation ("C for R") and introducing an

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independent monitoring mechanism to ensure that HKSAR fully fulfilled its obligations under the Convention; and (d) setting up an inter-departmental working group led by CS to formulate and coordinate the implementation of policies to give effect to the Convention.

Concord Mutual-Aid Club

61. Mr HUI Wai-chun expressed concerns about the inadequate provision of rehabilitation services and job opportunities for ex-mentally ill persons to facilitate their integration into the community. The Comprehensive Social Security Assistance system had discouraged persons with disabilities from living with their family in order to satisfy the means test. He suggested that the Administration should set up a high level committee which would involve active participation of persons with disabilities and their representative organizations in its policy formulation. He said that the Mental Health Ordinance (Cap. 136) had contravened the principle of ensuring access for persons with disabilities to health services on 'free and informed consent' and should be amended accordingly.

Miss Sophie CHEUNG Hing-yee

62. Miss Sophie CHEUNG Hing-yee criticized the Government for failing to process her application for splitting of public rental housing tenancy in the spirit of the Convention. She was particularly concerned about Article 16 of the Convention which ensured the promotion of physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities through the provision of protection services. She urged the Administration to step up its efforts in ensuring the fundamental human rights of persons with disabilities.

Sustainability Research Centre

63. 晴女士 suggested that the Administration should provide adequate resources for conducting research on the specific needs of persons with disabilities, their parents and carers to address their needs. She stressed the importance of enhancing communication with persons with disabilities, such as by using ICQ instant messaging service for communication with hearing impaired persons. She also suggested that funding support should be provided for research work on "life education".

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HK Human Rights Monitor

64. Mr LAW Yuk-kai expressed appreciation of the efforts made by the Administration in improving barrier-free access and facilities for persons with disabilities. He stressed that it was equally important to enhance the accessibility of persons with disabilities to information and called on the Administration to take measures to facilitate the social integration of persons with disabilities. He considered it necessary to establish a high level committee to formulate and coordinate policies on persons with disabilities which straddled across various policy bureaux and to advocate "mainstreaming of the rights of persons with disabilities" in its work. He suggested that the Rehabilitation Advisory Committee ("RAC") should be reformed into a human rights committee for persons with disabilities with active participation of persons with disabilities to monitor the Government's fulfilment of its obligations under the Convention.

Chosen Parents' Network

[LC Paper No. CB(2)381/12-13(01)]

65. Ms Edith AU suggested that RAC should be renamed to reflect its role of monitoring the implementation of the Convention in HKSAR or else a dedicated committee should be set up to promote, protect and monitor the implementation of the Convention. Ms AU expressed grave concern about the new requirement of submitting proof of tax exemption and auditor's report in order to qualify for a lump sum subsidy for self-help organizations of persons with disabilities. She said that the mentally handicapped should enjoy equal opportunities in gaining access to information and urged the Administration to take concrete measures in this area.

Miss Carman TAM

[LC Paper No. CB(2)381/12-13(02)]

66. Miss Carman TAM requested the setting up of a human rights committee for persons with disabilities because RAC did not have a monitoring role over Government policies and services. Referring to paragraph 58 of the concluding observations, she said that the Women's Commission should include representatives who were women with disabilities and that its work should focus on "mainstreaming of the rights of persons with disabilities". She suggested that all publicity materials published by the Administration should be provided in audio, braille, sign language and easy-to-read formats to ensure equal access to information according to

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Article 9 of the Convention. Referring to paragraphs 67 and 68 of the concluding observations, she requested the Administration to review the functions of sheltered workshops and examine how employment opportunities for persons with disabilities could be enhanced. She also expressed concerns about the limited scope of care services provided by the District Support Centres for persons with disabilities and urged that more resources should be provided for the development of comprehensive and adequate community care services for persons with disabilities.

