

立法會
Legislative Council

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LC Paper No. CB(2)967/15-16
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 21 December 2015, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, JP
Hon CHAN Kin-por, BBS, 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 NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin, BBS
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, 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
Hon Tony TSE Wai-chuen, BBS

Member attending : Hon WU Chi-wai, MH

Members absent : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon CHAN Kam-lam, SBS, JP
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon James TIEN Pei-chun, GBS, JP
Hon SIN Chung-kai, SBS, JP

Public Officers attending : Items II and III

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

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

Mr Gordon LEUNG Chung-tai, JP
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

Item IV

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

Mr Gordon LEUNG Chung-tai, JP
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

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

Staff in attendance : Mr Timothy TSO
Senior Assistant Legal Adviser 1

Miss Cindy HO
Senior Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

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I. Information paper(s) issued since the last meeting

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

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)466/15-16(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 18 January 2016 at 2:30 pm -

(a) briefing on the Chief Executive's ("CE") 2016 Policy Address; and

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- (b) review on the election expenses limits for the 2016 Election Committee ("EC") subsector elections and the 2017 CE election.

III. Enhancement of voter registration ("VR") system

[LC Paper Nos. CB(2)466/15-16(03) and (04)]

3. At the invitation of the Chairman, the Secretary for Constitutional and Mainland Affairs ("SCMA") took members through the salient points of the Consultation Document on Enhancement of VR System ("Consultation Document").

Accuracy of registration particulars

4. Referring to the incident that a candidate of the 2015 District Council ("DC") election (who was also a serving DC member then) had been impersonated by a third party to submit a form to the Registration and Electoral Office ("REO") for changing her registered address by using a forged signature, Mr WONG Kwok-hing asked about the verification procedures of REO and what would be done to prevent recurrence of similar incidents. SCMA said that the following proposed measures would help address the problem -

- (a) advancing the statutory deadline for updating registration particulars to before the publication of the provisional register and omissions list, i.e. to align with the deadline for new registration; and
- (b) enhancing publicity to encourage electors to use the Online Voter Information Enquiry System to check their VR status and particulars.

5. The Chief Electoral Officer ("CEO") of REO said that when there was an elector who claimed that a third party had impersonated him/her to submit an application form to REO for changing his/her registered address by using a forged signature, REO would normally invite the elector concerned to its office to confirm that the form was not signed by him/her. REO would then refer the suspected case to the Police for investigation and rectify the registered address of the elector concerned.

6. Miss Alice MAK urged REO to strengthen the verification of registration particulars when handling new VR applications or applications for updating

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particulars. Apart from sending notifications to electors for applications for change of registered address by post upon completion of processing, CEO said that REO planned to remind the relevant electors via short message service ("SMS") or electronic mail (if available) at the same time that their registration particulars had been updated. She also considered that the proposal of requiring electors to provide the previous registered address for application for change of address was not a very useful means to prevent fraudster from impersonating other electors.

7. Ms Starry LEE welcomed the proposal of enhancing communication channels with electors as well as changing to use ordinary surface mail for all inquiries and notifications. She suggested that REO should also explore the use of other means of contact to communicate with electors, including SMS, email and paying home visits whenever appropriate.

8. Mr WONG Yuk-man expressed support for the proposed new measures to further improve the checking arrangements. He considered that some of them should have been explored when the Administration decided not to pursue the proposal of introducing the requirement of address proofs in the last review exercise. In response to Mr WONG's concern, CEO said that the Administration would consult the Office of the Privacy Commissioner for Personal Data ("PCPD") when it considered the feasibility of the proposal of verifying at the same time whether electors' address information was correct or not when REO conducted full-scale checking with the Housing Department and the Hong Kong Housing Society in the future.

Address proofs and penalties on VR offences

9. Some members including Ms Cyd HO, Ms Emily LAU, Mr IP Kin-yuen, Mr CHAN Chi-chuen, Mr WONG Yuk-man and Mr Dennis KWOK expressed support for the proposal of requiring applicants to submit address proofs when submitting applications for new registration or change of registration particulars. Mr WONG Yuk-man considered it necessary for the Administration to clearly specify the types of documents which would be accepted as address proofs and to allow discretion to be exercised on a case-by-case basis. Mr WONG also suggested that the penalties on VR-related offences should be raised for repeated offenders. SCMA agreed to consider Mr WONG's suggestions. Mr Dennis KWOK asked whether persons such as street sleepers would be able to register as electors under this proposal. SCMA said that the VR arrangement for street sleepers had been made through non-governmental organizations. CEO supplemented that REO would consider applications for

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registration by street sleepers if supporting information could be provided by a trustworthy third party like a registered social worker to ascertain their usual place of residence.

