

立法會
Legislative Council

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LC Paper No. CB(2)273/15-16
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

**Minutes of special meeting
held on Wednesday, 30 September 2015, 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 Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon CHAN Kam-lam, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS
Hon IP Kwok-him, GBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Claudia MO
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin, BBS
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon Alice MAK Mei-kuen, BBS, JP

Dr Hon KWOK Ka-ki
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan

**Members
absent**

: Hon LEUNG Yiu-chung
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon Cyd HO Sau-lan, JP
Hon CHAN Kin-por, BBS, JP
Hon CHEUNG Kwok-che
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Yuen-han, SBS, JP
Hon Tony TSE Wai-chuen, BBS

**Public Officers
attending**

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

Mr Ronald CHAN Ngok-pang
Under Secretary for Constitutional and Mainland Affairs

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

Mr Ryan CHIU Pit-ming
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
Registration and Electoral Office

Mr Ivan LEUNG Man-fung
Government Counsel
Department of Justice

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

Staff in attendance : Mr Kelvin LEE
Senior Assistant Legal Adviser 3

Miss Cindy HO
Senior Council Secretary (2) 3

Miss Connie AU
Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

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I. Voter registration ("VR") system
[LC Paper Nos. CB(2)2141/14-15(01) and (02)]

At the invitation of the Chairman, the Under Secretary for Constitutional and Mainland Affairs ("USCMA") and the Chief Electoral Officer ("CEO") of the Registration and Electoral Office ("REO") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)2141/14-15(01)]. Members noted the updated background brief prepared by the Legislative Council ("LegCo") Secretariat [LC Paper No. CB(2)2141/14-15(02)].

Discussion

Concerns on VR matters and directions of review

2. Mr WONG Kwok-hing expressed concern that an incumbent District Councils ("DC") member found that a third person had impersonated her and

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submitted a form to REO for changing her registered address by using a forged signature. Miss Alice MAK pointed out that the DC member concerned had last updated her registered address only in March 2015. She questioned why it did not catch the attention of REO's staff when REO received another application from that DC member for updating again her registered address in June 2015. She was concerned whether REO had sufficient manpower to ensure stringent implementation of the checking and verification process. Ms Starry LEE urged REO to strengthen the verification of registration particulars when handling new VR applications or applications for updating particulars by electors. In response to Ms Starry LEE's enquiry, CEO said that a total of 23 suspicious cases involving submission of fraudulent particulars by suspected bogus electors discovered after the publication of provisional register ("PR") had so far been referred to the relevant law enforcement agencies for investigation and follow-up. Miss Alice MAK asked whether the above DC member was still eligible to seek candidature for the forthcoming DC election. CEO replied that, as long as the DC member concerned remained a registered elector, the eligibility for candidature should not be affected by the incident.

3. The Secretary for Constitutional and Mainland Affairs ("SCMA") said that to address public concerns over VR issues, the Administration had identified possible ways for improvement as detailed in paragraph 31 of the Administration's paper, which included advancing the statutory deadlines of the VR cycle, and introducing the requirement for provision of address proof when submitting new VR applications or applying for change of registration particulars ("proposed requirement for address proof"). CEO said that REO would also explore how to further improve the checking arrangements, including reviewing the scope and frequency of various checking measures and enhancing cross-matching with other Government departments, so as to improve the accuracy of registration particulars.

4. Mr IP Kwok-him suggested that when handling an application for updating registered address, REO should contact the elector concerned by telephone to confirm his/her submission of the application before processing it further. CEO responded that electors would be encouraged to provide their email address, phone number or any other communication means to REO as far as possible. REO would consider issuing a message to the electors concerned via mobile phone or email (if the phone number/email address was provided) to acknowledge receipt of such applications in future.

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5. Regarding the proposal of advancing the statutory deadlines of the VR cycle, USCMA explained that at present, the publication of PR preceded the statutory deadline for electors to apply for change of registration particulars. There were views that the current arrangement might render the public unable to view the updated particulars of all electors in PR. Criminals might make use of this period of time to impersonate electors and change registration particulars of those electors with malice, without being discovered timely. It was suggested that the deadline for applying for updating the registration particulars should be advanced to coincide with the deadline for submitting new VR registrations, i.e. before PR was published. By doing so, all requests for updating registration particulars filed in that VR cycle would be reflected in PR for public inspection.

6. With reference to paragraph 4 of the Administration's paper, Dr KWOK Ka-ki considered that some proposals that had failed to receive public support in the last round of public consultation, e.g. the proposed requirement for address proof and raising the penalties for VR-related offences, should be re-considered in order to improve the VR system. Ms Claudia MO considered that the proposed requirement for address proof (such as water/electricity/gas bills) would effectively tackle the problem of provision of false addresses for VR.

