

立法會
Legislative Council

Ref : CB2/PL/CA

LC Paper No. CB(2)2156/16-17

(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

**Minutes of meeting
held on Monday, 17 July 2017, at 2:30 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 Starry LEE Wai-king, SBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
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 Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon LAM Cheuk-ting
Hon CHAN Chun-ying
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu

**Members
attending**

Hon WU Chi-wai, MH
Dr Hon KWOK Ka-ki

**Members
absent**

: Hon WONG Ting-kwong, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon Dennis KWOK Wing-hang
Hon CHUNG Kwok-pan
Hon Tanya CHAN
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai

**Public Officers : Item III
attending**

Mr Patrick NIP Tak-kuen, JP
Secretary for Constitutional and Mainland Affairs

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

Miss Helen CHUNG Chi-ching
Principal Assistant 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

Item IV

Mr Patrick NIP Tak-kuen, JP
Secretary for Constitutional and Mainland Affairs

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

Miss Helen CHUNG Chi-ching
Principal Assistant Secretary for Constitutional and
Mainland Affairs

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

Ms CHAU Kwan-bing
Legislative Assistant (2) 8

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I. Confirmation of minutes of meeting

[LC Paper No. CB(2)1893/16-17]

The minutes of the meeting held on 15 May 2017 were confirmed.

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

[LC Paper No. CB(2)1777/16-17]

2. Members noted that the Electoral Affairs Commission Report on the 2017 Chief Executive Election [LC Paper No. CB(2)1777/16-17] had been issued to members after the last meeting.

III. Review of operation of polling and counting stations of District Council and Legislative Council elections

[LC Paper Nos. CB(2)1853/16-17(01) and (02)]

3. 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)1853/16-17(01)], which set out the following three proposed options to improve the counting arrangements in future Legislative Council ("LegCo") elections:

- (a) Option 1 – to schedule the polling day on a Saturday;
- (b) Option 2 – to set up separate regional counting station(s) for each geographical constituency ("GC"); and
- (c) Option 3 – to designate the day following the polling day a school holiday.

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Discussion

Polling and counting stations

4. Mr POON Siu-ping said that he inclined to support Option 3 and enquired whether the Administration had any inclination regarding the various options. He further asked whether the Administration would conduct a public consultation exercise on the proposed options.

5. SCMA said that the Administration kept an open mind on the subject and briefed members on the pros and cons of the three options. He explained that for Option 3, which involved designating the day following the polling day a school holiday, it would be necessary for the Administration to further explore with the education sector the ways to minimize the impact of this option on schools. Ms Alice MAK also favoured Option 3 so as to enable the polling and counting of votes at polling stations set up at school premises to continue in situ, while obviating the need to return the school premises by 6:00 am the following day.

6. Ms Alice MAK further said that any change to the existing polling arrangements should not dampen the electors' interest in voting or cause inconvenience to electors. She said that Members belonging to the Hong Kong Federation of Trade Unions did not support Option 1, as it would cause inconvenience to electors and there might be great difficulty to mobilize enough volunteers on the polling day if it was a Saturday. Dr KWOK Ka-ki also opposed Option 1. Dr Helena WONG suggested that if Option 1 was to be adopted, the Administration should also consider designating the polling day (which would be a Saturday) a statutory holiday. SCMA said that this suggestion would have much greater implications than Option 3, as the latter only involved designating the day following the polling day a school holiday.

7. Mr CHEUNG Kwok-kwan considered that the Administration should, through the relevant bureaux, make a concerted appeal to various organizations, such as school sponsoring bodies, social service agencies, public entities, community organizations, to accede to REO's request for making their premises available for use as polling and/or counting stations. SCMA said that the Administration would make sustained efforts in securing suitable venues for use as polling stations by approaching venue management bodies as early as possible. Mr CHEUNG Kwok-kwan further said that the regional counting of GC votes under Option 2 appeared to have the least impact on venue management bodies as well as the electors. He sought the Administration's views on this option as he noted that the Administration had

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also adopted such an arrangement in the 2000 LegCo Election, but had decided to replace it by the polling-cum-counting arrangements since the 2004 LegCo Election.

