

**立法會**  
**Legislative Council**

Ref : CB2/PL/CA

LC Paper No. CB(2)879/17-18  
(These minutes have been seen  
by the Administration)

**Panel on Constitutional Affairs**

**Minutes of special meeting  
held on Wednesday, 20 December 2017, at 2:15 pm  
in Conference Room 3 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 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-kuok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon Dennis KWOK Wing-hang  
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-kuok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Alvin YEUNG  
Hon CHU Hoi-dick  
Hon Jimmy NG Wing-ka, JP  
Hon LAM Cheuk-ting  
Hon Wilson OR Chong-shing, MH  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LAU Kwok-fan, MH

Hon Kenneth LAU Ip-keung, BBS, MH, JP  
Dr Hon CHENG Chung-tai

**Members absent** : Hon WONG Ting-kwong, GBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP

**Public Officers attending** : Mr Andy CHAN Shui-fu  
Under 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

**Attendance by invitation** : Mr WHY

Mr LEUNG Kwok-hung

Liberal Party

Mr Jeremy YOUNG Chit-on  
Member

Mr AU Nok-hin

The Democratic Party

Mr LEE Wai-fung  
Spokesperson

The Civic Party

Mr LEE Ka-ho  
District Developer of the New Territories West

Mr YAU Yue-cheong

Democratic Alliance for the Betterment and Progress of  
Hong Kong

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Mr Frankie NGAN  
Chairperson, Youth DAB

Dynamics Island

Mr Felix WU Pat-lun  
Spokesperson

Island West Dynamic Movement

Mr Sam YIP Kam-lung  
Convenor

Public Opinion Programme, The University of Hong Kong

Mr TAI Chit-fai  
Senior Data Analyst

**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. Consultation Paper on Review of Electoral Arrangements**  
[LC Paper Nos. CB(2)305/17-18, CB(2)311/17-18(03) and (04)]

The Panel received views from 11 deputations/individuals on the Consultation Paper on Review of Electoral Arrangements ("the Consultation Paper"). A record of the 11 deputations/individuals and the submissions received are in the **Appendix**.

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Administration's response to deputations' views

2. In response to the views expressed by the deputations, the Under Secretary for Constitutional and Mainland Affairs ("USCMA") made the following points:

- (a) the Administration welcomed the deputations' general support for the proposed targeted exemption as detailed in paragraph 2.14 of the Consultation Paper;
- (b) the Administration noted that diverse views were expressed by deputations as to whether election surveys should be regulated; and
- (c) the Administration noted that concern was expressed by deputations on the suggestion of shortening the polling hours as electors might have well adapted to the existing arrangements.

USCMA stressed that the Administration did not have any preconceived position and welcomed members and the public to express their views for further consideration by the Administration. He added that the Administration would collate the views received and report the consultation outcome to the Panel in due course.

Discussion

*Regulation of election advertisements published through the Internet (including social media)*

3. The Deputy Chairman welcomed the Administration's proposed targeted exemption set out in paragraph 2.14 of the Consultation Paper. Dr Priscilla LEUNG suggested that the Administration should specify the criteria on which the granting of the proposed targeted exemption would be based.

4. USCMA advised that the Administration recommended granting the proposed exemption when the election expenses thus incurred by a third party were merely electricity and/or Internet access charges. The proposed relaxation aimed at safeguarding the freedom enjoyed by the public in their expression of views and communication on the Internet. In response to Mr CHEUNG Kwok-kwan's enquiry, USCMA clarified that any form of publication published for the purpose of promoting or prejudicing the election

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of a candidate at the election constituted an election advertisement ("EA"). The proposal would not affect the obligation of candidates or their election expense agents under the existing electoral legislation. The definition of EA would also remain intact.

5. Dr Priscilla LEUNG raised concern that her email account was blocked by an email service provider which had received complaints against her from other users, such that she was unable to disseminate EAs to electors by email. The Chief Electoral Officer ("CEO") replied that Internet service providers might set daily limits on the sending of bulk emails and thus might block users from sending bulk emails when such limit was exceeded. He said that EAs could be sent out to the electors by email in batches.

*Regulation of election surveys*

6. Dr Helena WONG echoed the Public Opinion Programme of The University of Hong Kong's view [LC Paper No. CB(2)552/17-18(02)] that "it is already general knowledge that many pre-election and exit poll researchers are engaged in secret election engineering exercises". She enquired about the measures adopted by the Administration in ensuring that the organizations approved to conduct exit polls would comply with the guidelines in relation to the conduct, publication and broadcast of exit polls conducted within No Canvassing Zones ("the Guidelines") promulgated by the Electoral Affairs Commission ("EAC"), with a view to preventing the disclosure of the exit poll results during the polling hours and affecting election results.

