

Panel on Constitutional Affairs

List of outstanding items for discussion
(position as at 17 October 2013)

	<u>Proposed timing for discussion</u>
<p>1. The question of "important bill" under Article 50 of the Basic Law</p> <p>The Panel discussed the question of "important bill" under Article 50 of the Basic Law at a number of meetings since late 1999.</p> <p>The Panel noted the Administration's position on the following issues -</p> <ul style="list-style-type: none">(a) what constitutes an "important bill";(b) who determines whether a bill is important;(c) when to determine whether a bill is important; and(d) procedures and parties involved in the consultations under Article 50.	<p>To be decided by the Panel</p>
<p>2. Role and development of political parties</p> <p>The Panel held a discussion on the need to introduce a political party law at its meeting on 21 February 2005 and received views from deputations on the role and development of political parties at a special meeting on 26 February 2005.</p> <p>The Administration's position was that the introduction of a political party law would hinder the development of political parties. As one of the means to facilitate the development of political party and political talent, the Administration had increased the financial assistance subsidy rate to candidates in the 2008 LegCo election to \$11 per vote. The subsidy rate for the 2012 LegCo election has been further increased to the lower of \$12 per vote or 50% of the election expenses limit provided that the amount of financial assistance payable would not exceed the declared expenses of candidates. With the passage</p>	<p>To be decided by the Panel</p>

of the Electoral Legislation (Miscellaneous Amendments) Bill 2011 on 6 July 2011, the financial assistance subsidy rate to candidates in the 2011 District Council ("DC") election has been increased to the lower of \$12 per vote or 50% of the election expenses limit provided that the amount of financial assistance payable would not exceed the declared expenses of candidates. The election expenses limit for the DC election has been increased from \$48,000 to \$53,800.

3. Composition, functions and operation of the Electoral Affairs Commission ("EAC")

On 21 June 2004, the Research Report prepared by the Research and Library Services Division of the LegCo Secretariat ("RLSD") on "Operation of Electoral Regulatory Bodies in Selected Places" [RP04/03-04] was presented to the Panel. Members agreed to further explore the issues raised in the Research Report in future.

To be decided
by the Panel

4. Usage of electoral register

In September 2007, Hon Margaret NG requested the Panel to discuss whether the Administration should review and amend the relevant subsidiary legislation to allow Members returned by election to use the relevant information in the electoral register for communication with their constituents while they were in office, and to require corporate and professional bodies of Functional Constituencies ("FCs") to provide the necessary assistance to FC Members.

To be decided
by the Panel

The Panel followed up the issue at its meetings on 19 November 2007 and 18 February 2008. In response to members' request, RLSD had prepared an Information Note on "Usage of electoral register" [IN05/07-08] which was considered by the Panel on 18 February 2008. At the meeting, some members expressed the view that the information contained in the electoral register should be released for use for purposes other than a purpose related to an election, e.g. to communicate with electors after the election. Members' views have been relayed to EAC for consideration. The Panel further discussed the subject with the Administration on 15 July 2013.

[Note : As this item was discussed at the Panel meeting on 15 July 2013, the Administration suggests removing this item from the list.]

5. Submission of reports by the Hong Kong Special Administrative Region ("HKSAR") Government to the United Nations under international human rights treaties

The Administration advised in March 2009 that Central People's Government ("CPG") had commenced the preparation of China's combined third and fourth report under the Convention on the Rights of the Child ("CRC"). The Panel discussed the outline of the second report of HKSAR on 20 April 2009, and met with deputations on 18 May 2009. The second report of HKSAR was submitted to United Nations ("UN") in July 2010 (as part of the combined third and fourth report of China) and published by UN in May 2012. The related hearing was conducted on 26 and 27 September 2013 in Geneva. The Panel received public views on the second report of HKSAR on 18 March 2013. Members agreed to discuss the relevant concluding observations with deputations and the Administration on 18 November 2013.

As and when those reports are submitted by the People's Republic of China ("China") to UN and published [Constitutional and Mainland Affairs Bureau ("CMAB") & LWB]

At the Panel meeting on 18 January 2010, the Administration briefed the Panel on the outline of the topics to be included in HKSAR's third report under the International Covenant on Economic, Social and Cultural Rights ("ICESCR"). The Panel received public views on the outline of topics on 10 February 2010. The HKSAR's third report which forms part of the second report of China was submitted to UN in June 2010 and made available to the public on 21 October 2010. The Panel discussed the third report on 20 December 2010. Members agreed to receive public views on the report upon confirmation of the date of the UN hearing.

