

立法會
Legislative Council

Ref : CB2/PL/CA

LC Paper No. CB(2)131/16-17

(These minutes have been cleared
with the Chairman)

Panel on Constitutional Affairs

Minutes of meeting
held on Friday, 28 October 2016, at 11:15 am
in Conference Room 1 of the Legislative Council Complex

Members present : Hon Martin LIAO Cheung-kong, SBS, JP (Chairman)
Hon Holden CHOW Ho-ding (Deputy Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP

Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Jeremy TAM Man-ho
Hon Nathan LAW Kwun-chung
Dr Hon YIU Chung-yim

**Members
absent** : Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon LEUNG Kwok-hung
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Dr Hon KWOK Ka-ki
Hon Dennis KWOK Wing-hang
Hon IP Kin-yuen
Hon CHUNG Kwok-pan
Hon CHU Hoi-dick
Hon YUNG Hoi-yan
Hon Kenneth LAU Ip-keung, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Dr Hon LAU Siu-lai

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

**Staff in
attendance** : Miss Flora TAI
Assistant Secretary General 2

Miss Cindy HO
Senior Council Secretary (2) 3

Miss Karen LAI
Council Secretary (2) 3

Miss Connie AU
Council Secretary (2) 6

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I. Election of Chairman and Deputy Chairman

Election of Chairman

Mr James TO, the member present who had the highest precedence, presided over the election of the Chairman of the Panel. Mr James TO said that due to shortage of time at the last meeting, the nomination procedure had not been completed yet. He said that among the four members nominated for the chairmanship at the last meeting, Miss Tanya CHAN, who had been elected as the Chairman of the Panel on Environmental Affairs for the 2016-2017 session, could not be nominated for the chairmanship of this Panel according to Rule 77(7) of the Rules of Procedure. Therefore, the number of valid nominations (Mr Martin LIAO, Dr LAU Siu-lai and Mr Sixtus LEUNG¹ being the candidates) was three.

2. Mr James TO invited other nominations for the chairmanship. Mr LAM Cheuk-ting was nominated by Mr Alvin YEUNG and the nomination was seconded by Mr WU Chi-wai. Mr LAM Cheuk-ting accepted the nomination.

3. Mr CHAN Hak-kan requested to put on record his view that Dr LAU Siu-lai and Mr Sixtus LEUNG, who had not fulfilled the oath-taking requirement in accordance with the Oaths and Declarations Ordinance (Cap. 11), should not be accepted as a candidate. Mr LUK Chung-hung expressed similar concern. Mr James TO responded that he had made his ruling in this regard at the last meeting.

¹ According to the Judgment of the Court of First Instance of the High Court on 15 November 2016, Mr Sixtus LEUNG Chung-hang and Miss YAU Wai-ching have been disqualified from assuming the office of a member of the Legislative Council ("LegCo"), and have vacated the same since 12 October 2016, and are not entitled to act as a member of the LegCo.

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4. Mr James TO announced a vote by secret ballot. The result of the vote was that 31 members voted for Mr Martin LIAO, two members voted for Dr LAU Siu-lai, one member voted for Mr Sixtus LEUNG and 14 members voted for Mr LAM Cheuk-ting. Mr TO declared Mr Martin LIAO elected as the Chairman of the Panel for the 2016-2017 session. Mr Martin LIAO then took the chair.

Election of Deputy Chairman

5. The Chairman called for nominations for the deputy chairmanship of the Panel. Mr Holden CHOW was nominated by Mr LO Wai-kwok and the nomination was seconded by Mr Steven HO. Mr Holden CHOW accepted the nomination.

6. Mr LAM Cheuk-ting was nominated by Mr WU Chi-wai and the nomination was seconded by Mr Kenneth LEUNG. Mr LAM Cheuk-ting accepted the nomination. No further nominations were made.

7. The Chairman announced a vote by secret ballot. The result of the vote was that 30 members voted for Mr Holden CHOW and 16 members voted for Mr LAM Cheuk-ting. The Chairman declared Mr Holden CHOW elected as the Deputy Chairman of the Panel for the 2016-2017 session.

II. Schedule of meetings for the 2016-2017 session

8. Members agreed that the Panel would continue to hold its regular meetings on the third Monday of each month from 2:30 pm to 4:30 pm except the meetings in January and April 2017. Members also agreed that as the third Monday of April 2017 was a public holiday, the regular meeting of that month should be re-scheduled to 19 April 2017 at 2:30 pm. Members agreed to adopt the proposed meeting schedule tabled at the meeting.

III. Items for discussion at the next meeting

[LC Paper No. CB(2)72/16-17 (01) – (02)]

9. Members noted the "List of issues suggested to be considered" and the "List of follow-up actions" tabled at the meeting. The Panel agreed to discuss the following items proposed by the Administration at the next meeting on Monday, 21 November 2016, at 2:30 pm:

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- (a) revision of fees under the Registration of Local Newspapers Ordinance; and
- (b) practical arrangements of the 2017 Chief Executive ("CE") Election.

