

Panel on Constitutional Affairs

List of outstanding items for discussion

(position as at 3 January 2018)

**Proposed
timing for
discussion**

1. Role and development of political parties

The Panel held a discussion on the need to introduce a political party law at its meeting on 21 February 2005 and received views from deputations on the role and development of political parties at a special meeting on 26 February 2005. The Administration's position was that the introduction of a political party law would hinder the development of political parties.

To be confirmed

As one of the means to facilitate the development of political party and political talent, the Administration introduced the financial assistance scheme for candidates of Legislative Council ("LegCo") election in 2004. The scheme was extended to District Council ("DC") elections in 2007. The financial assistance subsidy rate to candidates in the DC election and LegCo election is \$14 per vote starting from the 2015 DC ordinary election and the 2016 LegCo general election respectively.

2. Submission of reports by the Hong Kong Special Administrative Region Government to the United Nations under international human rights treaties

The Panel discussed the outline of the second report of the Hong Kong Special Administrative Region ("HKSAR") under the Convention on the Rights of the Child on 20 April 2009, and met with deputations on 18 May 2009. The second report of HKSAR was submitted to United Nations ("UN") in July 2010 (as part of the combined third and fourth report of China) and published by UN in May 2012. The related hearing was conducted on 26 and 27 September 2013 in Geneva. The Panel received public views on the second report of HKSAR on 18 March 2013, and discussed the relevant concluding observations with deputations and the Administration on 18 November 2013.

As and when those reports are submitted by the People's Republic of China ("China") to UN and published [Constitutional and Mainland Affairs Bureau ("CMAB") & LWB]

At the Panel meeting on 18 January 2010, the Administration briefed the Panel on the outline of the topics to be included in HKSAR's third report under the International Covenant on Economic, Social and Cultural Rights ("ICESCR"). The Panel received public views on the outline of topics on 10 February 2010. The HKSAR's third report which forms part of the second report of China was submitted to UN in June 2010 and made available to the public on 21 October 2010. The Panel discussed the third report on 20 December 2010. The related hearing was conducted on 8 May 2014 in Geneva. The Panel discussed the third report with deputations on 17 February 2014. The Panel discussed the relevant concluding observations on 16 June 2014.

The Panel received public views on the outline of the topics to be included in the HKSAR's third report in the light of the International Covenant on Civil and Political Rights ("ICCPR") on 21 June 2010. The HKSAR's third report has been submitted to UN and was made available to the public on 23 September 2011. The Panel discussed the report on 21 November 2011. The related hearing was held on 12 and 13 March 2013 in Geneva. The Panel received public views on the third report on 18 February 2013, and discussed the relevant concluding observations with deputations on 20 May 2013. The Panel discussed the report of HKSAR on its follow-up to the concluding observations on 19 May 2014.

China's 10th to 13th combined report under the International Convention on the Elimination of All Forms of Racial Discrimination ("ICERD"), of which the report on HKSAR formed a part, was submitted to UN in June 2008. After discussion of the report on HKSAR on 15 December 2008, the Panel further received public views on 15 June 2009. UN hearing was held in August 2009. The Administration briefed the Panel on the concluding observations on 16 November 2009. The Panel received public views on the concluding observations on 11 December 2009. The Panel received public views on the outline of topics to be included in the third report of HKSAR on 16 November 2015. The HKSAR's third report, which has been submitted as part of China's combined 14th to 17th reports to UN, was made available to the public on 3 April 2017.

UN Human Rights Council has initiated a Universal Periodic Review ("UPR") of all UN member states. The hearing on China, which covered HKSAR, was held on 9 February 2009. The

Panel discussed the section on HKSAR of the report of CPG to UN and received public views on 19 January 2009 and the Administration reported outcome of the hearing on 7 July 2009. The Panel discussed and received public views on the proposed outline of topics to be included in the report for the second UPR on 18 February 2013. The report of HKSAR was made public in October 2013. The hearing of the second UPR on China took place on 22 to 25 October 2013. Members discussed the hearing of the report of HKSAR with deputations and the Administration on 16 December 2013.