8. SCMA said that as the regional counting of GC votes in the 2000 LegCo Election took a relatively longer time to complete, the Electoral Affairs Commission ("EAC") had adopted the polling-cum-counting arrangement since the 2004 LegCo Election. REO envisaged that implementation of Option 2 might require a substantial increase in manpower and additional resources. Moreover, it was not easy for REO to identify enough suitable venues for setting up regional counting stations and to ensure the security and transport arrangements involved in delivering the ballot boxes to the regional counting stations. On the other hand, this option would ensure timely return of the venue by polling staff by 6:00 am in the morning after the polling day. SCMA said that the Administration had an open position concerning this option. Ms Alice MAK said that she would also support Option 2 if sufficient manpower could be secured for implementing the additional process of vote counting at regional counting stations.

9. Mr CHAN Chi-chuen asked whether the Administration would consider compulsory acquisition of premises for setting up polling and/or counting stations if any management of venues refused to make available their premises. SCMA said that the idea of compulsory acquisition of premises for setting up polling and/or counting stations would involve legislative amendments and require the support of LegCo. Mr CHAN Chi-chuen took the view that electors should not be assigned to polling stations too far away from home and, if that should become inevitable, the Government should provide transport for the electors concerned. Dr Fernando CHEUNG echoed Mr CHAN Chi-chuen's view. Dr CHEUNG further suggested that the Government should disallow any organization to provide free transport service to deliver electors to the polling stations on the polling day. SCMA said that the Government would continue to act in accordance with the law and the electoral guidelines published by EAC.

10. Mr CHAN Chi-chuen further said that if no large enough venue was identified for setting up a polling station in a district, the electors concerned should be assigned to two smaller polling stations within the same district rather than being assigned to a larger one in another district, in order not to discourage them from casting votes. SCMA said that Mr CHAN's view was noted.

11. Dr Fernando CHEUNG expressed concern that individual polling stations were still found failing to provide barrier-free access. The existing

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measure of providing rehabilitation buses to deliver electors with mobility problems to and from polling stations was undesirable and lacked flexibility. He considered it unacceptable that some venue management such as school sponsoring bodies and non-government organizations had refused REO's request to make available their premises with barrier-free facilities for setting up polling stations. SCMA undertook that every effort would be made to secure premises with barrier-free facilities for setting up polling stations in future elections. Dr Helena WONG enquired whether the Administration would approach direct subsidy schools and self-funded community colleges to request them to make their premises available for use as polling and/or counting stations. SCMA replied that the venue management would be approached if those venues were considered suitable for setting up polling stations.

Polling hours

12. Ms Alice MAK considered that the polling hours in Hong Kong could be shortened having regard to the overseas practices, for example, 7 am to 9 pm for the public elections in the United States, 6 am to 8 pm for the presidential elections in South Korea, 8 am to 8 pm for the public elections in Singapore, and 8 am to 6 pm for the parliamentary elections in Australia. She suggested that the polling hours in Hong Kong might start at 7 am and close at 6 pm, or from 9 am to 8 pm to cater for those who had to work on Sundays. Mr CHEUNG Kwok-kwan suggested slightly shortening the polling hours by advancing the closing time of the poll from 10:30 pm to 10 pm. He considered that this would strike a balance between catering for the needs of some electors and facilitating the counting work. Dr KWOK Ka-ki, however, opposed to shortening the existing polling hours as some electors might not be able to vote then. SCMA said that the Administration would take heed of members' views and comments in reviewing the relevant arrangements.

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Use of information technology in the election process

13. Mr Charles MOK considered that there was room to streamline the procedures for authentication of identity of electors during the ballot paper issuing process through electronic means. He further suggested that the Administration should try out the effectiveness of introducing electronic counting of votes in the District Council ("DC") elections and the LegCo traditional functional constituencies ("FC") elections, since the number of ballot papers for respective constituencies was comparatively smaller. SCMA said that the Administration was of the view that for these elections, since the number of ballot papers involved was comparatively smaller, the implementation of electronic counting of votes might not significantly reduce

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the counting time and achieve cost-effectiveness. As for the DC (second) FC election, owing to the enormous number of ballot papers involved, the time required for counting votes was longer than in other elections. REO would proactively study ways to introduce electronic counting of votes for the DC (second) FC in future LegCo elections, taking into account technical aspects, work flow and cost-effectiveness, etc.

14. Mr Christopher CHEUNG enquired about the obstacle to the implementation of electronic counting of votes in the GC elections. SCMA explained that the ballot papers for GCs were too large to be read by the existing computer devices. Therefore, the Administration considered that electronic counting of votes could not be applied to GC elections for the time being but REO would continue to keep track of whether computer devices in the future could read ballot papers of a larger size. Mr CHEUNG suggested that the Administration should liaise with the Innovation and Technology Bureau to explore feasible measures to cater for the large size of the ballot papers for GCs.

