

立法會
Legislative Council

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LC Paper No. CB(2)1809/12-13
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 15 July 2013, 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 WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, 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 WONG Yuk-man
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon Alice MAK Mei-kuen, JP
Hon Dennis KWOK
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

**Members
absent** : Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon Christopher CHEUNG Wah-fung, JP

**Public Officers
attending** : Item II

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

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

Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional and Mainland
Affairs

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

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

Item III

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

Mr WONG Chun-to
Acting Principal Assistant Secretary for Constitutional and
Mainland Affairs

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

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

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. Information papers issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

II. 2013 Provisional Registers of Electors and related matters
[LC Paper Nos. CB(2)1565/12-13(01) to (03)]

2. Secretary for Constitutional and Mainland Affairs ("SCMA") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1565/12-13(01)] and its initial response to Ms Emily LAU's letter dated 5 July 2013 to the Administration [LC Paper No. CB(2)1565/12-13(02)]. Members noted that following the deadline for voter registration ("VR") on 16 May 2013, the 2013 Provisional Registers ("PR") of electors and omissions lists ("OL") were released on 14 June 2013 for public inspection. Registered electors who had changed their residential addresses or other registered particulars were required to notify the Registration and Electoral Office ("REO") by 29 June 2013 for updating. The Final Registers ("FR") of electors would be published on or before 25 July 2013. Chief Electoral Officer of REO ("CEO") further explained to members the key statistics relating to the 2013 PR.

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3. Members noted the background brief on this item prepared by the Legislative Council ("LegCo") Secretariat [LC Paper No. CB(2)1565/12-13(03)].

Discussion

2013 Provisional registers of electors

4. With reference to paragraph 12 of the Administration's paper, Mr LEE Cheuk-yan asked which functional constituencies ("FCs") took up the largest shares of the some 1 000 newly registered electors and the some 2 300 electors put into OL. CEO replied that the Education, Social Welfare and Information Technology FCs took up a relatively larger share. CEO pointed out that the net decrease of about 2 800 electors in the 2013 PR was largely due to electors of the geographical constituencies ("GC") failing to update or confirm their residential addresses in response to the inquiry letters issued by REO, thereby losing their GC elector status and consequentially their FC elector status as well. Another major reason was the switch of some 1 400 electors from traditional FCs to the District Council ("DC") (second) FC. CEO undertook to provide a breakdown by FCs on changes in the number of registered electors for members' reference after the 2013 FR was published.

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(Post-meeting note: The supplementary information provided by the Administration was issued vide LC Paper No. CB(2)1794/12-13(01) dated 12 September 2013.)

5. Referring to Ms Emily LAU's letter dated 5 July 2013 to the Administration [LC Paper No. CB(2)1565/12-13(02)], SCMA advised that the Administration intended to consult the Panel in November 2013 on proposals on extension of the inspection period of PR and on penalties concerning VR. The proposals were the remaining two recommendations in the Consultation Report on Improvement Measures of VR System. He added that no further public consultation on the two proposals would be conducted. Mr WONG Yuk-man expressed support for the proposal of extending the inspection period of PR as he considered that the existing two weeks' period was too short.

(Post-meeting note: The Administration's reply letter dated 2 August 2013 to Ms Emily LAU was circulated vide LC Paper No. CB(2)1711/12-13(01).)

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6. Ms Emily LAU asked about the implementation of VR by electronic means and of the new measure to provide candidates with an option to send election mails on a "household" basis. She added that candidates should be encouraged to distribute their election-related materials by electronic means for the sake of environmental protection. SCMA said that continuous efforts would be made to encourage the dissemination of election-related materials through email, and there was room for improvement in the work as only 12% of the registered electors had provided their email addresses to REO.

7. CEO supplemented that about 400 000 electors had provided their email addresses to REO. The email addresses would be provided to candidates for dissemination of election-related materials by electronic means in order to reduce paper consumption. He said that about half of the new VR applicants were willing to provide their email addresses for such purpose. There was also an online system to facilitate electors to provide or update their email addresses. Continuous publicity efforts would be made to encourage registered electors who had changed their personal particulars including email addresses to notify REO. CEO further pointed out that with the introduction of the new measure to provide candidates with an option to send election mails on a "household" basis in the 2012 LegCo Election, over half of the candidates had done so in that election. REO would continue to encourage candidates to make such arrangement in future elections.

