

立法會
Legislative Council

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LC Paper No. CB(2)1941/16-17

(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

**Minutes of special meeting
held on Tuesday, 11 April 2017, at 5:00 pm
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 Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Starry LEE Wai-king, SBS, 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 LEUNG Kwok-hung
Hon Steven HO Chun-yin, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon Alice MAK Mei-kuen, BBS, JP
Hon Dennis KWOK Wing-hang
Hon IP Kin-yuen
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Jimmy NG Wing-ka, JP
Hon LAM Cheuk-ting
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
Dr Hon CHENG Chung-tai

Hon KWONG Chun-yu
Hon Nathan LAW Kwun-chung
Dr Hon LAU Siu-lai

**Members
attending**

Hon WU Chi-wai, MH
Dr Hon KWOK Ka-ki
Dr Hon Elizabeth QUAT, JP
Hon Andrew WAN Siu-kin
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Jeremy TAM Man-ho

**Members
absent**

: Hon CHAN Hak-kan, BBS, JP
Hon Claudia MO
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon CHU Hoi-dick
Hon Kenneth LAU Ip-keung, MH, JP

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

**Public Officers
attending**

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

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

Miss Rosanna LAW Shuk-pui, JP
Deputy Secretary for Constitutional and Mainland
Affairs

Mr WONG See-man
Chief Electoral Officer
Registration and Electoral Office

Miss Candy MA Siu-hung
Principal Electoral Officer
Registration and Electoral Office

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

Mrs Fonny TSANG
Legislative Assistant (2) 3

Action

I. Loss of Registration and Electoral Office notebook computers containing personal data of registered voters and follow-up measures

[LC Paper Nos. CB(2)1167/16-17(01) to (04) and CB(2)1187/16-17(01)]

At the invitation of the Chairman, the Secretary for Constitutional and Mainland Affairs ("SCMA") 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)1167/16-17(01)]. SCMA and CEO apologized for the inconvenience and distress caused to the electors by the incident.

2. In connection with the incident of suspected theft of notebook computers, SCMA informed members that Police investigation was underway and the Office of the Privacy Commissioner for Personal Data ("PCPD") had commenced a formal investigation on the case pursuant to section 38(b) of the Personal Data (Privacy) Ordinance (Cap. 486). Upon receipt of PCPD's investigation report, he would instruct REO to duly follow up and implement improvement measures recommended by PCPD. SCMA also announced the setting up of a Task Force headed by a Deputy Secretary for Constitutional and Mainland Affairs, comprising representatives from relevant departments as members (including the Security Bureau, the Office of the Government Chief Information Officer ("OGCIO") and REO). The Task Force would conduct a comprehensive review of the causes and circumstances of the incident, and would propose improvement measures on operational matters, including the handling of personal data, information technology ("IT") security measures, overall venue security management, and REO's internal supervisory structure and procedures. The Task Force would submit a report to SCMA within two months.

Action

Discussion

Use of electors' information in the 2017 Chief Executive election

3. Some members, including Mr LAM Cheuk-ting, Mr Andrew WAN and Mr KWONG Chun-yu questioned the need to bring notebook computers containing the personal data of about 3.8 million geographical constituency ("GC") electors to the fallback venue at the Asia World-Expo ("AWE") as only 1 194 Election Committee members were listed as electors for the 2017 Chief Executive ("CE") election. Dr CHENG Chung-tai enquired whether the computer system was also used in the Legislative Council ("LegCo") by-election. Mr CHEUNG Kwok-kwan believed that there was negligence in the incident.

4. CEO advised that the computer system storing electors' information in one of the missing computers was mainly used for checking the registration particulars and voting eligibility of electors. In previous elections, the system was set up at dedicated polling stations in police stations. If a detainee requested casting vote on the polling day, the polling staff of the dedicated polling station would verify his/her voting eligibility through the system. Given that the detainees might be electors of any constituency, the system was designed to store the information of all the electors in Hong Kong to facilitate the verification process.

