

**立法會**  
***Legislative Council***

Ref : CB2/PL/HA

LC Paper No. CB(2)1220/17-18

(These minutes have been seen  
by the Administration)

**Panel on Home Affairs**

**Minutes of meeting**  
**held on Monday, 27 November 2017, at 8:30 am**  
**in Conference Room 2 of the Legislative Council Complex**

**Members present** : Hon MA Fung-kwok, SBS, JP (Chairman)  
Hon YUNG Hoi-yan (Deputy Chairman)  
Hon CHAN Hak-kan, BBS, JP  
Hon Claudia MO  
Hon Steven HO Chun-yin, BBS  
Hon YIU Si-wing, BBS  
Hon CHAN Chi-chuen  
Hon LEUNG Che-cheung, SBS, MH, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Hon Jimmy NG Wing-ka, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon SHIU Ka-chun  
Hon Tanya CHAN  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Hon LAU Kwok-fan, MH  
Hon Kenneth LAU Ip-keung, BBS, MH, JP  
Hon KWONG Chun-yu

**Members attending** : Hon Paul TSE Wai-chun, JP  
Hon KWOK Wai-keung, JP  
Hon Alvin YEUNG  
Hon LAM Cheuk-ting

**Members absent** : Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick

**Public Officers : Item III  
attending**

Mr LAU Kong Wah, JP  
Secretary for Home Affairs

Miss Janice TSE Siu-wa, JP  
Director of Home Affairs

Miss Vega WONG Sau-wai, JP  
Assistant Director of Home Affairs

**Item IV**

Mr LAU Kong-wah, JP  
Secretary for Home Affairs

Mrs Angelina CHEUNG FUNG Wing-ping, JP  
Deputy Secretary for Home Affairs (2)

Mr Kesson LEE  
Principal Assistant Secretary for Home Affairs  
(Culture) 1

**Clerk in : Ms Joanne MAK  
attendance** Chief Council Secretary (2) 3

**Staff in : Mr Richard WONG  
attendance** Senior Council Secretary (2) 6

Mrs Fonny TSANG  
Legislative Assistant (2) 3

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**I. Information papers issued since the last meeting**  
[LC Paper Nos. CB(2)125/17-18(01) and CB(2)195/17-18(01)]

Members noted that the following papers had been issued after the last meeting:

- (a) referral from Legislative Council Members' meeting with members of Sham Shui Po District Council on 14 July 2017 regarding bid-rigging in building maintenance works [circulated to Members only]; and

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- (b) referral from Legislative Council Members' meeting with members of Sham Shui Po District Council on 14 July 2017 regarding the development and planning of Tung Chau Street Temporary Market [circulated to Members only].

**II. Items for discussion at the next meeting**

[LC Paper Nos. CB(2)378/17-18(01) and (02)]

2. The Panel agreed to discuss the following items proposed by the Administration at the next regular meeting on 21 December 2017 at 10:45 am:

- (a) progress report on enhancement of programming, audience building and renewal of permanent exhibitions of public museums; and
- (b) Signature Project Scheme projects (Southern District Council, Wan Chai District Council and Kwun Tong District Council).

List of outstanding items for discussion

3. The Chairman informed members that he and the Deputy Chairman had discussed the work plan of the Panel for the 2017-2018 legislative session with the Secretary for Home Affairs ("SHA") at the informal meeting on 3 November 2017, and the list of outstanding items for discussion [LC Paper No. CB(2)378/17-18(01)] had been updated accordingly. He added that the Administration had undertaken to provide an information note on the updated position of the various issues raised by members at the Panel meeting on 12 October 2017.

*(Post-meeting note:* The information note provided by the Administration was issued to members on 20 December 2017 vide LC Paper No. CB(2)560/17-18.)

4. Ms Tanya CHAN said that she had raised concerns at a number of meetings about the timing for discussion of "Review on policy of Private Recreational Leases", and considered that the Administration should propose a more definite timing for discussion of the item, say, in the first or the second quarter of 2018. The Chairman said that he had relayed Ms CHAN's concerns to the Administration, and he would continue to liaise with the Administration on this matter.

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**III. Review of the Building Management Ordinance (Cap. 344) – Enhanced Proposals**

[LC Paper Nos. CB(2)378/17-18(03) and (04)]

5. At the invitation of the Chairman, SHA briefed members on the enhanced proposals of legislative amendments to the Building Management Ordinance (Cap. 344) ("BMO") as set out in paragraphs 5 to 34 of the Administration's paper [LC Paper No. CB(2)378/17-18(03)]. Members expressed general support for these enhanced proposals.