8. Ms Emily LAU suggested that to promote environmental friendly election, the Administration should consider Mr Paul TSE's suggestion of provision of an allowance to candidates in the form of a voucher in lieu of free postage to provide financial incentive and more flexibility to candidates in distributing their election-related materials, or rebating the same amount of assistance to a candidate who had chosen not to send such letters to each elector in the constituency.

9. Mr IP Kwok-him said that in the 2012 LegCo Election, some electors were only aware of the removal of their names from FR on the polling day. These electors said that they had not moved home before. Mr IP proposed that after the publication of PR, REO should consider sending a notification letter to those electors who had been put into OL and to remind them to lodge a claim for resuming their registration before the statutory deadline.

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10. CEO advised that REO had introduced a new measure since 2012 whereby a reminder letter would be sent after the publication of PR to remind electors whose names were included in OL to make a claim or confirm or update their residential addresses before the statutory deadline in order to resume their registration. REO would also send emails to those electors at the same time if they had provided their email addresses to REO. SCMA said that a registered elector who had any questions regarding his VR status could call the REO hotline at 2891 1001. REO would also explore additional means by making use of information technology to facilitate electors to check their VR status. CEO advised that registered electors who did not receive the poll cards before the polling day should contact REO to ascertain their registration status.

11. Ms Starry LEE enquired about the number of electors who were ethnic minorities and whether VR forms had been prepared in their languages. CEO advised that there was no information on the number of registered electors who were ethnic minorities because applicants were not required to specify their ethnic origin in the form. To promote VR among ethnic minorities, publicity work targeting them had been carried out by the relevant non-government organizations. While the VR form was available only in Chinese and English, promotional materials in different ethnic minority languages were also made available through the non-government organizations. Moreover, REO would provide necessary assistance to VR applicants in completing the form if required. In response to Ms Starry LEE's enquiry, CEO said that the number of female registered electors was slightly higher than that of male electors.

12. Pointing out that FC electors could change to register under the DC (second) FC, Ms Starry LEE said that many FC electors, however, were not aware of their right to opt. CEO said that REO had issued a letter to each registered elector in 2012 explaining the VR arrangements for the new DC (second) FC in the 2012 LegCo Election. Depending on need, similar arrangements would be made in the future.

13. Ms Cyd HO expressed concern about the removal of some 210 000 electors' names from the 2012 FR, including some 40 000 electors in Hong Kong Island GC. She asked whether the Administration had succeeded in finding out the reasons for their removal and how many of them had applied for registration again.

14. SCMA advised that amongst the registered electors contained in the 2013 PR for GCs, some 6 300 had been deleted from the 2012 FR but had

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applied for registration again. He said that as reported before, REO had stepped up publicity efforts, such as issuing leaflets, riding on the water bills to all households, to appeal to eligible persons to register as electors and to registered electors who had moved home to update their residential addresses. The Administration reckoned that it might be due to the following reasons that a majority of the 210 000 electors whose names had been removed from the 2012 FR did not apply for registration again -

- (a) some no longer resided in Hong Kong;
- (b) some had moved home before the deletion of their names but had not provided updated residential addresses to REO; and
- (c) lacking the incentive to get re-registered as electors in a non-election year, or to avoid the inconvenience brought by the enhanced checking measures.

15. Dr Priscilla LEUNG echoed Ms Cyd HO's concern and queried how many of the 210 000 electors concerned were those who had retired outside Hong Kong or moved to live on the Mainland. In this connection, Dr LEUNG suggested that the Administration should publish pamphlets in simple and comprehensible wording to explain the voting eligibility of Hong Kong permanent residents who had retired outside Hong Kong or moved to live on the Mainland. She pointed out that many Hong Kong permanent residents had moved to live on the Mainland and did not have a residential address in Hong Kong. Some of them lived their retired life there while some still commuted to Hong Kong for work. However, these people were not sure whether they were still eligible to vote or not.

