

立法會
Legislative Council

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LC Paper No. CB(2)416/17-18
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

**Minutes of policy briefing cum meeting
held on Monday, 16 October 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 Abraham SHEK Lai-him, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, 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 CHAN Han-pan, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon Dennis KWOK Wing-hang
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming

Hon LAM Cheuk-ting
Hon Wilson OR Chong-shing, MH
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai

Members attending : Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon POON Siu-ping, BBS, MH

Members absent : Hon WONG Kwok-kin, SBS, JP
Hon HUI Chi-fung

Public Officers attending : Item III

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

Mr Roy TANG Yun-kwong
Permanent Secretary for Constitutional and Mainland
Affairs

Mr Andy CHAN Shui-fu
Under Secretary for Constitutional and Mainland Affairs

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

Miss Charmaine LEE Pui-sze
Deputy Secretary for Constitutional and Mainland
Affairs

Ms Kitty CHOI
Director of Administration

Mr Zachary LO Siu-on
Government Records Service Director

Miss Jessica LAU Sin-kwan
Archivist (Public Records) 1
Government Records Service

Item IV

Mr Andy CHAN Shui-fu
Under Secretary for Constitutional and Mainland Affairs

Mr Ryan CHIU Pit-ming
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Mr WONG See-man
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 Kelvin LEE
Senior Assistant Legal Adviser 3

Mr Dennis HO
Senior Council Secretary (2) 3

Mrs Fonny TSANG
Legislative Assistant (2) 3

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I. Information paper(s) issued since the last meeting
[LC Paper Nos. CB(2)44/17-18(01) and (02)]

Members noted that a letter dated 14 September 2017 from Mr LAM Cheuk-ting and the Administration's response had been issued after the last meeting.

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II. Items for discussion at the next meeting

[Appendices II and III to LC Paper No. CB(2)10/17-18]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 20 November 2017 at 2:30 pm:

- (a) proposed creation of one permanent post of Principal Executive Officer in the Registration and Electoral Office; and
- (b) Consultation Paper on Review of Electoral Arrangements.

III. Briefing on the Chief Executive's 2017 Policy Address

[LC Paper Nos. CB(2)28/17-18(01) and (02)]

3. The Secretary for Constitutional and Mainland Affairs ("SCMA") and The Director of Administration ("DoA") briefed members on the salient points of the two Administration's papers [LC Paper No. CB(2)28/17-18(01) and (02)] respectively.

(Post-meeting note: The speaking note of SCMA was issued vide LC Paper No. CB(2)75/17-18(01) on 17 October 2017.)

Discussion

Constitutional development

4. Mr LAM Cheuk-ting and Dr Helena WONG criticized the Government for showing no commitment to the re-activation of political reform. Mr LAM said that according to Article 45 of the Basic Law ("BL"), it was the Government's constitutional responsibility to achieve universal suffrage for the selection of the Chief Executive ("CE"). He further said that the electoral method should not contain any unreasonable restrictions. Dr Helena WONG expressed disappointment that the Administration only pledged to work towards a "favourable social atmosphere" but did not announce any concrete work plan. She enquired when the Administration would have to activate the "Five-step Process" of political reform in order to amend the method for selecting CE in 2022. SCMA replied that the motion on the amendments to the method for selecting CE would then have to be passed by the Legislative Council ("LegCo") in the 2019-2020 session, and the relevant preparation work for political reform would have to be started in

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2018. SCMA said that the selection of CE by universal suffrage was the ultimate aim under the Basic Law and he hoped that it could be achieved as soon as practicable. However, the Government had to evaluate the prevailing situation responsibly and could not ignore the reality that the political reform package had been voted down in the last-term Government. Therefore, for the time being, the Administration would work towards creating a favourable social atmosphere for taking forward political reform.

5. Mr IP Kin-yuen enquired whether the Administration had any plan to reduce the number of functional constituency ("FC") seats gradually. SCMA replied that, according to BL and the relevant decision of the Standing Committee of the National People's Congress, the election of all LegCo Members by universal suffrage could be implemented only after CE was selected by universal suffrage. The Administration currently had no plan or concrete proposal to implement universal suffrage for all Members of LegCo; and the arrangements for the LegCo election in 2020 would be handled nearer the time.

6. Mr Christopher CHEUNG considered that the Administration should not rashly embark on political reform in the absence of a favourable social atmosphere so as to avoid adverse impact on the economy and people's livelihood. Mr Jeffrey LAM said that some democratic countries such as the United States and the United Kingdom also did not adopt the "one person, one vote" mechanism for electing their heads of government.

