

立法會
Legislative Council

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LC Paper No. CB(2)851/18-19
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 17 December 2018, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon CHEUNG Kwok-kwan, JP (Chairman)
Hon LUK Chung-hung, JP (Deputy Chairman)
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 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 Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, SBS, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon LAM Cheuk-ting
Hon Tanya CHAN
Hon LAU Kwok-fan, MH
Dr Hon CHENG Chung-tai
Hon AU Nok-hin

Members absent : Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Dennis KWOK Wing-hang
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon Holden CHOW Ho-ding
Hon HUI Chi-fung
Hon Kenneth LAU Ip-keung, BBS, MH, JP

Public Officers attending : Item III

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

Ms Cherie YEUNG Lok-sze
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Mr WONG See-man
Registration and Electoral Office
Chief Electoral Officer

Mr Raymond WANG Man-chiu
Registration and Electoral Office
Principal Electoral Officer

Item IV

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

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

Mr WONG See-man
Registration and Electoral Office
Chief Electoral Officer

Mr SHUM Nam-lung
Registration and Electoral Office
Deputy Chief Electoral Officer (Voter Registration)

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

Staff in attendance : Mr Kelvin LEE
Senior Assistant Legal Adviser 3

Ms Jasmine TAM
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)404/18-19(01), CB(2)422/18-19(01) and CB(2)457/18-19(01)]

The Panel noted that the following papers had been issued to members after the last meeting:

- (a) letter dated 30 November 2018 from Dr Elizabeth QUAT [LC Paper No. CB(2)422/18-19(01)]; and
- (b) letter dated 3 December 2018 from Ms Claudia MO [LC Paper No. CB(2)404/18-19(01)] and the Administration's response [LC Paper No. CB(2)457/18-19(01)].

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)429/18-19(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting on 21 January 2019 at 2:30 pm:

- (a) "Legislative amendments regarding the 2020 Legislative Council General Election"; and
- (b) "An outline of the topics in the fourth report of the Hong Kong Special Administrative Region under the International Covenant on Economic, Social and Cultural Rights".

Members also agreed to receive public views on item (b). The Chairman said that the meeting might need to be extended depending on the number of deputations. Members would be informed of the meeting arrangements in due course.

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3. Regarding the item referred to in paragraph 2(a), Dr CHIANG Lai-wan called on the Administration to listen to and gauge the views of Members from different political parties and groupings before formulating the Administration's proposals. The Secretary for Constitutional and Mainland Affairs ("SCMA") responded that the proposed legislative amendments were drawn up taking into account the relevant views put forth by Members at previous Panel meetings as well as on various other occasions.

Admin 4. Dr Helena WONG considered that the item "Nomination matters in public election" on the Panel's list of outstanding items for discussion should be discussed as early as possible and urged the Administration to propose the timing for discussion of the item. The Chairman said that Dr WONG's request would be relayed to the Administration after the meeting for consideration. Referring to the letter dated 3 December 2018 from Ms Claudia MO [LC Paper No. CB(2)404/18-19(01)] on the same subject, Mr WONG Kwok-kin expressed the view that the Panel should only discuss policy issues and not individual cases.

5. Mr WONG Kwok-kin enquired about the timing for the introduction of the National Anthem Bill ("the Bill") into the Legislative Council ("LegCo") and whether the Panel would be further consulted beforehand. SCMA responded that the Panel had discussed and received public views on the proposed content of the Bill at three meetings held between March and May 2018. The Administration had taken into consideration members' and deputations' views in drafting the relevant legislative proposals. SCMA further said that the law drafting work was generally completed and the Administration aimed to introduce the Bill into LegCo for first reading in early 2019.

6. In reply to Dr Helena WONG's enquiry, SCMA said he noted that the Law Reform Commission ("LRC") would brief the Panel on Administration of Justice and Legal Services on the consultation paper on archives law recently published by LRC.

III. Review on the subsidy rate of the financial assistance for candidates and the election expenses limit for the 2019 District Council Ordinary Election

[LC Paper Nos. CB(2)429/18-19(03) and CB(2)429/18-19(04)]

7. SCMA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)429/18-19(03)].

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Discussion

Financial assistance scheme for election candidates

8. Mr LAM Cheuk-ting was concerned that a number of incumbent LegCo Members including himself still had not received payments of financial assistance for the 2016 LegCo election due to on-going election petitions which had dragged on for more than two years. He reckoned that some candidates of the 2019 District Council ("DC") Ordinary Election might encounter similar problems. Mr LAM considered that the Administration should address the problem to ease the financial difficulties of candidates concerned.