7. SCMA said that the proposed requirement for address proof was dropped in light of the reservations expressed by the public and LegCo Members in the last round of public consultation. He said that the proposal might warrant reconsideration to address recent public concerns. Mr LEE Cheuk-yan, however, objected to the proposed requirement for address proof as he believed that many young people would have practical difficulties in producing address proof. He said that some young people had been unable to open bank accounts also for this reason.

8. Mr IP Kwok-him expressed concern that as many as 1 451 electors in respect of whom objections had been made in the 2015 VR cycle. He and Mr CHAN Kam-lam called on the Administration to take measures to prevent abuses of the objection mechanism. They suggested that objectors should be required to provide concrete evidence in lodging an objection. Ms Claudia MO considered it unfair that under the existing objection mechanism, once an objection was made in respect of an elector even without sound justification, the elector concerned would still have to attend the hearing. She urged the Administration to review the mechanism and the relevant arrangements to seek improvement.

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9. SCMA pointed out that in the 2015 VR cycle, there was a substantial increase in the number of notices of objections received by REO, and the number of electors objected jumped from 86 in the 2011 VR cycle to 1 451 in the 2015 VR cycle (there was no objection case in 2013 and 2014). He said that some members of the public had also suggested that the threshold for lodging objection should be raised in order to prevent abuses. Mr SIN Chung-kai, however, expressed doubt as to what justification would still need to be provided by an objector if what he complained was that the registered address was apparently one which did not exist (e.g. an address in a demolished building). Mr LEE Cheuk-yan said that public inspection and the existing mechanism for making claims and objections was an important part of the VR system to prevent "vote-rigging". He considered it unfair to criticize the objectors that they had abused the objection mechanism. However, he agreed that cases where the electors' registered addresses were already confirmed to be correct after investigation by REO might not need to be passed to the Revising Officer ("RO") for hearing so as to minimize impact on the electors concerned and avoid overloading the Judiciary. The Chairman made the same suggestion. In response to Mr LEE Cheuk-yan's enquiry, USCMA confirmed that according to the existing statutory procedures, the Electoral Registration Officer ("ERO") must deliver copies of notices of objection to RO for hearing and ruling.

10. Mr WONG Yuk-man considered that the accuracy and integrity of the registers of electors could only be maintained through REO's stringent verification work as well as public inspection and the mechanism for making claims and objections. He urged REO to make sustained efforts in strengthening its verification procedures. With reference to paragraph 9 of the Administration's paper, he expressed concern that REO was only able to remove about 41 600 electors' registration status out of 82 600 electors for whom REO had initiated the inquiry process. He asked whether REO had discovered signs of organized crime among the 41 600 electors' cases. CEO replied that there was no such sign and added that most of these electors were removed of their registration status because they failed to respond to the inquiry letters for updating their registration particulars. In response to Mr WONG's enquiry on whether suspicious cases were detected among those 1 152 electors dismissed by the court, CEO said that REO would follow up on suspicious cases if identified and, following the hearings, 10 suspicious cases had been referred to the relevant law enforcement agencies for investigation.

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11. Mr WONG Yuk-man considered that REO should not only play the role of rendering assistance to RO to facilitate him/her to arrive at a ruling. Instead, REO should bear the responsibility of investigation. CEO explained that it was the responsibility of ERO to ensure the accuracy of the register of electors under the current mechanism. In order to facilitate RO to arrive at a ruling, REO would, if time and circumstances allowed, initiate investigation (including cross-matching the relevant entries with relevant departments such as the Housing Department ("HD") and the Buildings Department ("BD")) and render assistance to RO as far as possible in terms of making clarifications and verifications of the relevant registration particulars. Mr WONG Yuk-man added that he was supportive of most of the directions of the Administration's review as set out in the Administration's paper.

12. Mr Albert HO pointed out that among the 1 451 electors involved in the notices of objection, after the hearing, RO had ruled that objections against 299 electors were allowed and their entries be deleted from the register of electors. Moreover, RO had ruled that the registered addresses of 315 electors required updating. He considered that these figures reflected the inaccuracy of the register of electors and urged REO to strengthen verification procedures. In respect of the 315 electors whose registered addresses required updating, CEO said that these electors were entitled to vote in the constituencies for which they were registered, as there was no provision to bar or disqualify the electors from voting although they had moved to a new address without informing REO. He explained that it was not in breach of the law for a registered elector not to report to REO his new address after moving home. Dr CHIANG Lai-wan considered that there was no need to require REO to devote resources to identifying cases just involving failure to report changes of registered address after moving home, as the elector concerned could only vote in one DC constituency area and there was no unfairness.