IV. Review of the number of elected seats for the sixth-term District Councils

[LC Paper Nos. CB(2)1848/16-17(01) and CB(2)1853/16-17(03)]

15. At the invitation of the Chairman, SCMA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1848/16-17(01)].

Discussion

16. Mr LAU Kwok-fun and the Deputy Chairman considered that an additional elected seat was needed for Islands and North DCs each to cope with the rapid growth in population in Tung Chung North and the North District. Mr LAU said that the population in the North District was expected to increase substantially by 2019 as a few large-scale housing estates were under construction in Sheung Shui (e.g. Po Shek Wu Estate), and the situation of Tung Chung North was also similar. He doubted that the actual population in Tung Chung and the North District in 2019 would be much larger than the population projections currently adopted as the bases for the calculation of the number of elected seats for the two DCs concerned. He also expressed concern about the criteria adopted by EAC for the demarcation exercise. With reference to column D(1) of Annex A to the Administration's paper, the Deputy Chairman said that Islands and North DCs had a deviation figure of 0.51 and 0.58 respectively, which should justify the allocation of one

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extra seat for each of them. He considered that flexibility should be allowed in calculating the number of elected seats of Islands DC, taking into account the large area covered and geographical features of the Islands District which would pose difficulties in transport arrangements to the DC members concerned in serving the District.

17. SCMA said that the number of elected seats would have to be derived on certain bases and the population projections and the population quota were the points of reference in the current review exercise. The Administration had already taken a more liberal approach by taking the greater of (i) population distribution projections in mid-2019 published by the Working Group on Population Distribution Projections in December 2015 and (ii) population in mid-2016 derived from the 2016 Population By-census as the base. The Administration had also made reference to the arrangement of the fifth-term DCs in proposing to maintain the number of elected seats for those DCs (i.e. Wan Chai, Eastern and Southern DCs) which should otherwise face a reduction in seats having regard to the calculation. As regards whether one extra seat could be allocated to each of Islands and North DCs which had a deviation figure of 0.51 and 0.58 respectively, SCMA advised that in applying the population quota to the total projected population, an overall increase in the number of elected seats by 16 was derived; subject to this constraint, no additional seats could be allocated to Islands and North DCs, which had a smaller deviation figure, without affecting other DCs. SCMA further pointed out that in the last review exercise, after considering the impact of abolition of the DC appointed seats on the operation of DCs and the more important role that DCs were expected to assume in district administration, etc., the Administration had allowed the number of elected seats of Islands DC to remain unchanged at 10 albeit according to calculation there were 1.4 elected seats in excess for Islands DC. Nevertheless, SCMA agreed to consider members' views and suggestions regarding the proposed number of elected seats for Islands and North DCs.

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18. SCMA said that in making recommendations for the purposes of the delineation of the DC constituencies, EAC would be allowed to deviate from the population quota by not more than 25% if it was not practicable to abide by the statutory requirements in the EAC Ordinance to ensure that the population in each DC constituency area ("DCCA") was as near the population quota as practicable; and deviation from the population quota exceeding 25% was allowed if justified on specified grounds. EAC should have regard to the community identities and the preservation of local ties and physical features including accessibility of the relevant area in making balanced recommendations.

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19. Dr Helena WONG had no comment on the Administration's proposed number of elected seats, while she stressed the need for EAC to have regard to the community identities and the preservation of local ties and physical features in the demarcation of boundaries for DCCAs. She asked whether the principles of political neutrality and impartiality would be strictly observed in the demarcation exercise and the considerations of EAC if opposing views were received from local residents. SCMA said that EAC would commence review of the DCCA boundaries for the 2019 DC Election in the beginning of 2018, so that there would be sufficient time for consulting the public and making recommendations to the Chief Executive by the statutory deadline on 21 November 2018. SCMA and Deputy Secretary for Constitutional and Mainland Affairs advised that EAC was chaired by a judge and it was committed to conducting its work in strict accordance with the law and in a neutral and impartial manner. During the public consultation exercise to be conducted by EAC on the DCCA boundaries for the 2019 DC Election, members of the public were welcome to send their opposing and supporting views to EAC for consideration.