9. SCMA explained that under section 60J of the Legislative Council Ordinance (Cap. 542), if an election petition relating to an election for a constituency was lodged, the Chief Electoral Officer ("CEO") must not make any payment of financial assistance to any candidate for that constituency until the determination, abandonment or termination of the petition. Mr LAM suggested that the Administration should amend the relevant electoral legislation to relax the above restriction. SCMA stressed that the prudent use of public funds had to be ensured. Nevertheless, he agreed to consider any views received.

(The Chairman left the meeting at this juncture. The Deputy Chairman took the chair.)

10. Mr LAU Kwok-fan declared that he was a current DC member and represented the DC (First) functional constituency ("FC"). He echoed Mr LAM's concerns and considered that payments of financial assistance should be made to the candidates concerned as soon as possible after the elections, regardless of the outcome of the relevant election petitions, since these candidates had indeed incurred election expenses for taking part in the elections. Dr Helena WONG suggested that interest-free loans (say, an amount capped at \$20,000 to \$30,000) should be offered to candidates whose financial assistance was held up due to election petitions.

11. While members in general supported the proposed increase of the subsidy rate from \$14 to \$15 per vote, Mr LAU Kwok-fan, Dr Helena WONG and Dr CHIANG Lai-wan expressed concern that the amount of financial assistance payable was capped at 50% of the election expenses limit ("EEL"). They enquired why the amount could not be calculated solely by multiplying the subsidy rate by the total number of valid votes obtained by the candidate,

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which, in their view, was more reasonable and could provide incentives for candidates to obtain more votes.

12. SCMA advised that while the financial assistance scheme was aimed to encourage candidates to participate in elections, the Administration was of the view that candidates should also bear a certain amount of election expenses in taking part in the election. Dr Helena WONG suggested that the Administration might consider setting the cap at 75% of EEL for candidates who were able to obtain a large number of valid votes (e.g. no less than 30% of the total number of valid votes cast in the constituency concerned). She also suggested that the Administration should allocate free airtime of Radio Television Hong Kong to DC election candidates for publishing election advertisements ("EAs").

13. Dr CHIANG Lai-wan pointed out that due to the different constituency sizes, candidates running in DC and LegCo elections incurred different levels of election expenses for posting EAs to constituents. She suggested that the Administration should review whether it was appropriate to adopt the same subsidy rate for the DC and LegCo elections.

14. In reply to Dr CHIANG's enquiry, SCMA explained that the financial assistance scheme was first introduced in the 2004 LegCo election and was extended to DC election candidates from the 2007 DC election onwards. The initiative aimed to encourage more candidates to participate in public elections and to facilitate the development of political talents in Hong Kong.

Election expenses limit

15. Mr LAU Kwok-fan said that while he welcomed the proposal to increase EEL from \$63,100 to \$69,000 starting from the 2019 DC Ordinary Election, he considered that there was still room for further increasing EEL to enable the use of more diverse means (e.g. producing videos) in electioneering campaigns. He considered that the proposed EEL would restrict candidates to use conventional publicity leaflets only. Dr Helena WONG, however, was opposed to a large increase in EEL so that political parties or independent candidates with less financial resources would not be put at a great disadvantage in electioneering activities. SCMA said that the proposed increase in EEL was reasonable and had taken into account the latest estimated cumulative inflation.

16. Mr MA Fung-kwok noted from the Electoral Affairs Commission's ("EAC") recommendations on boundaries of DC constituencies for the 2019 DC Ordinary Election that the population and physical sizes of certain DC

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constituency areas ("DCCAs") would vary significantly. He said that candidates contesting in various DCCAs of different sizes might incur different levels of election expenses. He asked whether it would be appropriate for the same EEL to be adopted across-the-board.

17. SCMA said that in the delineation of DC constituency boundaries for the 2019 DC Ordinary Election, EAC had tried to ensure that the population in each proposed DCCA was as near the population quota as practicable. He added that same as past DC elections, only a relatively small number of DCCAs in the 2019 DC Ordinary Election had a population size exceeding the permissible range of the population quota.