5. The Chairman asked whether there was any operational need to provide access to personal data of all GC electors in the computer system during the CE election. SCMA said he was of the view that there was no need to bring a notebook computer with the computer system which contained the personal particulars of all registered electors. In response to Mr LAU Kwok-fun's enquiry, CEO confirmed that after the recent CE election, the personal particulars of electors in other relevant computers had been deleted. Mr LAU suggested that REO should provide adequate guidelines and directions to frontline staff to ensure the proper use of electors' particulars for various levels of public elections.

Venue security

6. CEO advised that there were altogether 32 computers in the store room concerned at AWE and six of them contained all electors' information. The two which were missing were placed on top of a carton. In response to the enquiry of Mr LAM Cheuk-ting, SCMA and CEO advised that prior to the

Action

incident, they had no knowledge of the electors' information being brought to the fallback venue at AWE. In response to Mr Andrew WAN's enquiry, the Principal Electoral Officer confirmed that she also did not know the arrangement beforehand.

7. Mr Dennis KWOK asked who were the authorized persons to enter the store room in which the missing computers were placed. He pointed out that according to paragraphs 13.1 and 13.2 of the IT Security Guidelines of OGCIO regarding physical access and security measures, access record should be kept for audit purpose and arrangement should be made to lock up the computer equipment when not in use or after office hours. Mr Charles MOK questioned whether the REO's arrangement complied with the aforementioned guidelines. Mr CHAN Chun-ying and Ms Tanya CHAN asked about the manpower deployment in the fallback venue and the number of staff members who were authorized to enter the store room concerned. CEO said that between 22 and 24 March 2017, there were about 20 non-IT staff members who were authorized to access the fallback venue but not the room storing the two computers. On the other hand, the room storing the two computers was used mainly by around 10 staff (including executive officer, electoral assistants, general assistants and IT staff). CEO said that after the completion of setting up the venue and the testing of computers on 24 March 2017, REO staff left the AWE in that evening, and notified the control room of AWE to deactivate the card keys to the doors of the store room in which the notebook computers were stored, and turned the door into locked mode. In response to Ms Tanya CHAN's further enquiry, CEO said that between 25 and 26 March 2017, no staff members entered the store room concerned but there were other staff members who went to AWE for other duties.

8. CEO said that there was an electronic lock on the door of the room and two REO staff members had an access card. The standing CCTV cameras at various locations of AWE were directly connected to the AWE control room under round-the-clock surveillance by their security personnel. During the period between the commencement of setting up of the fallback venue to the moving out period after the election, REO had arranged for additional security supervisors and security guards to patrol and station at different positions of the venue. In response to Dr CHENG Chung-tai's enquiry, CEO said that REO had also arranged for installation of additional CCTV cameras at designated spots, including the foyer outside the concerned room. He further said that the concerned computers were stored in a locked room but no arrangement was made to store them in a locked cabinet.

Action

Mr LAM Cheuk-ting expressed grave concern that no security staff had been assigned to guard the computers. Mr LEUNG Kwok-hung and the Chairman were concerned about the deactivation of the electronic lock which rendered it impracticable to trace the record on the persons who had gained access to the room storing the computers. CEO acknowledged that there were deficiencies in the relevant arrangements.

Data security

9. Mr Jimmy NG said that while REO had stressed that all the information in the missing computers was protected by multiple encryptions which were extremely difficult to break through, he and Mr LAU Kwok-fun suggested that the Government Cloud Platform should be used for data storage to enhance the protection of personal data. In response to Mr NG's enquiry on the handling of personal particulars of members of the public, SCMA said that REO needed to comply with the relevant policies and regulations of the Government, including the Security Regulations, and the IT Security Policies and Guidelines of OGCIO.

10. Mr Charles MOK enquired whether the REO's arrangements complied with the data encryption control measures as stipulated in paragraph 12.1 of the IT Security Guidelines of OGCIO. He also asked what other programme/data were stored inside the lost computers and whether these were encrypted, as well as the number of staff members who held the password. CEO said that all the information had been encrypted in accordance with the relevant government security requirements and protected by multiple encryptions. The encryption algorithm used in the system conformed to the related guideline of OGCIO, and was one of the most stringent industrial standards in use. The setting of password had followed the relevant security requirements. In response to Mr MOK's further enquiry, CEO said that a programme with password protection had been installed in the computer, and five officers knew the password to the system which held the information of all electors. Dr CHIANG Lai-wan asked that if someone was found to have tampered with the computer system or relevant data, whether the system would generate a computer log to REO. CEO said that since criminal investigation was in progress, it would not be appropriate to disclose detailed security arrangements at this stage.