Promotion of the Basic Law and fostering a sense of national identity

7. Mr Wilson OR enquired whether the Administration had evaluated the effectiveness of its work in promoting BL. He suggested that the Administration should adopt more innovative ways in the promotion work. SCMA advised that the Government attached great importance to BL promotion and education. The Basic Law Promotion Steering Committee chaired by the Chief Secretary for Administration coordinated and steered the work of its five working groups. The Home Affairs Bureau, the Education Bureau, the Civil Service Bureau, the Trade and Industry Department and the Information Services Department assisted the five working groups in planning and organizing activities to promote BL to the respective sectors. The Constitutional and Mainland Affairs Bureau ("CMAB") coordinated the relevant promotion work and had earmarked about \$17 million to promote BL to different sectors. CMAB strived to tailor the promotion efforts in new and innovative ways, such that the promotional messages would easily be

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conveyed to, and understood by, the target audience. Meanwhile, CMAB had launched the Basic Law Court Case Database to enhance public understanding of BL.

8. Ms Starry LEE enquired about the measures to be taken to promote the sense of national identity and the sense of belonging to the country among Hong Kong people, especially the youth. SCMA responded that various policy bureaux would implement respective measures to nurture youngsters into citizens with a sense of national identity. These measures included the inclusion of Chinese History as a compulsory independent subject in the junior secondary curriculum and the promotion of internship and exchange programmes in the Mainland, as well as the promotion of BL.

Electoral arrangements

9. Mr CHEUNG Kwok-kwan supported the Administration's adoption of a progressive approach such that the address proof requirement for voter registration ("VR") would be introduced to existing registered electors who applied for change of registered addresses first, before extending the requirement to cover new VRs. He considered that this arrangement would avoid dampening the public's desire to register as electors. He also welcomed the Administration's plan to put forward proposals to improve the objection mechanism in the VR system. He considered that the improvement measures should seek to effectively prevent abuse of the objection mechanism.

10. The Deputy Chairman urged the Administration to follow up concerns on the so-called "abandonment of election" announced by a few candidates a few days before the polling day during the 2016 LegCo General Election as discussed before. SCMA advised that the Administration noted members' views and concerns and would consider how best to follow up on this issue which was also raised by the Electoral Affairs Commission in its Report on the 2016 LegCo General Election.

11. Mrs Regina IP suggested that the Administration should consider allowing eligible electors who were Hong Kong permanent residents working in the Mainland to cast votes at the offices of the Hong Kong Special Administrative Region ("HKSAR") Government in the Mainland during public elections. She considered that these electors could fulfil the requirement of "ordinarily residing" in Hong Kong, by making statutory declarations confirming their registered residential address in Hong Kong as

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the principal residence. She further suggested that early polling might be arranged for certain electors (e.g. civil servants deployed at polling stations and officers in the disciplined forces working on shift) who were unable to make it to their respective polling stations during the prescribed polling hours. SCMA undertook to consider Mrs IP's suggestions. Dr Priscilla LEUNG urged the Administration to clarify the voting eligibility of the electors who were Hong Kong permanent residents but had moved to reside in the Mainland.

12. Mr Christopher CHEUNG enquired about the follow-up action of the Registration and Electoral Office ("REO") in implementing the necessary improvement measures subsequent to the computer theft incident of REO in March 2017. SCMA said that REO would duly follow up implementing the relevant recommendations and report progress to the Panel in due course.

National Anthem Law

13. Dr CHENG Chung-tai expressed dissatisfaction that the national anthem legislation was not mentioned in the 2017 Policy Address. SCMA explained that the National Anthem Law of the People's Republic of China ("the National Anthem Law") would be implemented in Hong Kong through local legislation after it had been added to the list of national laws in Annex III to BL. After the inclusion of the National Anthem Law in Annex III to BL, the Administration would kick-start the relevant local legislation process. Dr CHENG considered that LegCo should be provided an opportunity for Members to express their views on relevant issues before the inclusion of the National Anthem Law into Annex III to BL.

Archives Law

14. Ms Claudia MO welcomed the Administration's plan to set up a digital archive for the preservation of electronic records. Noting that the Archives Law Subcommittee ("the Subcommittee") of the Law Reforms Commission ("LRC") had planned to conduct a public consultation exercise in 2018, Ms MO enquired about the relevant timetable. DoA replied that, according to the LRC Secretariat, the Subcommittee aimed to publish the consultation document early next year for a three-month public consultation. The views received from the public consultation would be consolidated and submitted to LRC for consideration, and a report would be published afterwards. DoA added that if LRC recommended in its report the enactment of an archives law in Hong Kong, the Administration would duly follow up.

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15. With reference to paragraph 7(d) of the Administration's paper (CB(2)28/17-18(02)), the Chairman enquired about the justifications of the 95 requests for deferring transfer of time-expired records from bureaux/departments to the Government Records Service ("GRS") received between March 2014 and August 2017. DoA advised that the nature of the records concerned included those having archival value or potential archival value. To defer transferring records to GRS, it had to be justified that the records in question had to be kept in their respective bureaux/departments for reference, or for reasons such as relevance to ongoing legal proceedings. DoA added that the arrangements for deferral had been tightened since March 2014.

