

立法會
Legislative Council

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LC Paper No. CB(2)1899/18-19
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Monday, 20 May 2019, 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 Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-yea, 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 Alice MAK Mei-kuen, BBS, JP
Hon Dennis KWOK Wing-hang
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, SBS, JP
Dr Hon CHIANG Lai-wan, SBS, 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 LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon AU Nok-hin

Member attending : Hon Vincent CHENG Wing-shun, MH

Members absent : Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Tanya CHAN
Hon HUI Chi-fung

Public Officers attending : Item III

The Administration

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

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

Miss Jennie CHAN Cheuk-yin
Deputy Chief Electoral Officer (Committee and Research)
Registration and Electoral Office

Item IV

Equal Opportunities Commission

Mr Ricky CHU
Chairperson

Dr Ferrick CHU
Acting Chief Operations Officer

Ms Shana WONG
Head, Corporate Communications

Ms Lisa CHAN
Senior Corporate Communications Manager

The Administration

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

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

Mr Dennis HO
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)1305/18-19(01) and CB(2)1437/18-19(01)]

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

- (a) joint letter dated 18 April 2019 from Hon Dennis KWOK, Hon Alvin YEUNG and Hon Tanya CHAN [LC Paper No. CB(2)1305/18-19(01)]; and
- (b) the Administration's response to the above joint letter [LC Paper No. CB(2)1437/18-19(01)].

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1427/18-19(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next regular meeting on 17 June 2019 at 2:30 pm:

- (a) "Proposed Guidelines issued by the Electoral Affairs Commission on Election-related Activities in respect of the District Council Election"; and
- (b) "Practical Arrangements for the 2019 District Council Ordinary Election".

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(Post-meeting note: Members were informed on 11 June 2019 vide LC Paper No. CB(2)1645/18-19 that the meeting originally scheduled for 17 June 2019 at 2:30 pm was cancelled to avoid clashing with the anticipated continuation of the Council meeting of 12 June 2019.)

3. Dr Helena WONG and Mr LAM Cheuk-ting proposed to discuss "nomination matters in public elections" currently on the list of outstanding items for discussion [LC Paper No. CB(2)1427/18-19(01)] before the end of the current legislative session, so as to clarify issues relating to the eligibility criteria of persons who intended to stand for the 2019 District Council ("DC") Ordinary Election. Mr AU Nok-hin proposed that the Panel might consider including an additional item at each of the upcoming regular meetings in June and July 2019. The Chairman said that he would follow up with the Administration.

III. Provisional recommendations on boundaries and names of geographical constituencies for the 2020 Legislative Council General Election

[LC Paper Nos. CB(2)1404/18-19, CB(2)1427/18-19(03) and (04)]

4. The Secretary for Constitutional and Mainland Affairs ("SCMA") and the Chief Electoral Officer briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1427/18-19(03)].

Discussion

5. Members noted that in accordance with section 20(1)(b) of the Electoral Affairs Commission Ordinance (Cap. 541) ("EACO"), the population in each proposed geographical constituency ("GC") should not exceed or fall short of the resulting number applicable to that GC by more than 15% ("the statutory permissible range"). Ir Dr LO Wai-kwok considered that the statutory permissible range had been effective since implementation.

6. Members noted that the percentage of deviation from the resulting number in the New Territories West ("NTW") GC would reach +11.90% in 2020. In light of the current trend of increases in population size in NTW, Mr MA Fung-kwok, Mr LAM Cheuk-ting and Dr Helena WONG expressed concern that the percentage deviation of the population from the resulting number for NTW GC would likely exceed the statutory permissible range in 2024. Mr LAM Cheuk-ting further pointed out that NTW GC was not only large in population size, but also very large in area. He said that these had posed immense difficulties to the incumbent Legislative Council ("LegCo") Members of NTW GC in serving their constituents. He and Dr Helena

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WONG took the view that the Administration should come up with proposals for addressing these issues well ahead of the 2023 DC Ordinary Election for consultation with stakeholders concerned, so as to allow adequate time for the political parties and prospective candidates to make necessary preparations beforehand. Pointing out that the population size of the Hong Kong Island ("HKI") GC was on the decline, Ms Claudia MO asked whether consideration would be given to transferring some outlying islands of the Islands District in NTW GC to HKI GC so as to lower the percentage deviation of the population from the resulting number for NTW GC. She also asked whether the boundaries of Kowloon East GC and Kowloon West GC could be adjusted to reduce the deviation range, i.e. +3.80% and -6.98% respectively. Mr MA Fung-kwok also pointed out that the percentage deviations of the population from the resulting numbers for NTW GC and New Territories East ("NTE") GC in 2020 would be +11.90% and -6.12% respectively, which involved a difference of 350 000 people.