*(Post-meeting note: a submission from the Housing Committee of the Kwun Tong District Council was tabled at the meeting and issued to members after the meeting vide LC Paper No. CB(2)402/17-18(01) on 27 November 2017.)*

Discussion

*Non-performance of management committees and powers of the authority*

6. Regarding the enhanced proposal of empowering the Authority to, at the request of not less than 10% of the owners and after issuing a warning, dissolve a non-performing management committee ("MC"), Mr LAU Kwok-fan considered that the Administration should set out the definition of non-performing MC and the procedures for taking the above enforcement actions. Mr Holden CHOW asked about the estimated time required for the Authority to dissolve a non-performing MC, and before doing so, the number of warnings to be issued. Both Mr LAU and Mr CHOW considered that the Administration should dissolve non-performing MCs in a more timely manner. Dr Junius HO considered that the Administration should consider taking enforcement actions against non-performing MCs upon receipt of complaints, rather than at the request of not less than 10% of the owners.

7. Mr LAM Cheuk-ting considered that the Administration should intervene at an early stage, particularly when the MC Chairman failed to call a general meeting of owners' corporation ("OC") at the request of not less than 5% of the owners, and when the MC refused to disclose audited accounts, failed to safekeep and circulate minutes of MC/OC meetings, or failed to safekeep tender documents. Mr Alvin YEUNG considered that the legislative amendments should address the existing problem that only the MC Chairman could call a general meeting of OC.

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8. The Director of Home Affairs ("DHA") said that BMO currently set a high threshold (i.e. only when there was "a danger or risk of danger" to the occupiers or owners of the buildings) for the Administration to initiate the relevant procedures for appointing a building management agent for the purpose of managing a building if its MC was non-performing. She further said that the Administration considered it important to ensure the continuous operation of the OC concerned. Therefore, in addition to empowering the Authority to, after issuing a warning, dissolve a non-performing MC, the Administration proposed to empower the Authority to appoint an administrator to (a) chair an OC meeting to re-elect an MC; and (b) look after the operation of the OC concerned before a new MC was elected by the owners under BMO. She added that the Administration would formulate procedures for invoking the above power, and would issue warning(s) requesting an explanation from the MC concerned before dissolving a non-performing MC. She added that the number of warning(s) to be issued would depend on the actual circumstances. Regarding Mr Alvin YEUNG's suggestion, the Assistant Director of Home Affairs ("ADHA") said that the Administration had proposed that when the office of the MC Chairman was vacant, the Vice-chairman could convene the general meeting in place of the Chairman. Where no Vice-chairman was elected, the MC could appoint one of its members to convene the general meeting.

*Procurement and "large-scale maintenance projects"*

9. The Deputy Chairman asked about the rationale of the Administration's proposal to enhance the definition of "large-scale maintenance projects" by changing it from a three-tier to a five-tier system as set out in paragraph 11 of the Administration's paper. Mr KWOK Wai-keung considered the proposed five-tier definition acceptable, and reiterated his view that the Administration should provide assistance for OCs in venue arrangements.

10. ADHA said that during the public engagement, regarding small housing estates with 100 flats or below, the stakeholders generally considered the proposed threshold for the definition of "large-scale maintenance projects" reasonable (i.e. an absolute amount of \$1 million or 200% of the average audited annual expenditure of the OC concerned for the past three years, whichever was the lesser). Taking into account the views of stakeholders in public engagement, the policy objective to encourage more owners to participate in important matters of OCs in person, as well as

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the actual circumstances of large housing estates, the Administration proposed to refine the definition of "large-scale maintenance projects" by adding another tier each for medium and large housing estates. ADHA added that the Administration had made reference to, among others, the statistics collected from the Operation Building Bright by the Urban Renewal Authority. At the request of the Deputy Chairman, SHA agreed to provide a summary of views of the 83 written submissions received by the Administration.

11. As regards the Administration's proposal that in respect of OCs for 4 000 flats or below, 20% of owners were required for forming the quorum of the general meeting, the Chairman said that for single-block buildings with, say, only 10 flats, a very small number of owners would fulfil the quorum requirement. He considered that one or two tiers should be added to the proposal regarding the quorum of the meeting so that more owners would participate in the discussion and decision of "large-scale maintenance projects" in the above situation. Besides, he opined that measures should be taken to prevent OCs from voting on resolutions on "large-scale maintenance projects" after the majority of owners who attended the meeting had left. He said that in such situation a person who held a large number of proxy instruments could manipulate the voting result.

12. SHA said that the Administration's latest proposal sought to strike a balance between encouraging owners' participation in making important decisions and fulfilling the quorum requirement of general OC meetings. To provide assistance to OCs in conducting general meetings, the Administration had launched the Pre-Meeting Advisory Service for OCs. OCs should have autonomy in respect of the meeting arrangements as long as statutory requirements were met.

13. Mr LAU Kwok-fan considered that consultancy contracts for "large-scale maintenance projects" should also be required to be decided by resolutions of the owners passed at a general meeting of OCs.