10. Noting that the documents accepted by REO as address proofs included address proof of another person who resided with the elector concerned at the registered address together with a declaration made by the elector, Ms Cyd HO asked how to prevent conspiracy to provide false information on the registered address. SCMA said that the penalties for offences concerning the provision of false information in VR were proposed to increase from the current maximum penalties of a fine of \$5,000 and imprisonment for six months to a fine of \$10,000 and imprisonment for two years in order to enhance the deterrent effect. Ms Cyd HO stressed that it was most important to allocate adequate resources to REO to ensure its effective implementation of the procedures for verifying the registration particulars. Ms Emily LAU said that the Democratic Party supported raising the penalties to a level sufficiently high to achieve a deterrent effect. She also considered that the Government should allocate adequate resources to REO to enable it to conduct more random sampling checks on electors in order to restore the public confidence in the VR system. In reply to Mr IP Kin-yuen's enquiry, CEO said that random sampling checks were conducted on about 3% of the registered electors in an election year.

11. Mr IP Kwok-him said that the proposed requirement of address proofs required careful consideration as it might discourage eligible persons from applying for registration. He said that some people were unable to produce water/electricity/gas bills bearing their names as such documents might bear the names of their family members instead. Expressing support for raising penalties for VR offences, Mr IP considered that the proposed increases were, however, too small to achieve sufficient deterrent effect.

12. While expressing support for the proposal of raising penalties for VR offences, Ms Starry LEE also expressed reservations about the proposal on address proofs. She urged REO to conduct adequate checks targeted at new applications/applications for change of registered address. CEO said that REO had all along conducted random checks on such applications. However, if a large number of applications especially those for new registration were received only within one to two weeks before the deadline, there might not be enough time to conduct the checks as it would take time for the applicants to respond to REO.

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Review of the objection mechanism

13. Ms Emily LAU expressed objection to the proposal of uploading the information of the objection cases to the REO's website, including the names of the objectors. She considered that the proposed arrangement might exert pressure on the objector and deter persons from making objections. She requested the Administration to provide figures to prove whether the existing objection mechanism had been susceptible to abuse. SCMA and CEO explained that during the 2015 VR cycle, the number of notices of objection received by REO had surged when compared with past cycles. It was noted that some objections had been raised without advancing sufficient justifications and the objector was not required to attend the hearing to state his/her case. It was against this background that the Administration proposed to review the objection mechanism. CEO advised that during the 2015 VR cycle, the total number of electors being objected to was 1 451. After the hearings, the Revising Officer ("RO") allowed the objections against 299 electors who were hence deleted from the registers of electors, while the remaining objections in respect of 1 152 electors were dismissed and the registration status of these electors was maintained. Among the dismissed objections, REO had followed up with relevant electors to confirm the accuracy of their registered addresses, and about 100 of these electors could not be contacted by REO before the hearings. CEO said that REO had continued to follow up with such electors to confirm their addresses.

14. Ms Emily LAU requested the Administration to explain further the proposal to specify in the law that the burden of proof rested on the objector. She considered that an objector would have practical difficulties to conduct investigation as it might involve entry into another person's flat and to produce evidence to support his/her objection.

15. SCMA said that the Administration's initial views were that it was justified to prescribe in the law that objectors should bear the burden of proof and should be required to appear at hearings so as to facilitate RO to better understand the justifications for the objections. CEO explained that by doing so, the information provided by the objector to explain the grounds of his/her objection would also facilitate the investigation by REO before the hearings and RO to make rulings. Ms Emily LAU considered it only reasonable to require an objector to provide reasonable grounds for his/her suspicion but not to require the objector to conduct investigation and produce evidence. SCMA said that if this proposal was adopted, the concrete wording of the relevant amendment to implement this proposal could be further discussed during the legislative process.

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16. The Chairman considered that the Administration was obliged to review the objection mechanism with a view to plugging loopholes and preventing abuses by objectors who made objections without much information or grounds of his/her suspicion. He added that the penalties handed down by the court in some convicted cases of vote-rigging also included imprisonment, which in his view should be able to achieve deterrent effect.

Cases involving elderly institutions

17. Dr Helena WONG and Mr CHAN Chi-chuen expressed concern about the need to take measures to prevent VR registration of elderly persons residing in elderly homes without their knowledge. Mr CHAN said that volunteers of certain bodies/organizations had been allowed to conduct visits to elderly homes for VR registration purpose. He suggested that the Administration should issue guidelines requesting elderly homes to keep records on those visits, and to forward any letters issued by REO to the elderly persons residing in those homes to their family members. Dr WONG suggested that penalties might need to be introduced for non-compliance with the guidelines. Ms Emily LAU proposed that only staff of the elderly homes or relatives of the elderly electors should be authorized to take these electors to the polling stations.

18. SCMA said that the "Clean District Council Election Information Booklet" published by the Independent Commission Against Corruption had been disseminated to operators of elderly institutions through the Social Welfare Department ("SWD"). CEO added that before the 2015 DC election, SWD had issued a letter to remind the elderly institutions about the guidelines to be observed in handling applications for conducting election-related activities on the premises. Any decision should comply with the fair and equal treatment principle. Furthermore, elderly institutions had to comply with the code of practice relating to the operation of residential care homes issued by SWD. In response to Dr Helena WONG's enquiry, CEO said that complaints about abused use of personal data for VR would be referred to PCPD for follow-up. He took note of Mr CHAN Chi-chuen's suggestion on the need to provide further guidelines to operators of elderly institutions and agreed to follow up with SWD.