Mr CHAN Tsun-kit

67. Mr CHAN Tsun-kit considered that as the function of RAC was purely advisory and that rehabilitation was only a part of the Convention, the Administration should establish an independent monitoring mechanism to advocate "mainstreaming of the rights of persons with disabilities". He expressed concern about the lack of policy to address the needs of persons with autistic features and lack of support measure for students with disabilities in education and employment. He urged the Administration to take measures to facilitate early assessment and identification of students with disabilities or special needs (especially for those with autism and specific learning difficulties).

Mr LAI Tai-yiu

[LC Paper No. CB(2)347/12-13(06)]

68. Mr LAI Tai-yiu requested that the concluding observations should be provided in easy-to-read formats to facilitate reading by persons with intellectual disabilities. He called on the Administration to eliminate discrimination against persons with disabilities. He stressed that persons with disabilities should have the right to choose whether to live in community or in residential care places and their choice should be respected.

Chosen Power (People First Hong Kong)

[LC Paper No. CB(2)347/12-13(07)]

69. Mr CHOW Tak-hung suggested that persons with disabilities and ethnic minorities should be actively involved in the formulation of government policies, and their representatives should be appointed to the relevant advisory committees. In addition, a human rights committee should be set up to advocate "mainstreaming of the rights of persons with disabilities".

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Mr HUI Wai-man

[LC Paper No. CB(2)347/12-13(08)]

70. Mr HUI Wai-man said that the Administration should no longer regard the rights of persons with disabilities as a concern of welfare or rehabilitation. The Administration should establish an independent monitoring mechanism to protect, promote and ensure the rights of persons with disabilities. He also suggested that the LegCo should set up a dedicated committee to monitor the implementation of Government policies in compliance with the Convention. He considered that the productivity assessment was discriminatory against persons with disabilities and urged the Administration to enhance the job opportunities of persons with disabilities by providing financial subsidy to encourage employers to employ more persons with disabilities.

Democratic Alliance for the Betterment and Progress of Hong Kong

71. Mr YEUNG Hok-ming called on the Administration to provide barrier-free access and facilities to enhance mobility of persons with disabilities, consider setting up a dedicated committee to promote and implement the Convention, adopt the new International Classification of Functioning, Disability and Health ("ICF") introduced by the World Health Organization ("WHO") to meet the specific needs of persons with disabilities; extend the Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities to cover more target beneficiaries (e.g. covering people with a lower degree of disabilities and children with disabilities aged below 12) and more modes of public transportation, provide accessible transport services for persons with disabilities, retrofit more lifts at public walkways, provide financial subsidies and technical assistance to management committees of old private buildings to provide barrier-free access, increase the provision of residential care places for persons with disabilities, provide financial subsidy to carers of persons with disabilities, introduce a quota system for employment of persons with disabilities, and provide tax concession to encourage employment of persons with disabilities.

Mr Thomas LAI

[LC Paper No. CB(2)381/12-13(03)]

72. Mr Thomas LAI called on the Administration to consider establishing an independent dedicated committee to promote, implement and monitor the implementation of the Convention. The committee should include representatives of relevant government bureaux and departments and carry out

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research work on ways to better address the needs of persons with disabilities. In this connection, a list of proposed research topics was provided in his submission.

*Arts with the Disabled Association Hong Kong
[LC Paper No. CB(2)347/12-13(09)]*

73. Ms Janet TAM Mei-hing requested the Administration to devise a holistic policy to promote the development of inclusive arts in Hong Kong. She proposed that in assessing applications for financial assistance for arts programmes, the Administration should apply suitable assessment criteria with a view to encouraging the development of "inclusive arts" and achieving "diversity".

Labour Party

74. Mr LAW Wai-cheung emphasized that the Administration should look at issues concerning persons with disabilities from the perspective of human rights instead of welfare. He urged that a dedicated committee headed by CS should be set up to formulate and co-ordinate policies involving persons with disabilities and the committee should include representatives who belonged to different categories of persons with disabilities. He also expressed concern that the Commission on Poverty had not selected any topics relating to persons with disabilities for study.