14. Mr LAM Cheuk-ting queried why regular service contracts of the housing estates, such as those of property management, cleansing or security, might also be classified as "large-scale maintenance projects". He considered it necessary to exclude regular service contracts from the definition of "large-scale maintenance projects".

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15. ADHA said that in accordance with section 20A of BMO, whether any "supplies, goods and services" would require to be procured by invitation to tender depended on their monetary amount rather than their nature, and there was no distinction between maintenance projects and regular service contracts. She added that the Administration would explore whether a refined definition should be provided during the drafting of the legislative proposals.

16. As regards the Administration's proposal to include in the Code of Practice issued under section 44 of BMO or related administrative guidelines "best practices" to recommend that OCs should sign contracts with suppliers/contractors at least one month after the passing of a resolution on "large-scale maintenance projects", Mr Alvin YEUNG and Mr Holden CHOW asked whether the Administration would propose to make that a mandatory requirement. In response, DHA explained that as such contracts were commercial in nature, the Administration considered it more appropriate to allow OCs some flexibility to decide when to sign such contracts in light of the actual circumstances.

*Proxy instruments*

17. Mr Alvin YEUNG welcomed the Administration's enhanced proposals of putting a ceiling on the number of proxy instruments a person could hold and requiring the MC Secretary to disclose the name of any person holding proxy instruments from of 5% of the owners. He and Mr LAM Cheuk-ting considered that the Administration should introduce measures to prevent proxies from voting in a way different from the voting instructions of the owners concerned.

18. ADHA said that the Administration's latest thinking was that the future proxy instruments would be divided into three parts as set out in the draft model proxy instrument in Annex 2 to the Administration's paper, and Part 2 would allow the owner to specify his voting instructions in respect of any resolution. She added that in order to ensure that the voting instructions of the owner would be followed, MC and/or property management companies ("PMCs") would hand over Part 2 of the proxy instrument (i.e. Owners' Voting Instructions), affixed with proper markings (e.g. chop) for verification earlier on to the proxy attending the meeting for voting at the meeting. Furthermore, the bottom of the proxy instrument would also have a warning of criminal liability for making false statement or information.

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*Criminal sanctions*

19. Notwithstanding the Administration's enhanced proposals in respect of criminal sanctions, Mr LAM Cheuk-ting considered that a more stringent penalty (such as imprisonment) should be imposed on MC members, particularly the MC Chairman who contravened relevant requirements of BMO. For example, there should be criminal sanctions for the MC Chairman/MC members for failure to convene a general meeting at the request of not less than 5% of the owners so as to achieve greater deterrence.

20. Mr LAU Kwok-fan said that while he supported the Administration to take forward the proposed enhanced legislative amendments to BMO, he wondered whether the enhanced proposals could achieve adequate deterrent effect against non-compliance.

21. SHA said that in addition to ensuring the proportionality of the level of penalty, the enhanced proposals had struck a proper balance between the deterrent effect of the proposed penalty and its impact on owners' motivation to take up OC duties. ADHA supplemented that in the future, it might be a more direct and effective approach for the Authority, at the request of not less than 10% of the owners, to execute the power to dissolve the MC if the MC was still non-performing after issuing a warning. In response to Mr YIU Si-wing's views that criminal sanctions should be provided for the deed of mutual covenants ("DMC") managers/PMCs for failure to produce annual audited accounts, DHA and ADHA added that the Administration had proposed to impose criminal liability on the DMC managers/PMCs in case of failure to produce annual audited accounts as well as, among others, to keep all the proxy instruments and relevant declarations for at least three years.

22. Mr KWONG Chun-yu asked whether any criminal sanctions had been imposed on MC Chairman and/or MC members in the past. Mr CHAN Chi-chuen considered that if the Administration refrained from instituting prosecution against non-compliance, imposing more stringent criminal sanctions would not achieve the desired deterrent effect.

23. DHA and ADHA said that no prosecution had been instituted against non-compliance with BMO in the past, as the Administration had been adopting an advisory approach to remind the OCs concerned to comply with the statutory requirements and there were practical difficulties in collecting sufficient evidence. In this connection, the Administration proposed to



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amend BMO, with a view to enabling the Authority to take enforcement actions and instituting prosecution against non-compliance in a more effective manner. The Administration would also provide more detailed procedural guidelines to facilitate compliance by MCs.

(The Chairman left the meeting from 9:07 am to 9:32 am due to other urgent commitment and the Deputy Chairman took over the chair during that period of time.)

*Others*

24. Mr YIU Si-wing considered that PMCs should take on a larger role in ensuring that the operation of OCs complied with the statutory requirements. For example, they should provide the necessary advice on building management to MC Chairman and MC members. Mr KWONG Chun-yu urged the Administration to provide more resources support for Liaison Officers. Dr Junius HO suggested that the Administration should establish a matching fund for OCs to hire professional legal services. Mr KWOK Wai-keung considered that the Building Management Dispute Resolution Service should be provided with additional resources so that it could further expand the scale of its service.