7. USCMA responded that since the 2015 District Council ("DC") Ordinary Election, EAC had required applicants or the applicant organizations for conducting exit polls to make a statutory declaration to undertake, among others, not to announce or disclose the results of the exit poll before the close of poll. If applicants/applicant organisations knowingly made a false statement on a material particular in the statutory declaration, they might be subject to criminal liability.

8. Ms Claudia MO pointed out that, in practice, it would be difficult if not impossible for the Administration to monitor whether or not the applicants/applicant organizations conducting exit polls complied with the relevant terms of the statutory declaration and the Guidelines, because the persons/organizations concerned might disclose the exit poll results in secret. Dr Helena WONG and Dr Fernando CHEUNG echoed Ms MO's concerns. Ms MO further said that a former Legislative Council ("LegCo") Member had

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openly admitted that the political party to which he belonged had made use of exit poll results for the purpose of vote-matching. She asked how the Administration would follow up on such cases and monitor whether the applicants/applicant organizations concerned had disclosed the exit poll results in secret. Mr LAM Cheuk-ting said that to his knowledge, certain research organizations had been using their exit poll results for vote-matching over the years. He and Dr Fernando CHEUNG considered that the Administration should continue to allow credible pollsters such as the Public Opinion Programme of The University of Hong Kong to conduct election surveys.

9. USCMA said that the Administration had not received any report of suspected cases of non-compliance with the terms of the statutory declaration and the Guidelines since the introduction of the statutory declaration in 2015. If anyone had knowledge of any such cases, he/she should report them to law enforcement authorities for investigation and follow-up actions.

10. Dr Priscilla LEUNG considered that the "ThunderGo" campaign during the 2016 LegCo General Election had caused unfair interference with the election process by unduly influencing electors. She suggested that a cooling-off period should be introduced. Mr CHEUNG Kwok-kwan expressed similar concerns. Dr CHENG Chung-tai took the view that a cooling-off period should be introduced on the polling day until the close of poll. Ms Starry LEE took the view that even if legislation were introduced to regulate election surveys, it would be practicably infeasible to regulate the disclosure of election survey results via the Internet for the purpose of vote matching or canvassing activities, especially voting messages that were sent from overseas.

11. USCMA said that there was no regulation under the existing legislation on election surveys conducted outside the No Canvassing Zones on the polling day, or on election surveys conducted prior to the polling day. The purpose of the current public consultation exercise was to consult the public on whether and to what extent these election surveys should be regulated.

12. The Deputy Chairman remarked that, as the "ThunderGo" campaign and the "abandonment of election" by certain candidates during the 2016 LegCo General Election were closely intertwined, it would not suffice to only regulate election surveys but not acts related to the "abandonment of election". Dr Helena WONG, however, took the view that regulation of acts related to the "abandonment of election" was not enforceable.

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13. USCMA said that there was currently no mechanism for the withdrawal of candidature after the close of nomination under the existing legislation. The Administration would carefully examine whether and how best to address the issue of "abandonment of election".

*Polling hours*

14. The Deputy Chairman said that there were views that the present polling hours for DC and LegCo elections (15 hours) were too long, and the electoral staff was exhausted due to the long hours of work. He agreed that the community should discuss whether there was room for shortening the polling hours. Dr Priscilla LEUNG said that while she did not oppose slightly shortening the polling hours, due consideration should be given to those electors who had to work on the polling day.

15. USCMA said that the Administration was of the view that it would be difficult to significantly shorten the polling hours. It would carefully consider all the views and suggestions received in the consultation exercise. If the community reached a consensus of slightly shortening the polling hours, the Administration would relay the relevant proposal to EAC for consideration.

*Other issues*

16. Dr Helena WONG expressed concern that some elderly homes had compelled their residents to cast votes during past elections and these elderly electors were reportedly given instructions to vote for certain candidates. Dr WONG considered that the Administration should make every effort to ensure that the operators, social workers and carers of elderly homes strictly abided by the provisions of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO"). Ms Claudia MO shared Dr WONG's views and enquired if the Administration had followed up on a news video footage by Radio Television Hong Kong covering a case of this nature.