16. SCMA and CEO advised that generally speaking, it would be necessary to consider whether the person concerned was able to provide a genuine address in Hong Kong as his/her principal residential address for VR purpose, and whether the person concerned still maintained a connection with Hong Kong. REO would consider the relevant VR applications on a case-by-case basis and legal advice would be sought as and when necessary.

17. Referring to paragraph 6 of the Administration's paper on the slight decline in the registration rate of eligible young people aged 18 to 30, Mr WONG Yuk-man suggested that the Administration should enhance its publicity efforts in this regard. He requested the Administration to provide the registration rates of various age groups in neighbouring places for comparison. SCMA agreed to provide the requisite information for members' reference.

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(Post-meeting note: The supplementary information provided by the Administration was issued vide LC Paper No. CB(2)1794/12-13(01) dated 12 September 2013.)

18. Mr WONG Yuk-man said that the time gap of about four months between the statutory deadline for application for VR and the polling day was undesirable as many persons who only reached the age of 18 after the deadline had complained that they were unable to vote on the polling day. He expressed support for implementing automatic VR system, and requested the Administration to conduct a study on the technical problems envisaged.

19. Mr Paul TSE also considered that in order to encourage VR, the Administration should consider making better use of the smart identity card system and implementing interface of it with the VR system. For example, during re-registration of juvenile for adult identity card, the young person concerned reaching the age of 18 could be requested to register as an elector and to give consent to receiving election-related materials through his email address (if any) on the spot. Mr TSE further pointed out that under the Registration of Persons Regulations (Cap. 177A), a person who failed to update his personal particulars including his residential address under Regulation 18 (Duty to report corrections) was subject to a penalty. He said that stringent implementation of this statutory requirement would then save much of the trouble of verifying the registered residential addresses provided by electors for VR purpose and sending leaflets to appeal to registered electors who had moved home to update their residential addresses.

20. SCMA said that the "address" required to be provided under Cap. 177A might not fulfil the definition of the "only or principal residence in Hong Kong" under the electoral legislation. Nevertheless, the Administration would give thought to Mr TSE's suggestion and seek legal advice where necessary. He advised that at present, REO staff were deployed to the Immigration Department to encourage registration of the young persons concerned as electors during their re-registration of juvenile for adult identity card.

21. In response to Mr Paul TSE's request for information on statistics over the past three years on enforcement action taken against persons who failed to update their residential addresses in accordance with Cap. 177A, the Chairman requested the LegCo Secretariat to relay the request to the Security Bureau for provision of the information.

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(Post-meeting note: The supplementary information provided by the Administration was issued vide LC Paper No. CB(2)1784/12-13(01) dated 11 September 2013.)

22. Mr LEUNG Kwok-hung also expressed support for implementing automatic VR system for Hong Kong permanent residents reaching the age of 18. He believed that it was unlikely that people could, under the system, use the identity card of a deceased elector to vote. SCMA said that there was already a mechanism whereby REO would be informed by the Immigration Department of any registered electors who had passed away for REO's updating of the electoral register. He added that REO had implemented a series of enhanced checking measures since January 2012 to enhance the accuracy of information including electors' residential addresses in the voter registers.

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23. Dr Kenneth CHAN requested REO to provide the number of rejected applications for VR (including traditional FCs) and the reasons. CEO explained that there were not too many such cases which usually involved doubts in whether the applicant was a Hong Kong permanent resident or the applicant being unable to provide proof of residential address. He undertook to provide the requisite information after the meeting. Concerning applications from corporate electors, CEO said that to ensure accuracy of information on FC electors, REO would seek information from the specified bodies concerned for verifying the eligibility of each application for VR.

(Post-meeting note: The supplementary information provided by the Administration was issued vide LC Paper No. CB(2)1794/12-13(01) dated 12 September 2013.)

24. Mr Steven HO said that the Agriculture and Fisheries FC had a broad representation of the various sectors of the industry and it consisted of corporate electors. Mr HO asked how the Administration would encourage eligible persons to register as electors of traditional FCs. SCMA said that publicity efforts were made to encourage eligible persons to register as electors of FCs. REO also appealed to specified bodies to encourage their eligible members to register as electors of FCs.