25. SHA said that the Administration would continue to examine ways to better support the work of Liaison Officers, and would deploy additional resources as appropriate. DHA added that the Administration had launched the Pre-Meeting Advisory Service for OCs. Where necessary, the District Building Management Liaison Teams in the 18 districts would introduce to MC members/owners various voluntary professional advisory services available and recommend them to consult relevant professionals for advice before the OC meetings. Regarding the roles of PMCs, ADHA added that pursuant to the Property Management Services Ordinance (Cap. 626), the Property Management Services Authority was empowered to issue code of conducts for PMCs to follow.

**IV. Training of arts administrators**

[LC Paper Nos. CB(2)368/17-18(01) and CB(2)378/17-18(05)]

26. At the invitation of the Chairman, SHA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)368/17-18(01)].

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Discussion

27. Mr IP Kin-yuen and Mr SHIU Ka-chun welcomed the initiative of providing an additional funding of \$216 million in the coming six years (i.e. \$36 million per year from 2018-2019 to 2023-2024) for continuing the training of arts administrators. They suggested that the Administration should find ways to address the situation where remuneration to arts administrators was generally low in Hong Kong and there were not enough promotion opportunities. Mr SHIU declared that he was currently a board member of an arts group which had received the Government's funding for providing internship opportunities for arts administrators.

28. Mr CHAN Chi-chuen expressed similar concern and raised that there were inadequate employment and promotion opportunities for arts administrators in Hong Kong. He considered that the training programmes offered to arts administrators should enable them to acquire the required qualifications to apply for senior arts administrator positions.

29. SHA said that the Administration would provide additional resources to the sector and relevant arts groups could flexibly use the resources to enhance their production, remuneration and to perform and stage exhibitions outside Hong Kong. Furthermore, new performance venues, notably some facilities in the West Kowloon Cultural District, the East Kowloon Cultural Centre and the New Territories East Cultural Centre, would be completed in the next few years. The Administration had also been implementing different measures, such as nurturing talents and enhancing the overall capability of arts groups, with a view to creating an environment conducive to the professional development of the arts and therefore lead to the overall improvement of the remuneration of local arts administrators. SHA added that there were currently multiple training opportunities available in Hong Kong catering to the different needs of arts administrators at different career stages, including internships for grooming junior arts administrators and training schemes targeted at middle and senior arts administrators.

30. Mr LEUNG Che-cheung expressed concern about whether the additional resources allocated to local arts groups would be used to improve the remuneration of arts administrators, and enquired whether any guidelines should be issued by the Administration in this regard. SHA said that arts groups enjoyed autonomy in deciding the level of remuneration of their employees and the Administration would continue to monitor the use of public money by arts groups in accordance with the established mechanism.

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31. The Chairman said that the pay to arts administrators in public organizations was much higher than those working in private arts organizations. Furthermore, it was difficult for senior arts administrators to have time to join training programmes, and there were not enough training programmes that cater to their needs. He asked whether the Administration would consider conducting a survey to better understand the training needs of arts administrators working in various types of organizations/arts groups. SHA said that the Administration would further enhance the overall operating environment of the sector so as to create a more conducive environment for the professional development of arts administrators. At present, the Administration did not plan to conduct a survey of this kind.

32. Referring to paragraph 10 of the Administration's paper, the Deputy Chairman sought details of the career development of the 35 arts administrators/curators who had benefitted from the attachment outside Hong Kong supported by the Hong Kong Arts Development Council ("HKADC"). The Deputy Secretary for Home Affairs (2) replied that 33 of them had remained in the sector and many had got promotions after the attachment, while one had pursued further studies and one had left the sector. As for the 23 arts administrators who had taken part in overseas studies with support from HKADC, they had all remained in the sector after completion of their studies.

33. Dr Junius HO asked whether the Hong Kong Academy for Performing Arts ("HKAPA") would be tasked to provide most of training courses for arts administrators. SHA said that training programmes for arts administrators were currently offered by a variety of arts groups and organisations, while local tertiary education institutions including HKAPA also provided academic programmes relevant to arts administration. The Administration considered the present arrangement appropriate.

34. In response to an enquiry by the Deputy Chairman, SHA said that the arts administrators training schemes implemented by the Leisure and Cultural Services Department and HKADC covered different arts forms including music and there was no restriction on the art forms. The Deputy Chairman would like to know where the trainees had been assigned and requested the Administration to provide further information after the meeting.

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**V. Any other business**

35. There being no other business, the meeting ended at 10:24 am.

Council Business Division 2  
Legislative Council Secretariat  
16 April 2018