Issues raised by members

Constitutional development, voting eligibility and 2016 Legislative Council Election

10. Dr Helena WONG opined that the constitutional reform should be reactivated, and requested the Administration to brief the Panel on its plan in this regard.

11. Dr Priscilla LEUNG requested the Administration to clarify the voting eligibility of Hong Kong permanent residents who resided and worked in the Mainland as it remained unclear whether these people were entitled to vote in public elections in Hong Kong.

12. Regarding the 2016 LegCo Election, Mr CHAN Chi-chuen and Dr Helena WONG expressed grave concern about the requirement of completing a Confirmation Form as part of the nomination procedure. Dr WONG also expressed concern about the occurrence that many electors had been stranded in long queues outside some small polling stations. Dr Fernando CHEUNG expressed concern that at some polling stations, there were obvious discrepancies between the cumulative voter turnout figure and the number of actual ballot papers counted. Pointing out that electors living in elderly homes were reportedly taken by the staff there to the polling stations to cast their votes, Dr CHEUNG considered that the Administration should address the matter. Dr CHEUNG and Ms Starry LEE expressed concern that some electors eligible to vote in the District Council ("DC") (second) functional constituency election had been refused to be issued with the ballot papers for that election.

13. Mr Charles Peter MOK suggested that the Administration should enhance the application of information technology in the ballot paper issuing process with a view to shortening the time for verifying the identity of electors. Dr CHIANG Lai-wan expressed concern that some candidates had announced their "withdrawal of candidature" a few days before the polling day and yet they had appealed to the electors to cast their vote to one to two particular candidates. In her view, this was unfair to the other

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candidates. She also opined that the nomination threshold for the geographical constituency election was too low and should be reviewed. She further said that some civil servants required to work at the polling stations had told her that due to the long polling hours, they had been unable to cast their vote as they had to work at the polling station. She suggested that the Administration should explore shortening the polling hours in light of overseas experience.

14. Mr SHIU Ka-chun said that some electors had complained to him that the eligibility for registration as voters of the Election Committee subsector elections remained unclear and clarifications should be made by the Administration.

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

15. Miss Tanya CHAN considered that there was urgency to discuss the above report as the current term of office of CE was drawing to an end. Mr LAM Cheuk-ting was also concerned whether the Administration had any plan to implement the recommendations made in the above report so as to make them binding on the new CE upon his/her taking office on 1 July 2017. Dr Fernando CHEUNG proposed to discuss extending the application of sections 3 and 8 of the Prevention of Bribery Ordinance (Cap. 201) to CE as soon as possible.

Equal Opportunities Commission

16. Mr CHAN Chi-chuen suggested that the Panel should discuss the adequacy of government subvention to the Equal Opportunities Commission ("EOC"). He was concerned whether EOC had adequate funding to cover its recurrent expenditure and maintain smooth operation. Dr Helena WONG proposed that the Panel should also discuss the adequacy of the funding set aside by EOC for litigation purpose.

17. Mr CHAN Chi-chuen and Miss Tanya CHAN proposed that the Panel should discuss the Administration's action taken to follow up the findings of the EOC Report on Study on Legislation against Discrimination on the Grounds of Sexual Orientation, Gender Identity and Intersex Status published in January 2016. Miss Tanya CHAN and Mr Holden CHOW also expressed concern about the Administration's action taken to follow up the proposals of EOC arising from its Discrimination Law Review.

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Management of government records and freedom of information

18. Miss Tanya CHAN, Dr Fernando CHEUNG and Mr YIU Chung-yim said that issues relating to the enactment of an archives law and legislation on freedom of information warranted early discussion. Mr YIU further suggested that the Panel should discuss whether the Administration had a plan to open up more information platform.

Other issues

19. Dr Fernando CHEUNG suggested that the Administration should consult the Panel and the public prior to submission of its reports to relevant United Nations Committees under various international human rights treaties. Mr SHIU Ka-chun suggested that relevant service providers should be invited to give views on such reports.

20. Noting that the Office of the Privacy Commissioner for Personal Data had submitted a survey report on the administration of 10 commonly-used public registers to the Administration, Miss Alice MAK suggested that the Panel should discuss the privacy protection of the personal data contained in public registers as soon as possible.

21. Mr LUK Chung-hung suggested that the Panel should discuss issues relating to district administration and enhancing the roles and functions of DCs at a future meeting.

(Post-meeting note: Mr LUK Chung-hung was subsequently advised that the topics of district administration as well as the roles and functions of DCs were under the purview of the Panel on Home Affairs.)

22. The Chairman said that he would discuss with the Administration how to follow up the various issues raised by members.

IV. Any other business

23. There being no other business, the meeting ended at 11:58 am.