Tackling discrimination and Discrimination Law Review ("DLR")

16. Dr Helena WONG requested the Administration to address sexual harassments involving detainees and occurred in prisons. SCMA advised that the legislative amendment proposals for implementing the nine prioritized recommendations under DLR by Equal Opportunities Commission included widening the scope of protection from sexual harassment.

17. Mrs Regina IP said that Hong Kong had been shortlisted as one of the final three locations contesting to host the 2022 Gay Games. If the bid was successful, Hong Kong would be the first Asian city to host the event which, in her view, would showcase Hong Kong's diversity. Mrs IP called on the Administration to provide adequate support for hosting the event.

18. Mr CHAN Chi-chuen expressed dissatisfaction that tackling discrimination on the grounds of sexual orientation and gender identity was not mentioned in the Policy Address. He said that as he was told, individual frontline staff of the Immigration Department did not even know what "LGBT" stood for. He considered it necessary for the Administration to strengthen training for the disciplined forces to enhance their sensitivity towards sexual minorities. Mr CHAN further enquired about the timetable for conducting the study on the experience of other jurisdictions in implementing anti-discrimination measures and whether legislation would be an option in the future consultation. SCMA said that the Administration was conducting a study on both the legislative and non-legislative measures of other jurisdictions for tackling discrimination on grounds of sexual orientation and gender identity. The study was expected to be completed in late 2017/early 2018. Noting that the Administration was drawing up a charter

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on non-discrimination of sexual minorities for the adoption by relevant organizations and persons, Dr Priscilla LEUNG considered that the proposed charter should be meant for adoption on a voluntary basis in order that cases of "reverse discrimination" for the non-signatories could be prevented when the charter was introduced.

Measures for ethnic minorities ("EMs")

Admin 19. Mrs Regina IP expressed concern about the shortage of places of worship for Muslims (including mosques and other community venues) in their neighbourhood. Mr CHEUNG Kwok-kwan said that the conditions of gurdwaras were generally in need of improvement. He urged the Administration to provide additional resources to enhance the provision of places of worship for different religions. In reply, SCMA undertook to follow up on the matter and provide a breakdown of places of worship in Hong Kong by religion and by district. SCMA added that the Administration had all along devoted a lot of resources to support EMs. In 2014, the Administration provided an additional recurrent funding of \$200 million a year to implement various support measures for EMs. These support measures would be reviewed and strengthened where appropriate.

20. Ms Alice MAK raised concern that, under the Administrative Guidelines on Promotion of Racial Equality ("the Administrative Guidelines"), it was not mandatory for bureaux, departments and other public authorities (e.g. the Hospital Authority and the Housing Department) to keep disaggregated data on the ethnicities of their service users. In her view, such data would be useful to planning services for EMs, such as interpretation services and the provision of worship venues. Mr LUK Chung-hung suggested that performance indicators and a complaint-handling mechanism should be introduced in relation to the implementation of the Administrative Guidelines, while the publicity of the Administrative Guidelines should also be enhanced.

21. SCMA said that the Administration embarked on a review on the implementation of the Administrative Guidelines in September 2017 in collaboration with various bureaux and departments. He undertook to consider members' suggestions. SCMA further said that some bureaux and departments rolled out additional measures to support EMs from time to time according to their operational experiences. For example, in November 2016, instant telephone interpretation services in seven common non-ethnic Chinese languages were extended to cover a total of 67 police stations/report rooms

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under the Hong Kong Police Force. In addition, some bureaux (e.g. the Security Bureau and the Civil Service Bureau) would introduce measures as announced in the Policy Address to foster the integration of EMs into society.

Commission on Children

22. Mr IP Kin-yuen enquired about the role of the Preparatory Committee for the Establishment of a Commission on Children ("the Preparatory Committee"). Mr Wilson OR enquired about the terms of reference of the new Commission on Children. SCMA replied that the Commission on Children would be established in mid-2018. The Preparatory Committee was tasked to draw up the terms of reference, the scope and priorities for the Commission on Children, and would conduct public engagement activities to canvass views from the community. SCMA said that the Preparatory Committee had held one meeting and the formulation of the terms of reference of the Commission on Children was still underway.

23. Mr Wilson OR sought details of the projects under application in the Children's Rights Education Funding Scheme ("CREFS"). SCMA replied that CREFS had so far supported over 300 projects. For 2018 CREFS, applications under the theme of "Realizing Children's Potential for Diversified Development" had been invited.