13. Referring to paragraph 31(c) of the Administration's paper, Mr Alan LEONG sought details of the Administration's plan to further improve the checking arrangements. SCMA said that consideration would be given to establishing a database of existing buildings in Hong Kong to facilitate detection of false addresses in buildings that did not exist or did not have the floor levels as shown in the registered addresses. CEO supplemented that apart from the on-going measure of conducting cross-matching exercise with HD, the Hong Kong Housing Society and the Home Affairs Department ("HAD") with a view to updating the addresses of

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registered electors, REO would explore further if more up-to-date information on buildings already demolished/vacant buildings pending demolition could be made available from BD and the Urban Renewal Authority. REO would also explore the feasibility of expanding the cross-matching work with more departments. Mr IP Kwok-him and Mr LEUNG Kwok-hung expressed support for establishing the aforementioned database to facilitate the checking and verification work of REO.

14. Dr KWOK Ka-ki expressed concern that there was a substantial increase in the number of applications for updating registered addresses. He and Mr CHAN Chi-chuen also expressed concern as to whether sufficient measures were taken to prevent elderly persons living in elderly institutions from being impersonated in VR without their consent. CEO replied that there were a total of about 5 000 electors living in some 200 elderly homes. These electors were covered by REO's checking measures under the category of multiple electors or multiple surnames of electors registered with the same residential address. In the past VR cycles, REO had checked against those electors who had reported elderly homes as their residential address and required them to provide written confirmation that the relevant address was their only or principal residence. CEO said that following the above checking measure conducted on some 3 000 elderly home residents in the 2015 VR cycle, six cases had been referred to the law enforcement agencies for investigation and follow-up as the electors concerned claimed that they had not submitted relevant VR applications.

15. Dr KWOK Ka-ki enquired about the number of home visits conducted by REO and what had been done to deal with electors who failed to provide their contact information apart from their residential addresses to REO. CEO said that around 70% of the registered electors had provided their phone numbers and over 400 000 of the registered electors had also provided their email addresses to REO. REO would step up publicity efforts to encourage electors to provide their phone numbers or other communication means to REO. In the 2015 VR cycle, HAD had assisted in conducting home visits to some 10 000 electors who had not provided other contact information to remind them to respond to the inquiry letters before the statutory deadline.

16. Mr Paul TSE pointed out that under the Registration of Persons Regulations (Cap. 177A), a person who failed to update his personal particulars (including his residential address) was subject to penalties. He

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considered that if this statutory requirement had been stringently enforced, much of the verification work of REO would have been saved. USCMA said that the "address" required to be provided under Cap. 177A might not fulfill the definition of the "only or principal residence in Hong Kong" under the electoral legislation. The Chairman expressed worry that imposing penalties on failure to report changes of registered particulars for VR might prompt some registered electors to apply for de-registration in order to avoid trouble.

17. Mr WONG Kwok-hing enquired about the number of electors residing in public housing estates ("PHEs") whose names had been removed from the final registers. He believed that PHE tenants seldom moved homes. CEO advised that about 41 600 electors' registration status had ultimately been removed due to their failure to respond to the REO's inquiry process, including about 23 000 electors whose registered addresses were situated in PHEs.

18. Dr Priscilla LEUNG requested the Administration to clarify the voting eligibility of Hong Kong permanent residents who had moved to the Mainland but still commuted to Hong Kong to work. Regarding the VR requirements for Hong Kong permanent residents who resided on the Mainland, CEO advised that the main considerations included whether the person concerned was able to provide a genuine address as his/her principal residential address for VR purpose and maintained a close connection with Hong Kong. REO would consider each application on its own merits and seek legal advice from the Department of Justice, if necessary. In response to Dr CHIANG Lai-wan's enquiry about the situation that certain electors might have more than one place of residence in Hong Kong, SCMA advised that there was no need to count the number of days that an elector stayed in a residence, but the address provided by the elector should be his/her only or principal residence in Hong Kong.

Implementation timeframe

19. In response to Ms Claudia MO's enquiry on the implementation timeframe, SCMA said that the Administration aimed to come up with concrete proposals on improvement measures for implementation, hopefully, in the VR cycle prior to the 2016 LegCo General Election. He agreed to revert to the Panel on such proposals at a future meeting to further consult members for their views.

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II. Any other business

20. There being no other business, the meeting ended at 4:50 pm.

Council Business Division 2
Legislative Council Secretariat
13 November 2015