The Panel received public views on the outline of the topics to be included in the HKSAR's third report in the light of the International Covenant on Civil and Political Rights ("ICCPR") on 21 June 2010. The HKSAR's third report has been submitted to UN and was made available to the public on 23 September 2011. The Panel discussed the report on 21 November 2011. The related hearing was held on 12 and 13 March 2013 in Geneva. The Panel received public views on the third report on 18 February 2013, and discussed the relevant concluding observations with deputations on 20 May 2013.

China's 10th to 13th combined report under the International Convention on the Elimination of All Forms of Racial

Discrimination ("ICERD"), of which the report on HKSAR formed a part, was submitted to UN in June 2008. After discussion of the report on HKSAR on 15 December 2008, the Panel further received public views on 15 June 2009. UN hearing was held in August 2009. The Administration briefed the Panel on the concluding observations on 16 November 2009. The Panel received public views on the concluding observations on 11 December 2009.

UN Human Rights Council has initiated a Universal Periodic Review ("UPR") of all UN member states. The hearing on China, which covered HKSAR, was held on 9 February 2009. The Panel discussed the section on HKSAR of the report of CPG to UN and received public views on 19 January 2009 and the Administration reported outcome of the hearing on 7 July 2009. The second UPR on China is scheduled to take place on 22 to 25 October 2013. The Panel discussed and received public views on the proposed outline of topics to be included in the report on 18 February 2013.

The reporting responsibility of the third report of HKSAR under the Convention on the Elimination of All Forms of Discrimination Against Women falls under the purview of the Labour and Welfare Bureau ("LWB"). The Panel discussed and received views from the public on the outline of topics to be included in third report on 19 July 2010. The HKSAR's report was submitted to UN as part of China's combined seventh and eighth report in January 2012, and has been made available to the public since 24 May 2012. In line with established practice, the report will be examined by UN Committee on the Elimination of Discrimination against Women at a hearing scheduled for October 2014.

Before the hearing of the Report by UN [LWB]

Under the Convention on the Rights of Persons with Disabilities, HKSAR (the reporting responsibility falls under the purview of LWB) is required to submit a report as part of China's combined report to UN within two years after the entry into force of the Convention for HKSAR on 31 August 2008, i.e. August 2010. Thereafter, HKSAR is required to submit reports at least every four years. The Panel received public views on the outline of topics to be included in the initial report on 19 March 2010. The HKSAR's initial report was submitted to UN in August 2010 and has been made available to the public since 25 November 2010. In anticipation of a UN hearing on

China's combined report, the Panel discussed the HKSAR's initial report with deputations on 18 June 2012. The UN hearing was held from 18 to 19 September 2012. The Panel discussed the Administration's initial response to the concluding recommendations and received views from the public on 17 December 2012.

6. Amendments to the Sex Discrimination Ordinance (Cap. 480) ("SDO") and the Disability Discrimination Ordinance (Cap. 487) ("DDO") proposed by the Equal Opportunities Commission ("EOC")

The Race Discrimination Bill passed on 10 July 2008 has incorporated one of the amendments proposed by EOC, i.e. to extend the definition of sexual harassment in SDO to cover conduct which created a sexually hostile or intimidating environment at an educational establishment. As regards the other amendments proposed by EOC in August 2011, the Administration has pointed out that those amendments which were more technical in nature would be taken forward by way of the Statute Law (Miscellaneous Provisions) Bill in the 2013-2014 legislative session. Other proposals might have more far-reaching implications and hence had to be further considered. In particular, the Administration briefed the Panel on its follow-up on EOC's legislative amendment proposal relating to the scope of protection against sexual harassment under SDO on 17 June 2013.

To be confirmed
[CMAB]

7. Discrimination issues relating to sexual orientation and gender identity

When the Panel discussed the subject on 18 January 2010, the Administration undertook to report progress on the relevant issues to the Panel in due course.