Other issues

24. The Deputy Chairman enquired when CMAB would set up the Guangdong-Hong Kong-Macao Bay Area Development Office ("the Bay Area Development Office"). He also enquired whether CMAB would step up its assistance to Hong Kong people in the Bay Area through the Bay Area Development Office and the offices of the HKSAR Government in the Mainland. Mr Jeffrey LAM welcomed the Administration's plan to step up cooperation with the Mainland through the initiatives concerning the Bay Area and the Belt and Road. He suggested that the Administration should arrange a visit for Members to the Bay Area to boost Members' understanding of the relevant policy. SCMA replied that, since Mainland cooperation fell under the purview of the Panel on Commerce and Industry ("the CI Panel"), he would brief the CI Panel on the relevant policy initiatives at the policy briefing on 17 October 2017. SCMA added that he would be delighted to provide assistance for Members' visits to the Mainland as necessary.

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IV. 2018 Voter Registration Campaign

[LC Paper Nos. CB(2)28/17-18(03) and (04)]

25. At the invitation of the Chairman, 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)28/17-18(03)].

Discussion

26. Dr CHIANG Lai-wan noted that eligible persons who submitted their VR applications after the deadline of 2 May 2017 would only have their VR particulars included in the next final registers to be published in July 2018. She expressed concern that under this arrangement, young people who would reach the age of 18 soon or in early 2018 and had applied for VR this year would still be unable to vote in the coming District Council ("DC") and LegCo by-elections. Dr CHIANG suggested that the Administration might make reference to overseas experience and consider lowering the age requirement for VR to, say, 16, while keeping the age requirement for voting at 18. The Administration was requested to explore the suggestion.

27. Mr CHAN Chi-chuen considered that the computer theft incident during the 2017 CE election had affected the public's desire to register as electors. Noting that the estimated publicity expenses on VR campaign would be increased from \$6 million in 2017 to \$8.5 million in 2018, Mr CHAN requested the Administration to evaluate the effectiveness of the 2018 VR campaign. Mr CHAN also suggested that the Administration should provide resources to bodies such as student associations to set up VR counters at their respective tertiary education institutions to help young people register as electors. USCMA replied that according to the 2017 final register, the registration rate of eligible young people was about 70%. The Administration would make sustained efforts to encourage more young people to register. In reply to Mr CHAN's enquiry, the Chief Electoral Officer ("CEO") advised that, with the VR application forms available for downloading from REO's website, applicants could simply save the completed forms on their computers and then submit them to REO online.

28. Ms Starry LEE considered that the Administration should step up promotional efforts in the 2018 VR campaign targeting at different age groups, instead of targeting only at the young people. USCMA explained that young people were targeted because of their relatively lower VR rate, whereas the VR rates of the other age groups were reasonably high, reaching

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70-80%. Mr CHAN Chun-ying also expressed concern that there was inadequate support for elderly people to apply for VR or changes in their registered VR particulars. He said that many elderly electors lived in remote areas and had mobility problems. Besides, the small prints on the relevant VR forms were also illegible for some elderly people, and they also often lacked the computer proficiency to handle the applications online. Mr CHAN suggested setting up VR counters at major railway/bus termini, deploying mobile VR vehicles, and using large prints in the VR forms to facilitate the elderly people. CEO undertook to consider Mr CHAN's suggestions subject to availability of resources. Mr CHAN Chun-ying also suggested the appointment of an authorized agent who could cast the vote on behalf of an elderly elector with mobility problem. CEO advised that the suggestion would give rise to privacy concerns. Dr Priscilla LEUNG also expressed reservations about the suggestion. She, however, requested the Administration to provide information on the number of elderly electors who had inadvertently lost their eligibility for registration and voting rights simply because they failed to respond to the letters from REO by the deadline.

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29. Ms Starry LEE expressed concern as to whether the Administration had followed up complaints that some electors who claimed that they were eligible to vote in the DC (second) FC election but were refused to be issued with the ballot papers for that FC during the 2012 and the 2016 LegCo elections. USCMA and CEO replied that the VR forms had already been revised to address the above problem, such that when registering as an elector of a LegCo geographical constituency, the applicant would also become an elector in the DC (second) FC unless he/she expressly indicated otherwise. In reply to the Deputy Chairman's enquiry, CEO advised that at present, there were some 70 000 eligible electors who had not registered as electors in the DC (second) FC. REO would consider sending letters to invite them to register in the DC (second) FC in the run-up to the next LegCo General Election.

30. The Deputy Chairman echoed the views expressed by Mr CHEUNG Kwok-kwan in paragraph 9 above and supported that the address proof requirement should be implemented to existing registered electors who applied for change of registered addresses first. The requirement should be extended to cover new VRs only after it had been implemented smoothly.

31. Dr Helena WONG enquired whether VR counters would be set up in prisons to help prisoners register as electors. CEO undertook to explore how to follow up in collaboration with the Correctional Services Department.

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V. Any other business

32. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
28 November 2017