Immediate handling and actions taken

11. In response to Dr CHIANG Lai-wan's enquiry, CEO said that one of the two computers contained information of about 3.78 million GC electors in the

Action

2016 Final Register, including the names, addresses, Hong Kong Identity Card ("HKID") numbers, and the constituencies which the electors were registered in. Members generally expressed grave concern about the possible personal data leakage of all registered electors in Hong Kong, in particular, the possibility of use of the personal data for producing forged HKID cards, or by fraudsters for conducting internet banking or phone-banking transactions, or to obtain loans from banks.

12. CEO said that REO had written to government departments and organizations of various sectors, including finance, insurance, telecommunications, retail, estate agents, IT, etc., to notify them of the incident and appeal to their assistance in adopting appropriate measures to prevent criminals from using the relevant information as a means of identity theft in criminal activities, so as to protect their own interest and also the interest of the data subjects. Following the PCPD's guidelines and advice, REO had informed all GC electors of the incident via emails or letters to raise their awareness and to minimize potential damage. SCMA said that according to PCPD, as at 7 April 2017, PCPD had received over 2 003 cases expressing concerns about the possible data leakage. These cases, however, did not contain substantial evidence of leakage of any personal data.

13. Mr Alvin YEUNG asked whether there were measures targeting the elderly people to help raise their awareness. SCMA said that no telephone numbers of electors were stored in the computer. He said that REO understood from the Hong Kong Monetary Authority ("HKMA") that it had contacted a number of retail banks, which indicated that they followed rigorous loan vetting and approval procedures. An individual could not obtain any bank loan or apply for credit cards by simply providing his name, HKID number and address. There were also corresponding additional security measures for online banking and telephone banking services, and high-risk transactions such as third party transfers were not allowed through telephone banking.

14. The Deputy Chairman suggested that for high-risk transactions such as third party transfers, the relevant sectors might put in place measures (e.g. the Chinese Code in HKID) to double check with the client for verification of identity in addition to requiring the production of personal data such as names and HKID number. SCMA agreed to relay the suggestion to HKMA for consideration. Mr Nathan LAW also suggested that guidelines/circulars should be issued to address the public concerns that the electors' information might be misused in criminal activities such as fraud.

Action

15. Ms Starry LEE and Mr Andrew WAN requested the Administration to take measures against unauthorized changes of electors' registration particulars by a third party. CEO said that following the PCPD's guidelines and advice, REO had informed all GC electors of the incident via email or letters to raise their awareness and to minimize potential damage. About 550 000 electors, who had provided email addresses to REO, were informed by email starting from 30 March 2017. REO also encouraged electors to use the Online Voter Information Enquiry System to check their registration status and particulars. REO had reminded staff to watch out for any unusual or suspicious voter registration ("VR") and change of particulars applications. For any incomplete or suspicious cases, REO staff would clarify with the applicants and asked for written supplementary information, if necessary.

16. SCMA said that to address members' concern about unauthorized changes of registration particulars, the Administration proposed to implement an address proof requirement on existing registered electors who applied for change of registered address to prevent malicious change of registration particulars of an elector by a third party. Members would be consulted on the Administration's proposal at the Panel meeting on 19 April 2017. Dr CHENG Chung-tai expressed support for introducing the address proof requirement in order to improve the VR system and restore people's confidence in the VR system.

17. Mr KWONG Chun-yu criticized the arrangement by REO of sending a personal letter to each elector and considered it a waste of taxpayers' money. He urged the Administration to identify those persons who had accessed the room storing the missing computers as soon as possible.

(The Chairman said that he would extend the meeting for 15 minutes beyond its appointed time to allow more time for discussion.)