To be confirmed

8. Post-office employment control of politically appointed officials

The Panel on Public Service ("the PS Panel") discussed the Report of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants ("the Review Committee") at its special meeting on 13 July 2009. The Review Committee has recommended to the Chief Executive ("CE") in its Report

To be confirmed

that a separate review should be carried out on the post-office employment control of politically appointed officials. The PS Panel has referred the subject to this Panel for follow-up and requested that its members be invited to join the future discussion of the subject.

9. Implementation and review of the Race Discrimination Ordinance (Cap. 602) ("RDO")

In response to an email from 15 organizations and individuals requesting to give views on the implementation and review of RDO at a Panel meeting, the Panel agreed on 21 February 2011 to discuss the subject at a future meeting.

To be confirmed

10. Management of government records

At its meeting on 17 May 2010, the Panel discussed with the Administration and received views from deputations on "Code on access to information and management of public records". At the suggestion of Hon Emily LAU, members agreed on 18 April 2011 that the Panel should further discuss the management of government records.

To be confirmed
[Admin Wing/
CMAB]

At its meeting on 21 November 2011, members agreed that the Panel should follow up on the relevant issues after the Public Accounts Committee ("PAC") had completed its consideration of Report No. 57 of the Director of Audit, a chapter of which was on records management work of the Government Records Service.

The PAC Report No. 57 was tabled at the Council meeting of 15 February 2012. PAC did not hold any public hearing on this subject, but sought written response to its enquiries. PAC was concerned, among other issues, about the compliance with mandatory record management requirements by bureaux and departments, the criteria for selection of archival records and manpower of the Government Records Service, etc. PAC considered that there were a number of issues to be sorted out which might be related to the Government's overall policy on records management. The relevant issues have been referred to the Panel for consideration.

At the meeting on 20 May 2013, Dr Hon Kenneth CHAN proposed to discuss issues relating to the enactment of an archives law and legislation on freedom of information. The Administration was requested to revert to the Panel on the timeframe for the studies by the two subcommittees of the Law Reform Commission on the topics of archives law and access to information. The Administration provided the information on 6 June 2013 [LC Paper No. CB(2)1309/12-13(01)].

11. Press freedom

At the meeting on 17 October 2011, members agreed to discuss the Administration's initiatives to safeguard press freedom at a future meeting. The Administration undertook to co-ordinate its response in respect of the media's concerns about their reporting work. To be confirmed

12. Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests

At the meeting on 4 June 2012, the Administration undertook to provide a paper on its plan to implement the recommendations of the report and the relevant time-table. The Administration provided a paper on the implementation progress [LC Paper No. FC136/11-12(01)] on 18 June 2012. The Panel agreed to discuss the implementation of the recommendations at a future meeting. To be confirmed

At the meeting on 19 November 2012, Ms Emily LAU referred to the Administration's letter dated 16 November 2012 to the Panel on the CE's declaration of interests [LC Paper No. CB(2)227/12-13(01)], and proposed that the Panel should follow up on the relevant issues.

At the Council meeting of 5 December 2012, a LegCo question was raised by Hon Dennis KWOK on "Regulatory system for prevention and handling of potential conflicts of interests concerning CE". The Chief Secretary for Administration ("CS") replied that the Administration was actively following up the remaining recommendations and would consult LegCo on the recommendations on amending the Prevention of Bribery Ordinance once there was further progress.

Hon Emily LAU has proposed to follow up on the above CS' reply, and the revisions already made to the Code for Officials

Under the Political Appointment System in the light of the recommendations of the report.

13. Functions of the Central Policy Unit ("CPU")

At the meetings on 19 November 2012, 17 December 2012 and 21 January 2013, some members proposed to discuss the subject as soon as possible. The Administration advised that an explanation was made by CS regarding the role and functions of CPU, especially on the aspects of coordinating appointments to the advisory and statutory boards and committees, at the special meeting of the House Committee on 23 November 2012 and at the Council meeting of 28 November 2012. At the request of the Panel, the Administration has also provided a written response [LC Paper No. CB(2)569/12-13(01) dated 24 January 2013].

To be confirmed

14. Research report on nomination and voting procedures governing presidential elections in selected places

At the request of the Panel, the Research Office of the Secretariat has prepared a draft research report on the nomination and voting procedures governing presidential elections in selected places. The scope of the study covers the presidential elections in France, Poland, the United States and Singapore.

To be confirmed