Motion

18. Mr LAM Cheuk-ting moved the following motion:

(Translation)

"This Panel requests the Government to expeditiously introduce legislative amendments, so that the financial assistance payable to candidates, the payment of which has been delayed, can be paid as early as possible, and if another ruling is made by the court in future, controversies concerning the amount of financial assistance can be dealt with in accordance with the law."

19. The Deputy Chairman put the motion to vote. Members present unanimously voted for the motion. The Deputy Chairman declared that the motion was passed. The Administration was requested to provide a written response to the motion.

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(Post-meeting note: The Administration's response to the above motion was circulated to members vide LC Paper No. CB(2)584/18-19(01) on 11 January 2019.)

(The Chairman resumed the chair at this juncture.)

IV. 2019 Voter Registration Campaign

[LC Paper Nos. CB(2)429/18-19(05) and CB(2)429/18-19(06)]

20. With the aid of PowerPoint, the Under Secretary for Constitutional and Mainland Affairs ("USCMA") and CEO briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)429/18-19(05)].

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(Post-meeting note: the PowerPoint presentation materials were issued to members vide LC Paper No. CB(2)463/18-19(01) on 18 December 2018.)

Discussion

Deadlines for applications for voter registration or change of registration particulars

21. Mr IP Kin-yuen enquired whether eligible persons who wished to register as electors could submit their applications before the second stage of the 2019 Voter Registration ("VR") Campaign which would run from 3 June to 2 July 2019. USCMA replied in the affirmative, adding that these persons' registration particulars would then be reflected in the Final Register to be published in September 2019. While expressing support for the Administration's plan to write to all households in newly-completed private and public housing estates to remind these households to report change in address, Dr Helena WONG called on the Administration to issue the letters well before the relevant statutory deadlines and in batches. CEO responded that although the Registration and Electoral Office's ("REO") current plan was to issue the letters in April 2019, it would take into account Dr WONG's views when making the relevant arrangements.

Publicity and support measures for voter registration

22. While noting that the overall VR rate was about 80% in 2018, Dr Helena WONG considered that the Administration should review whether the VR rate of any specific age/ethnic/gender group was relatively low and step up publicity efforts targeting the relevant group(s). USCMA said that young people had been a key target of VR campaigns with VR rate at about 70%, which was relatively lower than the overall VR rate. REO would continue to encourage more young people to register as electors through, for instance, making use of the social media and websites such as Facebook, YouTube and Instagram to disseminate relevant VR messages. Ms Starry LEE took the view that the 2019 VR Campaign should target people of different age groups instead of young people only.

23. Referring to the Administration's plan to continue to set up registration counters at the Registration of Persons Offices to encourage young people to register as electors when they visited these offices to apply for or collect their adult identity cards, Dr Helena WONG asked whether arrangements could be made for young people to apply for adult identity

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cards and VR at the same counter in one go. USCMA said that apart from making VR applications separately at the registration counters, young people applying for adult identity cards could also indicate their willingness to update their VR particulars on the identity card application forms and submit the required documents for their applications afterwards.

24. Ms Alice MAK asked whether the VR application form would be made available in languages used by the ethnic minorities ("EMs") to facilitate EM eligible persons to register as electors. CEO replied that while the VR application form was currently available in Chinese and English, it was planned that the application form would include translation in EM languages of each item of information sought.

25. Ms Starry LEE expressed concern that many eligible persons had yet to register as electors in the DC (Second) FC. She urged the Administration to take measures to promote VR in that FC. USCMA said that the VR application form had been revised to the effect that when registering as an elector in a LegCo geographical constituency ("GC"), the applicant would also become an elector in the DC (Second) FC unless he/she expressly indicated otherwise. REO had also sent letters to appeal to some tens of thousands of registered GC electors who had not registered as electors in the DC (Second) FC to make the relevant registrations and more than 10 000 of them had subsequently done so. Ms LEE expressed dissatisfaction with the progress made in this regard and suggested that REO should consider notifying the GC electors concerned in writing that they would be registered as electors in the DC (Second) FC unless they indicated objection. USCMA responded that REO would step up efforts in promoting VR in the DC (Second) FC in the run-up to the next LegCo General Election.

Voter Registration Assistants

26. Ms Starry LEE considered that staff members of different age groups should be recruited to help reach out to different sectors of the community to promote VR. CEO responded that in line with the established practice, additional staff would be recruited to assist in the 2019 VR Campaign. Staff members of different age groups would be recruited and deployed to undertake VR publicity tasks.