Investigation and follow-up measures

18. Referring to paragraph 8 of the Administration's paper, Mr CHEUNG Kwok-kwan asked whether the REO's incident report to be submitted to the Constitutional and Mainland Affairs Bureau ("CMAB") and the Electoral Affairs Commission would also be provided to the Panel. SCMA said that he had received the report from REO. However, as investigations by the Police and PCPD were underway, it was not appropriate to release the report at this juncture. Nevertheless, after completion of the relevant investigations, CMAB would give Members of LegCo an account of the contents of the report as appropriate.

Action

19. Mr LUK Chung-hung, Mr CHAN Chi-chuen, Mr KWONG Chun-yu and Mr LEUNG Kwok-hung requested the Administration to advise on the highest ranking official who should be held accountable for the decision to bring the concerned computers to the fallback venue. Mr KWONG suspected that the incident might involve misconduct on the part of civil servants. SCMA said that should there be any evidence of breach of internal administrative codes or any regulations by any staff members of REO, the Administration would take disciplinary action in accordance with the established procedures. In response to Mr KWONG and Mr Dennis KWOK, CEO said that REO would conduct an internal investigation on related issues including the supervisory accountability. Mr Charles MOK was concerned about the credibility of the investigation being conducted by REO itself.

20. Dr LAU Siu-lai suggested that REO should introduce card readers in future by-elections and public elections to prevent the use of forged HKID Card for voting purpose. Ms Tanya CHAN suggested that REO should consider conducting comprehensive review of the electoral arrangements of all public elections, including the transportation of ballot papers in suitcases as reported by the media.

(The Chairman proposed and members agreed to further extend the meeting for five minutes to 7:20 pm.)

Motions

21. After discussion, Mr Charles MOK moved the following motion:

(Translation)

"The theft incident involving the notebook computers of REO containing the personal data of all registered voters in Hong Kong is the most serious data leakage incident that has ever happened in Hong Kong. The incident shows that REO has neither adopted adequate data security measures nor taken all reasonable and practicable steps to protect voters' information, resulting in the sensitive personal data of about 3.78 million geographical constituency voters being stolen. In view of the widespread implications of this incident, this Panel strongly condemns the authorities for maladministration in handling the personal data of members of the public, and requests that the relevant officials be held accountable for the incident. This Panel urges the Government to

Action

formulate comprehensive contingency plans to minimize the risk of loss suffered by members of the public, including conducting authentication of the applications for voter registration and change of voters' particulars, and reviewing afresh the compliance of all government departments with the Government's guidelines on information security in handling the personal data of members of the public to prevent the recurrence of privacy leakage incidents."

22. The Chairman put the motion to vote. The Chairman announced that members present unanimously voted for the motion. The Chairman declared that the motion was passed.

23. Mr WONG Ting-kwong then moved the following motion, which was seconded by Mr CHEUNG Kwok-kwan and Mr LAU Kwok-fan:

(Translation)

"In view of the grave implications of the incident in which REO lost the information of over three million voters in Hong Kong, this Panel expresses strong condemnation and requests the Constitutional and Mainland Affairs Bureau to expeditiously publicize REO's investigation report, penalize the officials concerned for dereliction of duty, and adopt remedial measures to prevent voters' particulars from being used illegally, including immediately reviewing the procedures for change of voters' particulars so as to ensure that those who have got access to such information cannot, in any manner, change the particulars of any voters; at the same time, the Government should review the practices adopted by various departments in handling the personal data of members of the public, expeditiously formulate the relevant procedures for handling issues relating to the privacy of members of the public with enhanced encryption grades, and put in place corresponding contingency plans to cater for different scenarios."

24. The Chairman put the motion to vote. The Chairman announced that members present unanimously voted for the motion. The Chairman declared that the motion was passed.

(Post-meeting note: The Administration's response to the two motions passed at the meeting was issued to members vide LC Paper No. CB(2)1390/16-17(01) on 12 May 2017.)

Action

II. Any other business

25. There being no other business, the meeting ended at 7:20 pm.

Council Business Division 2
Legislative Council Secretariat
20 July 2017