7. SCMA explained that in respect of the delineation of GC boundaries, it was the working principle of the Electoral Affairs Commission ("EAC") that the existing boundaries of the five GCs should form the basis of consideration, and for those existing GCs where the population fell within the statutory permissible range, their boundaries would as far as possible be maintained to form new GCs. SCMA pointed out that the percentage deviation of the population from the resulting number for NTW GC in 2020 would still be within the statutory permissible range. That said, in view of the possibility that the population of individual GCs might exceed the statutory permissible range by 2024, and the population size amongst certain DC constituency areas might continue to increase by 2023, SCMA said that the Government would review and address the abovementioned issues. Mr LAM Cheuk-ting considered that the Administration should commence the review shortly after the 2020 LegCo General Election.

8. Ir Dr LO Wai-kwok and Mrs Regina IP suggested that the new residential developments (e.g. in Kwu Tung North/Ping Che/Ta Kwu Ling and Yuen Long South/Hung Shui Kiu) under planning/construction in NTE GC and NTW GC and resultant population increases should be taken into account when the Government conducted a review of the relevant statutory requirements on delineation of GCs. SCMA said that the Administration would consider the population forecasts to be prepared by the Working Group on Population Distribution Projections in the Planning Department when conducting the review in the future.

9. In response to Mrs Regina IP's enquiry, SCMA said that in drawing up the provisional recommendations on the boundaries and names of GCs for the

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2020 LegCo General Election, EAC was required by law to have regard to not only the population but also the community identities, the preservation of local ties and physical features (such as size, shape, accessibility and development) of the relevant area.

10. With reference to his letter dated 29 March 2019 to the Panel Chairman, the Administration and EAC [LC Paper No. CB(2)1144/18-19(01)], Mr CHU Hoi-dick expressed concern that the Lok Ma Chau Loop and Shenzhen Bay Port Hong Kong Port Area did not fall within the areas of existing boundaries of any administrative district, and hence were not covered by any GCs in EAC's provisional recommendations. SCMA said that pursuant to section 20 of EACO, in making recommendations on the delineation of GCs, EAC must have regard to, among other things, the existing boundaries of the administrative districts as specified in Schedule 1 to the District Councils Ordinance (Cap. 547), and that both the Lok Ma Chau Loop and Shenzhen Bay Port Hong Kong Port Area currently did not fall within the areas of the existing boundaries of the specified administrative districts. He added that the Administration would review the areas of the existing administrative districts when necessary and consider whether adjustment would be required.

(Post-meeting note: the Chinese and English versions of the written response of the Administration and EAC to Mr CHU's letter were issued on 21 June 2019 and 22 July 2019 respectively [LC Paper No. CB(2)1709/18-19(01)].)

11. Mr CHAN Chi-chuen expressed concern that the Administration seemed to show no commitment to achieving universal suffrage of LegCo. SCMA said that the election of all LegCo Members by universal suffrage could be implemented only after the Chief Executive was elected by universal suffrage. He added that the Administration had all along been working towards creating a favourable social atmosphere for taking forward political reform.

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

IV. Briefing by the Chairperson of the Equal Opportunities Commission

[LC Paper Nos. CB(2)1427/18-19(05) to (06)]

12. At the invitation of the Deputy Chairman, the Chairperson of the Equal Opportunities Commission ("EOC") briefed members on the salient points of the paper submitted by EOC [LC Paper No. CB(2)1427/18-19(05)].

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Discussion

Fight against sexual harassment

13. Mr Vincent CHENG declared that he was a member of EOC. He raised concern about a recent alleged case of indecent assault against ethnic minority ("EM") girls and enquired whether EOC's Anti-Sexual Harassment Campaign would target EMs. In his view, the EM Unit of EOC should step up its efforts in preventing sexual harassment among EMs.