The reporting responsibility of the third report of HKSAR under the Convention on the Elimination of All Forms of Discrimination Against Women falls under the purview of the Labour and Welfare Bureau ("LWB"). The Panel discussed and received views from the public on the outline of topics to be included in third report on 19 July 2010. The HKSAR's report was submitted to UN as part of China's combined seventh and eighth report in January 2012, and has been made available to the public since 24 May 2012. The Panel discussed the third report with deputations and the Administration on 21 July 2014. The related hearing was conducted on 23 October 2014. The Panel discussed the relevant concluding observations on 17 November 2014. [LWB]

The Panel received public views on the outline of topics to be included in the initial report of HKSAR under the Convention on the Rights of Persons with Disabilities on 19 March 2010. The HKSAR's initial report was submitted to UN in August 2010 and has been made available to the public since 25 November 2010. In anticipation of a UN hearing on China's combined report, the Panel discussed the HKSAR's initial report with deputations on 18 June 2012. The UN hearing was held from 18 to 19 September 2012. The Panel discussed the Administration's initial response to the concluding recommendations and received views from the public on 17 December 2012.

3. Post-office employment control of former Chief Executives and former politically appointed officials

The Panel on Public Service ("the PS Panel") discussed the Report of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants ("the Review Committee") at its special meeting on 13 July 2009. The Review Committee To be confirmed

has recommended to the Chief Executive ("CE") in its Report that a separate review should be carried out on the post-office employment control of politically appointed officials. The PS Panel has referred the subject to this Panel for follow-up and requested that its members be invited to join the future discussion of the subject.

Panel Chairman has directed that the scope of this item should also cover the post-office employment control for former CEs.

4. Management of government records

At its meeting on 17 May 2010, the Panel discussed with the Administration and received views from deputations on "Code on access to information and management of public records". At the suggestion of Hon Emily LAU, members agreed on 18 April 2011 that the Panel should further discuss the management of government records. early 2018
[Admin Wing]

At its meeting on 21 November 2011, members agreed that the Panel should follow up on the relevant issues after the Public Accounts Committee ("PAC") had completed its consideration of Report No. 57 of the Director of Audit, a chapter of which was on records management work of the Government Records Service.

The PAC Report No. 57 was tabled at the Council meeting of 15 February 2012. PAC did not hold any public hearing on this subject, but sought written response to its enquiries. PAC was concerned, among other issues, about the compliance with mandatory record management requirements by bureaux and departments, the criteria for selection of archival records and manpower of the Government Records Service, etc. PAC considered that there were a number of issues to be sorted out which might be related to the Government's overall policy on records management. The relevant issues have been referred to the Panel for consideration.

At the meeting on 20 May 2013, Dr Hon Kenneth CHAN proposed to discuss issues relating to the enactment of an archives law and legislation on freedom of information. The Administration was requested to revert to the Panel on the timeframe for the studies by the two subcommittees of the Law Reform Commission on the topics of archives law and access to information. The Administration provided information on the

updated position on 24 December 2014 [LC Paper No. CB(2)530/14-15(01)].

Hon Charles Peter MOK, Hon Tanya CHAN and Hon Dennis KWOK indicated intention to introduce a private bill on the management of public records. In this connection, the Panel has sought the Administration's preliminary comments [CB(2)1408/16-17(02)].

5. Press freedom

At the meeting on 17 October 2011, members agreed to discuss the Administration's initiatives to safeguard press freedom at a future meeting. The Administration undertook to co-ordinate its response in respect of the media's concerns about their reporting work. To be confirmed

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

At the meeting on 4 June 2012, the Administration undertook to provide a paper on its plan to implement the recommendations of the "Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests" and the relevant time-table. The Administration provided a paper on the implementation progress [LC Paper No. FC136/11-12(01)] on 18 June 2012. The Panel agreed to discuss the implementation of the recommendations at a future meeting. To be confirmed [Admin Wing]

At the meeting on 19 November 2012, Hon Emily LAU referred to the Administration's letter dated 16 November 2012 to the Panel on the CE's declaration of interests [LC Paper No. CB(2)227/12-13(01)], and proposed that the Panel should follow up on the relevant issues.