1st Step Association

75. Mr YIP Kin-keung urged the Administration to follow up the recommendations made by the UN Committee in its concluding observations and to promote "mainstreaming of the rights of persons with disabilities" to ensure the full enjoyment of human rights by persons with disabilities. He proposed the establishment of a human rights committee to be responsible for the formulation of policies on persons with disabilities. He considered that the scope of service for persons with disabilities provided by the District Support Centres was too narrow which was limited to basic respite service, and the location was not convenient to persons suffering from severe physical disabilities. Regarding the legal definition of "disability", he suggested that the Administration should make reference to ICF introduced by WHO.

Mr TSANG Kai

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76. Mr TSANG Kai said that there were inadequate measures to support owners of old buildings to improve accessibility and many old buildings and premises failed to meet the requirements set out in the Design Manual - Barrier Free Access. According to the Convention, appropriate measures should be taken to ensure equal access for persons with disabilities to buildings, roads, transportation and other indoor and outdoor facilities. He urged that the relevant ordinance and manual should be amended to include also premises built before 1997. He further suggested that the Administration should offer financial subsidies and technical assistance to old private buildings and small commercial establishments to improve accessibility.

Centre on Research and Advocacy, HKSR
[LC Paper No. CB(2)381/12-13(04)]

77. Ms Anchor HUNG raised concerns about the eligibility for disability allowance and criticized that the Administration's response to the concluding observation fell short of public expectations. Pointing out that the review of the existing definition of "disability" in the Disability Discrimination Ordinance (Cap. 487) ("DDO") had been discussed by the Panel on Welfare Services at its meeting on 9 July 2007, Ms HUNG urged the Administration to take on board the views and suggestions made by persons with disabilities at that meeting. She also urged the Administration to set up the Centre of Excellence in Neuroscience as pledged by the former CE in his 2007 Policy Address.

Association of Women with Disabilities Hong Kong
[LC Paper No. CB(2)347/12-13(10)]

78. Miss CHAN Yuen-shan expressed concern that there were inadequate support measures for persons with disabilities to enable them to live independently in the community, citing an example that a wheelchair user whose request for taking her electric wheelchair together to the hospital had been rejected by the ambulance staff. She also expressed concern that medical facilities for women failed to cater for the needs of persons with disabilities. Of the 34 Woman Health Centres and Maternal and Child Health Centres, only a few provided gynaecological examination tables for women with disabilities and there were no weighing scales suitable for women with disabilities.

Rehabilitation Alliance Hong Kong
[LC Paper No. CB(2)347/12-13(11)]

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79. Mr TSUI Kai-ming criticized that medical and rehabilitation services provided by the Government failed to address the needs of persons with disabilities. He expressed concern about the absence of a relevant committee under RAC to look into the medical and education needs of persons with disabilities. He said that the Administration often attached greater importance to the views of the local residents in considering demands of persons with disabilities for community facilities, and would not accede to the latter's demands when they met local community resistance. He further suggested that a subcommittee should be set up under this Panel to monitor the implementation of the Convention.

Heep Hong Parents' Association
[LC Paper No. CB(2)347/12-13(12)]

80. Ms LEE Cheung-pui said that the Administration should increase the provision of pre-school places for children with disabilities to reduce the long average waiting time for pre-school training. She also urged that more resources should be allocated to improve the provision of support services for children with disabilities to help realise their potentials.

Mr MAK Hoi-wah
[LC Paper No. CB(2)381/12-13(05)]

81. Mr MAK Hoi-wah called on the Administration to put in more resources for provision of services for persons with disabilities as the level of government expenditure in this area was grossly inadequate when compared to that of overseas countries. He requested the Administration to promote the "mainstreaming of the rights of persons with disabilities". He considered that issues relating to the needs of persons with disabilities in education, medical services, welfare and barrier-free accessibility straddled across various policy bureaux and were not entirely within the purview of LWB. He pointed out that the students with disabilities studying in mainstream schools under the integrated education system did not receive adequate support service. He also made a number of suggestions on how to promote sign language in the community.