20. Mr WU Chi-wai expressed concern that some DCs which should have a reduction in the number of elected seats would be allowed to maintain their existing number of DC elected seats. He requested the Administration to re-examine this arrangement in the future to ensure the optimal use of public resources. SCMA explained that the arrangement was in line with that adopted in the last review conducted for the fifth-term DCs to address the concern that DCs with a small elected membership might face operational problems. The Chairman agreed that a small number of elected seats of a DC would pose operational problems to the DC. He suggested that the 18 DCs be broadly classified into three categories of large-, medium- or small-sized DCs with a minimum membership size for each, so as to ensure a certain degree of representativeness and the smooth operation of small-sized DCs. Mr Paul TSE declared that he was a member of Wan Chai DC. He agreed that the Administration should explore in the direction of the Chairman's suggestion. SCMA said that he had an open mind for the arrangements after the sixth-term DCs and would consider any view and suggestion raised by members.

21. Mr CHU Hoi-dick said that Yuen Long DC already had a membership size of 45 which was expected to continue to increase with the continued growth of population in Yuen Long District. He asked whether the Administration would consider setting an upper limit on the number of seats for each DC. SCMA said that as there were different views on the matter, the Administration proposed to make adjustments to the number of elected seats for the sixth-term DC based on the established mechanism. In

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response to Mr CHU's comments on the proportion of ex officio membership in individual DCs, SCMA said that according to the District Councils Ordinance (Cap. 547), the Chairmen of Rural Committees would each serve as ex officio member of the DCs concerned according to the geographical distribution. Meanwhile, the Administration had no plan to change the arrangement.

22. Mr CHU Hoi-dick further considered that the disparity of elected DC membership amongst DCs might have implications on the fairness in the allocation of resources to DCs. For example, under the Signature Project Scheme, the same amount of resources was allocated to each DC to initiate one to two projects regardless of its elected membership size. SCMA said that he would communicate with the Home Affairs Bureau to understand the current position.

23. With reference to Annex A to the Administration's paper, the Chairman pointed out that Wan Chai DC fell short of the population quota by some 3 000 whereas Islands DC exceeded it by about 800. He enquired how the Administration would narrow such disparity amongst DCs in the long run, and whether the existing methodology adopted in reviewing the number of DC elected seats would be reviewed. He took the view that numerical representation needed not be the only consideration. SCMA said that it was the established practice to adopt the methodology whereby there would be one DC elected seat for, approximately, every 17 000 residents. Besides, DCCAs, where warranted, were allowed by EAC to exceed or fall short of the population quota by not more than 25%. SCMA said that the Administration would continue to adopt this methodology for the review of the number of elected seats for the sixth-term DCs. Nevertheless, he agreed that the Administration could consider the views and comments expressed by members to address the upward trend of the elected seat number in the long run.

V. Any other business

Arrangements of Legislative Council by-election

24. Pending the outcome of the appeal lodged by Sixtus LEUNG Chung-hang and YAU Wai-ching ("Leung and Yau") to be heard by the Appeal Committee of the Court of Final Appeal ("CFA") at the end of August 2017, Dr Helena WONG asked whether a by-election would be arranged as early as possible or whether it would be held only until the conclusion of the other judicial cases involving the disqualification of four legislators from

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assuming the office of a member of LegCo. Dr WONG considered that it was not necessary to bundle the handling of vacancies in the membership of LegCo arising from the cases.

25. SCMA said that as the legal proceedings were underway, he could not confirm at the present stage whether by-election(s) for filling vacancies in the membership of LegCo would be conducted in one go or separately. He explained that it would depend on the development of the Leung and Yau's case (as the application for leave to appeal would be heard by the Appeal Committee of CFA on 25 August 2017) and whether there were appeals against the Court of First Instance's ruling on 14 July 2017 in respect of the other cases involving the disqualification of four legislators. SCMA further said that according to the relevant electoral law, the Clerk to LegCo must, by notice published in the Gazette, declare the existence of a vacancy within 21 days after becoming aware of the vacancy. The Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) stipulated that as soon as practicable after a declaration as to the existence of a vacancy in the membership of LegCo was made, the Chief Electoral Officer must publish in the Gazette a notice in order to hold a by-election. Concerning the date for holding the LegCo by-election, SCMA said that generally speaking, it would take about four to six months' time for REO to make the necessary preparations based on past experience. In this connection, practical and objective factors, including manpower arrangements, procurement of venues for use as polling stations and the principle of proper use of public money, would be considered by EAC in all the circumstances. Mr LAU Kwok-fun also considered it difficult for the Administration to confirm the arrangements at the present stage.

(In response to Dr Helena WONG's concern, the Chairman ruled that Mr LAU Kwok-fun did not breach Rule 41(5) of the Rules of Procedure.)

26. There being no other business, the meeting ended at 4:25 pm.