At the Council meeting of 5 December 2012, a LegCo question was raised by Hon Dennis KWOK on "Regulatory system for prevention and handling of potential conflicts of interests concerning CE". The Chief Secretary for Administration ("CS") replied that the Administration was actively following up the remaining recommendations and would consult LegCo on the recommendations on amending the Prevention of Bribery Ordinance (Cap. 201) ("POBO") once there was further progress.

Hon Emily LAU proposed to follow up on the above CS' reply, and the revisions already made to the Code for Officials Under the Political Appointment System in the light of the recommendations of the report.

At the request of Hon Emily LAU [LC Paper No. CB(2)1797/12-13(01)], members agreed on 18 November 2013 that the Panel should discuss the "Guidelines for CE in handling potential cases of conflict of interest and acceptance of advantages and entertainment concerning politically appointed officials" at a future meeting.

The Administration's letter dated 2 July 2014 regarding the updated position of this item was issued to members on 8 July 2014 vide LC Paper No. CB(2)2006/13-14(01).

The Administration provided further information about the existing declaration system on 15 July 2016 [LC Paper No. CB(2)1924/15-16(01)].

At the meeting on 20 March 2017, Hon LAM Cheuk-ting expressed dissatisfaction with the lack of progress of this item and requested the Panel to discuss the subject at the April meeting or convene a special meeting. The Chairman requested the Administration to advise on the appropriate timing for discussion of the subject. CMAB relayed the request to the Administration Wing. On 8 May 2017, the Administration Wing informed the Panel in writing that as the proposed amendments to POBO might have implications on the provisions about the political structure of HKSAR and the constitutional status of CE as prescribed in the Basic Law, the Administration had been studying comprehensively the relevant constitutional and legal requirements as well as operational issues concerned. Upon completion of the study, the Administration would report to LegCo and initiate legislative procedure at the appropriate juncture. The Chairman wrote to the Director of Administration ("D of Adm") on 21 June 2017 to make further enquiries. D of Adm's reply letter dated 7 July 2017 was issued to members vide LC Paper No. CB(2)1847/16-17(01).

Hon Dennis KWOK has prepared two private bills to amend the Independent Commission Against Corruption Ordinance (Cap. 204) and POBO respectively.

7. Reports published by the Law Reform Commission on various aspects of privacy

The Administration has considered the five reports published by the Law Reform Commission ("LRC") on the topics of : To be confirmed

Interception of communications (December 1996)

Stalking (October 2000)

Privacy and media intrusion (December 2004)

Civil liability for invasion of privacy (December 2004)

Regulation of covert surveillance (March 2006)

According to the Administration, these five reports touch on the sensitive and controversial policy and political issue of how to strike a balance between protection of individual privacy rights and freedom of the media. There were mixed responses and very divergent views from different sectors of the community. Given the complexity and sensitivity of the policy and political issues involved, the Administration would consider the five reports as and where appropriate and map out the way forward in consultation with relevant parties.

At its meetings on 16 December 2013 and 16 June 2014, the Panel discussed the LRC Report on Stalking with the Administration.

8. Follow up discussion on the computer theft incident of the Registration and Electoral Office during the Chief Executive election in March 2017

At the meeting on 12 October 2017, Hon Charles Peter MOK proposed to discuss the implementation progress of the recommendations made by the Task Force concerned and those by the Privacy Commissioner for Personal Data, as well as the outcome of the internal investigation conducted by the Registration and Electoral Office. To be confirmed

9. Political reform

At the meeting on 12 October 2017, Dr Hon Helena WONG suggested that the Panel should revisit the issue of political reform. To be confirmed

10. Discrimination Law Review

At the meeting on 12 October 2017, Hon IP Kin-yuen proposed that the Panel should follow up on the recommendations under the Discrimination Law Review ("DLR"). Hon CHAN Chi-chuen requested that the Administration should consult the Panel before it commenced drafting the bill for implementing the nine prioritized recommendations under DLR. The Administration has indicated that it will consult the Panel on the relevant bill in due course. To be confirmed

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