25. Mr CHAN Chi-chuen was concerned about the low registration rate of young people and urged the Administration to step up publicity and public education. He considered that the period of the VR publicity campaign was

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too short and more innovative ways of publicity should be explored. He also expressed support for implementation of automatic VR for Hong Kong permanent residents reaching the age of 18. If this was not feasible, he considered that during re-registration of juvenile for adult identity card, the young person concerned could be requested on the spot to opt for registration as an elector.

26. CEO said that to encourage more young people to register as electors, particular efforts were made to reach out to young people through new media such as websites frequently visited by them and social media. REO continued with the school visit programme for secondary schools and gave talks on election and encouraged them to register as electors upon reaching the age of 18. Registration counters were also set up at all Registration of Persons Offices of the Immigration Department to assist young people reaching 18 years of age in registering as electors when they turned up at these offices to apply for or collect their adult identity cards. CEO said that publicity efforts would usually be rolled out one and a half months before the statutory deadline for VR application. In response to Mr CHAN's enquiry, CEO advised that the budget provided for VR publicity in 2013, being a non-election year, had been increased from some \$2 million to about \$6 million, as opposed to over \$10 million for an election year.

27. Ms Emily LAU called on the Administration to continue with its efforts against vote-rigging. In response, CEO said that 143 000 electors had undergone checking in 2013. 76 000 of them had been issued checking letters or inquiry letters under the statutory inquiry process, and some 27 000 of them had been put into OL.

Use of the electoral register and email addresses by LegCo Members for communication with their constituents

28. Dr Helena WONG suggested that in its further efforts in soliciting email address from electors, REO should also seek the electors' consent to the use of their information contained in the electoral register and their email addresses by LegCo Members to facilitate their contact with their constituents and for non-election related purposes. SCMA advised that in considering the proposal, it was necessary to address possible concerns by individuals who might be interested in running for future elections and would ask for the same personal particulars and contact information to facilitate their early contact with these constituents. Otherwise, there could be complaints that such use would give an undue advantage to incumbent LegCo Members.

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29. SCMA further said that the Administration had been providing resources to LegCo Members to help them communicate with their constituents and facilitate their work. SCMA explained that the Administration had to strike a careful balance in considering any additional arrangements that might be perceived as giving incumbent LegCo Members further advantages which might impact on the fairness of elections. Dr Helena WONG did not subscribe to the view that the proposal might give an undue advantage to incumbent LegCo Members or have the implication of impacting on the fairness of elections. She considered that if the argument stood, it might also be argued that the Government's provision of resources to LegCo Members to facilitate their communication with the constituents had in the same way given an undue advantage to incumbent LegCo Members and impacted on the fairness of elections. SCMA said that the Administration was mindful of any implications of the proposal on the protection of personal data and privacy of electors, and whether it would have the effect of deterring people from registering as electors.

30. Mr WONG Yuk-man expressed reservations about the above proposal on the same grounds as those explained by SCMA. He remarked that LegCo Members' contact should not be limited to their constituents and they should, instead, reach out to all Hong Kong people by conducting more visits to the local community. Mr IP Kwok-him also objected to the above proposal in view of the problems as explained by the Administration.

III. Issues in relation to display of roadside publicity materials during a DC by-election

[LC Paper Nos. CB(2)1565/12-13(04) and (05)]

31. Deputy Secretary for Constitutional and Mainland Affairs ("DSCMA") and CEO briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1565/12-13(04)]. Members noted the background brief prepared by the LegCo Secretariat [LC Paper No. CB(2)1565/12-13(05)].

Discussion

32. Members in general supported measures to ensure election would be held in a fair manner and had no specific comment on the Administration's proposal. However, members called on the Administration to step up

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enforcement against persons deliberately causing damage to posters or banners put up by political parties or LegCo Members/DC members and candidates. Stressing the need to uphold the five policy objectives in paragraph 11 of the Administration's paper, Mr Paul TSE asked about the Administration's consideration of some people's view that restrictions might need to be imposed on the display of publicity materials by all political parties during the by-election period in order to avoid giving any candidate an unfair advantage.