27. Referring to paragraph 11 of the Administration's paper, Mr Martin LIAO sought details of REO's plan to deploy Voter Registration Assistants ("VRAs") to conduct visits to newly occupied residential buildings. CEO said that about 400 VRAs would be recruited on a part-time/temporary basis between April and June 2019 through the Home

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Affairs Department for the purpose. It was hoped that around 50 000 applications for VR or change of VR particulars would be received following the visits. CEO further said that VRAs would provide assistance to the public in registering as electors or updating their VR particulars during the visits. For applications for change of registered address, VRAs would inform the electors concerned of the types of documents that would be accepted as valid address proofs and the conditions under which the address proof requirement could be exempted.

Address proof requirement for applications for change of registered address

28. Ms Starry LEE questioned whether the new address proof requirement had dampened electors' incentive to report changes of registered address to REO. USCMA said that since the new requirement took effect on 1 February 2018, around 11 000 applications for change of registered address were received in the 2018 VR cycle, and only around 500 electors were unable to provide address proofs. Ms Starry LEE remained concerned that some electors might have difficulty providing address proofs. USCMA advised that if the elector concerned had no address proof, he/she could provide to REO a statutory declaration made before a Commissioner for Oaths (at any of the District Offices)/a Justice of the Peace/a practising solicitor to substantiate his/her claim of residing at the reported address. CEO supplemented that alternatively, the elector concerned could provide an address proof bearing the name of another person who lived with him/her and submit a declaration signed by himself/herself to confirm that such person was living with him/her at the same address. Sample of such declaration was available on REO's website.

29. Mr LAM Cheuk-ting urged the Administration to step up publicity during the 2019 VR Campaign to remind the public of the new requirement of providing address proofs when submitting applications for change of VR particulars involving change of registered address and to impress upon them the consequences of "vote-planting" and providing false information in VR. The Administration should also remind the public of the channels through which they could file reports if their personal data had been used by third parties for making applications for VR or change of VR particulars.

30. USCMA said that Mr LAM's views were noted. He further said that to maintain the integrity of the VR system and to enhance the accuracy and completeness of VR particulars, REO would continue to implement the checking measures set out in paragraph 5 of the Administration's paper [LC Paper No. CB(2)429/18-19(05)] in the 2019 VR cycle. CEO supplemented

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that REO had been making ongoing efforts to promote public understanding of the VR system and procedures. He added that REO would step up publicity work in this regard in the 2019 VR Campaign.

Checking measures implemented by the Registration and Electoral Office

31. Mr IP Kin-yuen expressed concern about recent media reports that the personal data provided by an elector to a resident organization had been allegedly used by a third-party for making an application to REO for changing the elector's registered address. He asked whether applications for change of VR particulars had to be submitted by the electors concerned in person or whether they could be submitted by a third party; and if the latter was allowed, what could be done to protect the personal data of the electors concerned. Ms Alice MAK said that in the run-up to the DC election in 2015, a candidate was impersonated by a third party to submit an application to REO for changing her registered address. She expressed regret that REO had not actively followed up the case and questioned what measures would be taken to prevent recurrence of similar incidents.

32. USCMA said that applications for change of VR particulars were made on a voluntary basis. Such applications did not necessarily have to be made in person and could be submitted by post or other means. CEO supplemented that the relevant application forms must be signed by the electors concerned. REO would send notifications to the electors concerned after processing the applications and those who had not made such applications could contact REO for follow-up. CEO stressed that submission of VR-related applications with forged signatures was a criminal offence under the law. REO had all along handled relevant complaints seriously and would refer suspected cases to the relevant law enforcement agencies for investigation and follow-up. In response to Ms Alice MAK's concern about whether REO had adequate manpower to effectively verify the VR-related applications received during the 2019 VR Campaign, CEO said that additional staff would be recruited to cope with the increased workload.

33. Dr Priscilla LEUNG asked about the measures in place to prevent elderly electors from losing their voting rights simply because they were not aware of REO's inquiry letters or the need to respond to such letters. USCMA replied that apart from sending inquiry letters by post, REO would use mobile phone short message service or electronic mail (if available) to remind the electors concerned to respond to the inquiry letters before the

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statutory deadline. REO would also launch various publicity measures in the 2019 VR Campaign to remind electors of the same message.

V. Any other business

34. There being no other business, the meeting ended at 4:03 pm.

Council Business Division 2
Legislative Council Secretariat
20 February 2019