Hong Kong Association of the Deaf
[LC Paper No. CB(2)367/12-13(03)]

82. Miss LAU Lai-fong presented her views with the assistance of a sign language interpreter. She expressed concerns about the insufficient number

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of full-time sign language interpreters in Hong Kong and suggested that professional training and qualification certification system on sign language should be developed in the long run. She further expressed concerns that under the integrated education system, students with hearing impairment studying in mainstream schools were not given the right to choose whether to use spoken language or sign language; and there were inadequate support measures to assist these children in mainstream schools. She expressed concerns that there was little support for the development of disabled persons' organizations ("DPOs") (which were self-help organizations of persons with disabilities) and called on the Administration to review its subvention policy in recognition of the work of DPOs.

Folk Concern Group of Deaf
[LC Paper No. CB(2)347/12-13(13)]

83. Mr Ken CHEUNG presented his views with the assistance of a sign language interpreter. He urged the Administration to take heed of Article 5 of the Convention and to promote the use of sign language to facilitate communication of people with hearing impairment. He considered that favourable treatment was given by the Social Welfare Department ("SWD") to the Hong Kong Society for the Deaf. He said that there was lack of sign language support for students with hearing impairment in mainstream schools. He further urged that the Administration should resume its subvention to the Hong Kong Association of the Deaf; and that direct subsidy should be provided to individual DPOs.

Mr Michael CHOI Wai-hung
[LC Paper No. CB(2)367/12-13(04)]

84. Mr Michael CHOI Wai-hung presented his views with the assistance of a sign language interpreter. He gave an account of the difficulties in obtaining sign language interpretation service due to shortage of sign language interpreters in Hong Kong. He suggested that public transport facilities should be improved to aid hearing-impaired persons by providing traffic light countdown timer and installation of light signal in addition to sound signal upon door closing. Noting the successful application of a bilingual mode of teaching for children with hearing impairment under a sign bilingualism and co-enrolment programme, Mr CHOI emphasized the need for developing sign language for hearing-impaired students in mainstream schools.

Deaf Power

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85. Mr WONG Yiu-leung presented his views with the assistance of a sign language interpreter. He considered that a high-level committee should be set up to formulate and co-ordinate policies on issues involving persons with disabilities, and an independent monitoring mechanism should be established to protect and promote the rights of persons with disabilities according to the provisions under the Convention. He proposed that sign language should be made an official language; and professional qualification assessment should be introduced to facilitate its development. Besides, in the development of an integrated education system for the hearing-impaired students in mainstream schools, sign language interpretation and other support measures should be provided to ensure their equal access to information.

Professor LAM Wai-sze

[LC Paper No. CB(2)367/12-13(05)]

86. Professor LAM Wai-sze highlighted Articles 24(3) and 30(4) of the Convention on the importance of facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community. She supported adopting sign language as an additional medium of instruction alongside with spoken language for hearing-impaired children in their early childhood. She called on the Administration to take appropriate measures to provide sign language support to people with hearing impairment in all environments to facilitate their academic studies and social development.

Ms TAN Chung-yan

87. Ms TAN Chung-yan gave an account of the experience of her six-year old child with hearing impairment who had benefited from the combined use of sign and spoken languages in her school as the medium of instruction. She urged the Administration to adopt such mode of education in its policy on pre-school education for children with hearing impairment.

Centre for Sign Linguistics and Deaf Studies, Chinese University of Hong Kong

[LC Paper No. CB(2)381/12-13(06)]

88. Mr YIU Kun-man expressed concern that recent advancement in sign linguistics and sign language acquisition research had enabled a reconsideration of the role that sign language might play in bringing up hearing-impaired children. The role of sign language in educating

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hearing-impaired children should be clearly stated in the local education policies, and appropriate services and teacher training programmes should be developed accordingly. He urged that sign language support should be made available for hearing-impaired children.