33. CEO advised that there was currently no restriction specifically imposed on the display of publicity materials by political parties on their activities. He briefed members that since the 2010 LegCo By-election, the Administration had allowed incumbent LegCo Members and DC members to retain their display spots allocated in the relevant constituencies during the by-election period on the basis that the five policy objectives mentioned in the Administration's paper would be upheld. As regards the above issue brought up by Mr Paul TSE, CEO advised that REO would like to listen to members' views on the need to impose any such restrictions, and if so, how. He added that it would also be necessary for the Administration to consider the implications of such restrictions, if introduced, on the freedom of expression. Mr Paul TSE said that he personally considered that given free-flow of information in Hong Kong, no candidates would obtain an unfair advantage simply through the display of publicity materials by the political party to which the candidate belonged. He added that he did not see the need to introduce additional restrictions in this regard.

34. Mr WONG Yuk-man said that while any person who was convicted of an offence under section 104A(1) ("Prohibition on display of bills or posters without permission") or 104B(1) ("Duty to maintain bill or poster in clean and tidy condition") of the Public Health and Municipal Services Ordinance (Cap. 132) might be ordered by the Court to pay for the cost of removing the relevant publicity materials, the time taken by the authority in issuing the demand note for payment of the penalty was often very long. As a result, some candidates in DC elections whose publicity materials had been removed were unable to declare the total cost amount in their election returns within the specified timeframe for making such declarations. These candidates also ran the risk of exceeding the ceiling of the election expense limit as the cumulative amount of penalty could be quite substantial, and they had to bear the extra costs for replacement of the destroyed items. Mr WONG called on the Administration to look into the problem and rectify.

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35. CEO said that generally speaking, the Food and Environmental Hygiene Department ("FEHD") was required to notify the owner concerned of the cost of removal of unauthorized roadside publicity materials within about two weeks. CEO agreed to explore with FEHD if the process could be expedited where necessary.

36. With regard to the requirement of seeking permission from the owner or occupier concerned for the display of election advertisements ("EAs") on private spots as mentioned in paragraph 3(b) of the Administration's paper, Mr WONG Yuk-man said that some candidates had encountered great difficulties in seeking permission when they intended to display EAs in those old tenement buildings without owners' corporations ("OCs"). CEO advised that for old tenement buildings without OCs, a candidate had to obtain the written consent from the owners concerned for the display of publicity materials. CEO added that clear election guidelines were available for reference by the owners/management of premises and organizations on handling applications for conducting electioneering activities in the respective premises.

37. Mr WONG Yuk-man further considered that it was unclear as to the criteria applied by the Housing Department ("HD") in granting approvals to the use of designated spots in public rental housing ("PRH") estates for display of publicity materials. He said that, e.g. in Nam Shan Estate, Pak Tin Estate and Tai Hang Tung Estate, priorities were given by HD to those applications submitted by the incumbent DC member of the constituency concerned. Mr WONG said that as he was not a DC member, he had not been allocated a display spot in PRH. He queried whether HD had exercised political censorship in the process. He requested the Administration to ensure fairness and transparency in HD's screening and approval process. Dr Priscilla LEUNG said that HD was bureaucratic in handling the relevant applications, which was not conducive to enabling a more diversified approach for publicity during elections. CEO advised that the arrangements for the display of publicity materials in PRH estates were outside the purview of REO. He undertook to relay members' views and comments to HD for consideration.

(To allow sufficient time for discussion, the Chairman directed that the meeting be extended by 10 minutes.)

38. Dr Priscilla LEUNG said that she also had the experience that her publicity posters were removed or destroyed by others shortly after they

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were displayed during the election period. In some cases, she had reported to the Police because some of her publicity banners and easy roll-up banners had been stolen. She considered that there was inconsistency on the part of the Administration in its handling of delayed dismantling of the publicity materials after the election period or those which had been misplaced. She said that it was her experience that she had been penalized for only a short delay in dismantling the publicity materials after the election period, whereas some candidates had not been penalized even though their delay was far more serious. CEO pointed out that the existing electoral regulatory measures were devised to ensure that elections were conducted in a fair and impartial manner. The Administration would follow up on members' concerns and ensure consistency in the enforcement of the relevant measures.

IV. Any other business

39. There being no other business, the meeting ended at 4:40 pm.

Council Business Division 2
Legislative Council Secretariat
24 September 2013