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19. Mr WONG Yuk-man questioned why only six cases involving elderly home residents had been referred to the enforcement agencies. CEO said that these cases had been referred to the law enforcement agencies on the instruction

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of RO as the electors claimed that they had not submitted relevant VR applications. He said that other suspicious cases, if identified, would also be referred to the law enforcement agencies for follow-up.

Undelivered poll cards

Admin 20. Dr Helena WONG enquired about the number of poll cards which had been undelivered and returned to REO and the outcome of REO's follow-up action. CEO said that following the 2015 DC election, REO had so far received about 50 000 to 60 000 undelivered poll cards. REO would follow up with the electors concerned to update their registered addresses. Dr WONG suggested that REO should liaise with property management companies to solicit their support for setting up collection boxes in housing estates, and REO should also educate the general public that wrongly addressed poll cards should be returned to REO. CEO agreed to appeal to property management companies for their support in returning any undelivered poll cards to REO.

Admin 21. Dr Helena WONG expressed concern that some electors had changed their registered address frequently in the past VR cycles. CEO advised that such records could be tracked through REO's database. He agreed to look up the information after the meeting.

22. Mr NG Leung-sing enquired about the figures on new registration by different age groups. SCMA said that the registration rate of eligible young people aged between 18 and 20 was 49.9%, and that of eligible young people aged 18 and 30 was 64.4% (as compared to 59.7% in 2014).

IV. 2016 VR campaign

[LC Paper Nos. CB(2)466/15-16(05) and (06)]

23. The Under Secretary for Constitutional and Mainland Affairs ("USCMA") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)466/15-16(05)]. He said that the budget for publicity activities of the 2016 VR campaign was about \$17 million, representing an increase of \$5 million when compared with the 2012 VR campaign, or an increase of \$0.5 million when compared with the 2015 VR campaign.

Admin 24. Mr CHAN Chi-chuen requested the Administration to provide in writing a breakdown of expenditures of the 2012 and 2015 VR campaigns. He and Mr WONG Yuk-man considered that more innovative ways should be explored

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to target young people aged between 18 and 30 for new registration. Mr CHAN suggested that consideration could be given to sponsoring community organizations to organize more VR promotional activities at the district level. Noting that DCs had been allocated funds on an annual basis to implement community involvement activities, Mr WU Chi-wai proposed that VR could be made a theme of relevant activities. Mr WONG Yuk-man suggested implementing automatic registration, which would also save the Administration's efforts to encourage VR. USCMA said that efforts had been made in recent years to reach out to young people through new social media platforms (e.g. Facebook, YouTube and Yahoo) to encourage young people to register as electors. Various activities as detailed in paragraph 14 of the Administration's paper would also be carried out to encourage more young people to register.

25. Mr Christopher CHEUNG expressed concern that while there was an increase of 186 000 geographical constituency electors, there was a decrease of 3 200 functional constituency ("FC") electors according to the 2015 final registers. He urged the Administration to take measures to promote VR in FCs. USCMA said that various measures would be adopted to encourage VR in FCs, including sending appeal letters and notification letters to encourage and facilitate eligible persons to register as electors/voters in FCs/EC subsectors; appealing to umbrella organizations to encourage their members who were eligible for registration in FCs/EC subsectors; and placing advertisements on websites/journals of umbrella organizations in FCs. Ms Emily LAU and Mr LEUNG Kwok-hung said that a total of 16 Members of FCs were returned uncontested in the 2012 LegCo election. They considered that people were not interested in registering as electors of FCs, which were just "small-circle" elections. Ms LAU called for abolition of FCs as soon as possible.

26. Mr WU Chi-wai said that some electors had told him that once they had provided their email addresses to REO, they would no longer be provided with hardcopies of the election advertisements ("EAs") sent by candidates. CEO explained the present arrangement that the address labels provided by REO to candidates for sending EAs to electors by post did not include electors who had provided their email addresses to REO and the email addresses of such electors would be included in a separate mailing database for candidates to send out their EAs electronically. Mr WU considered that electors should be allowed to indicate their preference for receiving hardcopy or softcopy of EAs.

(To allow sufficient time for discussion, the Chairman directed that the meeting be extended for 15 minutes beyond the appointed time.)

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27. Ms Starry LEE said that VR publicity measures should target eligible persons of all age groups. She requested REO to widely publicize the new statutory deadline for updating registration particulars. She also expressed support for the checking measures set out in the Administration's paper to enhance the accuracy and completeness of registration particulars. She added that publicity messages should also include the penalties on VR-related offences in order to achieve deterrent effect. USCMA said that the 2016 VR campaign would also include promoting the use of the Online Voter Information Enquiry System or REO's telephone hotline to check registration particulars/VR status, and the importance of providing true and accurate information for registration.

V. Any other business

28. There being no other business, the meeting ended at 4:45 pm.

Council Business Division 2
Legislative Council Secretariat
25 February 2016