Ms MAK Siu-fan

89. Ms MAK Siu-fan said that her daughter with a congenital hearing impairment could learn to speak after having a cochlear implant which helped overcome problems in the inner ear to enable better understanding of speech. In view of the high cost of repair of the cochlear implant device and accessories, Ms MAK requested the Administration to provide financial support to cover the cost.

Ms CHOI Tsz-wan

90. Ms CHOI Tsz-wan said that her daughter with a congenital hearing impairment had encountered difficulties in speech and the use of sign language had enabled her to better comprehend the content of teaching. Her daughter joined a sign bilingualism and co-enrolment programme at the age of six in the Kowloon Bay St. John the Baptist Catholic Primary School which implemented the sign bilingualism and co-enrolment model in a school setting. She considered that the teaching mode of mainstream schools failed to meet the needs of hearing impaired students.

Peace Evangelical Centre Kindergarten (Ngau Tau Kok)("PEC Kindergarten")

91. Ms Esther LI Lai-fan said that both oral and sign languages were used in PEC Kindergarten to assist hearing impaired children to learn and communicate more effectively. She noted that some children with hearing impairment had made improvements in their communication and learning through the bilingual mode of education. She called on the Administration to improve sign language teaching resources in mainstream education.

92. Members also noted the written submissions from individuals/organizations not attending the meeting [LC Paper Nos. CB(2)347/12-13(14) to (26), LC Paper Nos. CB(2)367/12-13(06) to (07) and LC Paper Nos. CB(2)381/12-13(07) to (11)].

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Discussion

Setting up an independent monitoring mechanism

93. Referring to paragraphs 83 and 84 of the concluding observations, Dr Fernando CHEUNG asked how the Administration would follow up the recommendations on strengthening the authority of C for R and introducing an independent monitoring mechanism according to Article 33(2) of the Convention that involved the active participation of persons with disabilities and their representative organizations.

94. Secretary for Labour and Welfare ("SLW") said that the Administration was reviewing the duties, responsibilities and ranking of the post of C for R, as well as the establishment and manpower of his/her team. The Administration expected to report the progress to the Panel in 2013. As regards the monitoring mechanism, SLW emphasized that RAC had been assuming the role of monitoring the implementation of the Convention in HKSAR in addition to assisting the Government in promoting the Convention. He said that the Chairman, Vice-Chairman and members of RAC were all non-officials and able to reflect the views of persons with disabilities. RAC comprised persons with different disabilities, parents of persons with disabilities, representatives from self-help organizations of persons with disabilities and NGOs providing rehabilitation services, etc. Representatives of relevant government bureaux and departments also served as ex-officio members to provide the necessary support to RAC and to follow up the issues raised by RAC as appropriate. The Administration considered that the existing framework had been effective in monitoring the implementation of the Convention in Hong Kong.

95. Ms Emily LAU and Ms Cyd HO, however, considered that RAC fell short of the expectations of persons with disabilities, who had all along demanded for the setting up of a dedicated committee to promote the rights of persons with disabilities. Ms HO further said that RAC was only an advisory body with no power on matters of resources deployment for the promotion and protection of the rights of persons with disabilities.

96. SLW explained that the functions of RAC were not restricted to welfare matters but also advising the Government on relevant policies to ensure perspectives of persons with disabilities were taken into account, and assisting the Government in promoting and monitoring the implementation of the Convention. He further explained that, with the Equal Opportunities

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Commission ("EOC") being the statutory and independent enforcement agency of DDO, and RAC being the principal advisory body of the Government on the rights and well-being of persons with disabilities, the Administration considered the existing monitoring mechanism appropriate. Ms Cyd HO expressed doubt about the effectiveness of the existing monitoring mechanism and pointed out that the UN Committee had expressed concern about the "rather passive role adopted by EOC..." in its concluding observations.