17. USCMA and CEO replied that if anyone was suspected to have been engaged in an illegal conduct under ECICO, such case should be reported to the Independent Commission Against Corruption ("ICAC") for investigation and follow-up action. At Ms MO's request, USCMA agreed to further understand the incident and refer the relevant video footage to ICAC where appropriate.

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18. Mr CHU Hoi-dick commented that the processes for handling election petitions lodged against the results of the 2016 LegCo General Election took too long. In response to Mr CHU's enquiry, USCMA said that the relevant election petitions were currently being dealt with by the court.

Admin 19. Dr Priscilla LEUNG said that, during the 2015 DC Ordinary Election, some of her constituents residing in Whampoa East in the Kowloon City District were inadvertently registered as constituents of Hoi Sham, and requested the Administration to follow up on this matter.

**II. Any other business**

20. There being no other business, the meeting ended at 4:19 pm.

Council Business Division 2  
Legislative Council Secretariat  
13 February 2018



## Panel on Constitutional Affairs

Special meeting on Wednesday, 20 December 2017, at 2:15 pm  
Meeting to receive views on "Consultation Paper on Review of Electoral Arrangements"

## Summary of views and concerns expressed by deputations

No.	Name of Deputation/individual	Submission / Major views and concerns
1.*	Mr WHY	<ul style="list-style-type: none"> <li>Expressed concern that some elders residing in elderly homes had been registered as electors without their knowledge. Moreover, they were taken by staff of the elderly homes to the polling stations and were instructed to vote for particular candidates.</li> </ul>
2.*	Mr LEUNG Kwok-hung	<ul style="list-style-type: none"> <li>It was undesirable that the legal proceedings of election petitions regarding the 2016 Legislative Council election had dragged on for so long.</li> <li>Controversies concerning the Confirmation Form should be properly addressed as soon as possible.</li> </ul>
3.*	Liberal Party	<ul style="list-style-type: none"> <li>There should be regulation of election surveys to ensure the fairness of elections. In the 2016 Legislative Council election, some people conducted election surveys and used the results for strategic matching of votes and to unfairly influence the electors' voting preference and the election process.</li> <li>There should be a cooling-off period so that the election survey results would not be disclosed prior to the polling day.</li> </ul>
4.*	Mr AU Nok-hin	<ul style="list-style-type: none"> <li>Strategic voting and matching of votes were common in public elections in Hong Kong. Moreover, the Government would not be able to prohibit the disclosure of election survey results on or prior to the polling day.</li> <li>If the polling hours were shortened, it would undermine the voting right of electors.</li> </ul>
5.	Democratic Party	<ul style="list-style-type: none"> <li>LC Paper No. CB(2)559/17-18(01)</li> </ul>
6.*	Civic Party	<ul style="list-style-type: none"> <li>The polling hours should not be shortened for the sake of administrative convenience, as this would undermine the voting right of electors. The Administration should consider increasing manpower to facilitate the counting of votes.</li> <li>Supported the proposed targeted exemption as set out in paragraph 2.14 of the Consultation Paper.</li> </ul>
7.	Mr YAU Yue-cheong	<ul style="list-style-type: none"> <li>LC Paper No. CB(2)552/17-18(01)</li> </ul>

No.	Name of Deputation/individual	Submission / Major views and concerns
8.*	Democratic Alliance for the Betterment and Progress of Hong Kong	<ul style="list-style-type: none"> <li>• Supported the proposed targeted exemption as set out in paragraph 2.14 of the Consultation Paper.</li> <li>• The "ThunderGo" campaign during the 2016 Legislative Council election should be prohibited and the fairness of the election should be safeguarded.</li> <li>• The polling hours could be shortened gradually, for example by 30 minutes as a start, so that the counting of votes could begin earlier and the election results be disclosed sooner.</li> </ul>
9.	Dynamics Island	<ul style="list-style-type: none"> <li>• LC Paper No. CB(2)632/17-18(01)</li> </ul>
10.*	Islands West Dynamic Movement	<ul style="list-style-type: none"> <li>• Currently, organizations approved to conduct exit polls were only required to sign a statutory declaration, and they barely bore any liability even if they failed to comply with the terms of the declaration and disclosed the polling results. The regulation of exit polls should be tightened in light of overseas experience.</li> <li>• The polling hours needed not be shortened, if the election day and the day after were both designated as statutory holidays and the counting of votes was computerized.</li> </ul>
11.	Public Opinion Programme, The University of Hong Kong	<ul style="list-style-type: none"> <li>• LC Paper No. CB(2)552/17-18(02)</li> </ul>

\* No submissions provided for this meeting

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