Educational measures to cater for the needs of students with hearing impairment

97. Ms Emily LAU urged the Administration to address the shortage of sign language interpreters and take active measures to meet the educational needs of children with hearing impairment in order to facilitate their development and integration into the community. She said that further to raising a question on assistance for people with hearing impairment at the Council meeting of 21 November 2012, she had also written to The LegCo Commission requesting it to explore the feasibility of providing sign language interpretation for all open meetings of LegCo and its various committees. Ms LAU considered that the lack of sign-language interpreters had hindered the promotion of sign language in Hong Kong.

98. SLW said that the Administration would strive to adopt appropriate measures to facilitate persons with disabilities in communication, including persons with hearing impairment in the use of sign language or alternative modes in communication with others. He further said that to promote the use of sign language and enhance social inclusion, a Working Group had been formed under RAC since May 2010 to advise the Government on ways to promote sign language. The Working Group would continue to examine issues relating to sign languages, such as the training and accreditation of sign language interpreters. In response to some deputations' view that sign language should be adopted by the Government as an official language, SLW said that the Working Group, having considered the views of various stakeholders, concluded that priority should be given to the promotion of sign language for the time being to facilitate popularisation and development of sign language. The question of whether sign language should be adopted as an official language would be examined after a common form of local sign language had evolved over time.

Job opportunities and wage level of persons with disabilities

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99. Ms Cyd HO and Mr LEE Cheuk-yan expressed concern about the UN Committee's view that the daily allowance for persons with disabilities in sheltered workshops was too low and "bordering exploitation". Ms HO further said that users with intellectual disabilities at varying degrees attending the sheltered workshops were all assigned to do the same kind of simple jobs which required little job skills and also provided little opportunities for learning or developing one's potentials. She considered that this was not conducive to helping these users develop their potential. Mr LEE said that the Administration also failed to tackle issues such as the high unemployment rate of disabled employees and the great disparity between their average wage level and that of able-bodied employees, and its initial response lacked information on any concrete measures in these areas. He said that although employees with disabilities had the right to invoke the productivity assessment under the Minimum Wage Ordinance (Cap. 608) ("MWO") for an assessment of their productivity in the authentic workplace so as to determine whether they should be remunerated at no less than the statutory minimum wage level or at a rate commensurate with their productivity, employees with disabilities seldom invoked the assessment for fear that they might be dismissed by their employers as a result. Mr LEE suggested that to address the problem, in situations where Government subsidies were involved, all the employees with disabilities should be arranged to take the productivity assessment. By the assessment, those who were found being underpaid should have their wage raised to a rate commensurate with their productivity, and no one would be paid less otherwise. Mr LEE also criticized that the Administration for refusing to introduce a quota system for employing persons with disabilities on the one hand and taking no measures to tackle the high unemployment rate of persons with disabilities on the other.

100. SLW said that employees with disabilities enjoyed the same entitlement to SMW as able-bodied employees, and the voluntary productivity assessment under MWO was introduced so as to strike a reasonable balance between providing wage protection to persons with disabilities and safeguarding their employment opportunities. As for the suggestion of introducing employment quotas for persons with disabilities, SLW explained that the Administration had not adopted it having regard to overseas experience where the implementation of mandatory quota systems had proved to be unsuccessful. Some countries had, in fact, abolished such systems and had, instead, strengthened provision of support measures to enhance the employment prospects of persons with disabilities. SLW said that in order to create job opportunities for persons with disabilities, SWD had granted seed money to

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non-governmental organizations for setting up small enterprises through the "Enhancing Employment of People with Disabilities through Small Enterprise Project" ("3E's Project"), and further injected \$100 million into the 3E's Project in early 2012 to sustain its momentum. In tandem, the incentive payment under the "Work Orientation and Placement Scheme" had also been enhanced. Besides, employers of persons with disabilities would be subsidized for procuring assistive devices and carrying out workplace modification works, thereby enabling persons with disabilities to work more efficiently and facilitating them to secure open employment. An employer would be provided with a maximum subsidy of \$20,000 for each employee with disabilities. SLW added that the Administration would continue to keep in view the need for adjusting the incentive payment for sheltered workshop users after taking into consideration changes in the Consumer Price Index (A) and relevant factors.

101. Mr YIU Si-wing considered that the rights of persons with disabilities should not be regarded as a welfare issue as the Administration had the obligation under the Convention to promote, protect and ensure the equal enjoyment of human rights and fundamental freedoms by all persons with disabilities. With regard to the provision of employment subsidies, Mr YIU asked whether the rate would be made variable with the degree of disabilities of the users concerned. He also asked whether there were plans to provide barrier-free access in private workplaces progressively.

102. SLW elaborated that under the "Work Orientation and Placement Scheme", participating employers would be granted an allowance for employing a job seeker with disabilities. The amount of allowance would be equivalent to two-thirds of the monthly salary of the employee with disabilities, with a ceiling of \$4,000 per month for a maximum payment period of six months, irrespective of the degree of the persons' disabilities. Besides, employers of persons with disabilities would be subsidized to procure assistive devices and carry out workplace modification works. A one-off subsidy of up to \$20,000 for each employee with disabilities would be offered to the employer. This had provided incentives to employers in employing persons with disabilities. On enhancing barrier free access of private premises, all new buildings and alterations and additions to existing private buildings were required to comply with the latest barrier-free design standards.

Medical and other services

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103. Noting that the Administration was considering introducing a voluntary health protection scheme in the future, Mr YIU Si-wing asked whether subsidies would be provided for persons with disabilities to pay for the insurance premiums. SLW said that while details of the scheme had yet to be worked out, there had been a large increase in Government's allocation of resources to improving the various services for persons with disabilities, citing the example that the total resources devoted to rehabilitation services had increased from \$16.6 billion in 2007-2008 to \$23.2 billion in 2011-2012, representing a 40% increase. He reiterated that the Administration was committed to discharging its obligations under the Convention and would devote more resources to meet the various needs of persons with disabilities with a view to building a caring and inclusive society.

Barrier-free access

104. Responding to deputations' concerns on "mainstreaming of the rights of persons with disabilities", SLW assured members that the issues faced by persons with disabilities were duly regarded as human rights issues and the needs of persons with disabilities would be fully taken into account by the Administration in its policy formulation and programme development. An example was that the Administration had followed up proactively the EOC's recommendations in its Formal Investigation Report on Accessibility in Publicly Accessible Premises published in June 2010 and had rectified the accessibility problems identified therein. The Government had taken forward a comprehensive retrofitting programme costing \$1.3 billion to upgrade the barrier-free facilities in 3 500 government venues and 240 Housing Authority properties, of which around 90% had already been completed in end-June 2012, while those for the remaining premises and facilities would be completed by end-June 2014.

Representation of persons with disabilities on relevant boards and committees

105. SLW said that the Administration would soon announce the appointment of a woman with disabilities to the Women's Commission. Besides, of the six Task Forces formed under the Commission on Poverty, the Special Needs Groups Task Force was set up to give special attention to persons with disabilities, ethnic minorities, single parents and new arrivals. SLW further said that Mr CHEUNG Kin-fai, the chairman of the Joint Council for People with Disabilities, would be appointed as the deputy chairman of the Special Needs Groups Task Force to provide expert advice on the needs of persons with disabilities. He assured members that issues

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relating to the rights of persons with disabilities would be duly considered in the Administration's policies.

VI. Any other business

106. There being no other business, the meeting ended at 6:30 pm.

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Legislative Council Secretariat
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