14. The Chairperson of EOC said that EOC would step up its sexual harassment prevention efforts in 2019-2020. He briefed members on the relevant new initiatives, particularly EOC's plan to set up a dedicated sexual harassment unit which would be tasked with providing a one-stop support platform (including advice on provisions of the law, options of lodging complaints and seeking redress, referral to therapeutic and counselling services, and self-help resources) to those affected by sexual harassment. To cater for the needs of EM individuals who were affected by sexual harassment, EOC would consider providing interpretation services and manning the platform with staff who had undergone cultural sensitivity training. The Acting Chief Operations Officer of EOC ("Atg COO/EOC") supplemented that currently over 90% of schools had developed guidelines on the formulation of policies for preventing sexual harassment, but most of these guidelines were written in Chinese only. The EM Unit of EOC would translate these guidelines into English and step up promotion and support efforts for EM parents on school campuses.

15. Referring to the Anti-Sexual Harassment Campaign for the sports sector as detailed in paragraph 19 of EOC's paper under discussion, Mr MA Fung-kwok asked why some National Sports Associations ("NSAs") did not respond to the questionnaire survey related to the development of anti-sexual harassment policies. He also sought details of the anti-sexual harassment training provided to junior athletes and their parents.

16. Atg COO/EOC explained that while it was not known why some NSAs and other sports associations did not respond to the above questionnaire survey, workshops/seminars had been organized for them to promote the development of their own written policy on anti-sexual harassment. One example was the symposium "Protect Young Athletes against Sexual Harassment" which was held at the Hong Kong Baptist University and attended by coaches and junior athletes. He added that anti-sexual harassment training was also provided for the education sector, targeting both students and their parents.

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17. In response to Mr Kenneth LAU's enquiry, the Chairperson of EOC said that EOC would follow up with the findings and recommendations of EOC's research studies in this area of work. He further said that EOC would work with the Government and relevant stakeholders on policy formulation and reforms, procedural reviews and training programmes that served to prevent sexual harassment. For example, following the release of the report of the "Break the Silence: Territory-wide Study on Sexual Harassment of University Students in Hong Kong" by EOC in 2018-2019, there was discussion among university management on sexual harassment prevention. The Chairperson of EOC himself had recently met with the Chairman of the University Grants Committee and the Convenor of the Heads of Universities Committee to discuss sexual harassment prevention in universities. The Chairperson of EOC added that given that the current anti-discrimination ordinances did not cover cases in which the harasser and victim were of different educational establishments and were not in a working relationship, EOC planned to set up a dedicated anti-sexual harassment unit to, among others, conduct holistic review of the current legal protection regime against sexual harassment, identify the gaps and recommend legislative amendments where appropriate.

18. Dr Helena WONG considered that EOC should step up its efforts in preventing sexual harassment in the sports, religious and education sectors. She enquired about the latest progress of EOC's Anti-Sexual Harassment Campaign in respect of the disciplined services and in penal institutions. She considered that the design of shower facilities in penal institutions should be improved to enhance privacy in order to prevent sexual harassments between persons in custody. Atg COO/EOC advised that large-scale talks on the prevention of sexual harassment had been conducted for the officers of the Fire Services Department and the Correctional Services Department.

Issues relating to sex discrimination and sex education

19. Dr CHENG Chung-tai noted that EOC had issued a response to media enquiries about the petitions of several groups at the Office of EOC to express disapproval of a LegCo Member for using a disrespectful expression to address the Chief Executive. He enquired about the circumstances under which EOC would decide to issue a statement to respond to an incident.

20. The Chairperson of EOC said that whether EOC would publicly respond to an incident was determined on a case by case basis according to the level of public concern about the incident. Although the above incident was not covered under the prescribed areas of the Sex Discrimination Ordinance

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(Cap. 480), it was related to gender equality and therefore EOC had issued a statement regarding its stance.

21. In response to Mrs Regina IP's enquiry, the Chairperson of EOC advised that following the "Roundtable on Reforming Sexuality Education in Hong Kong" held on 6 May 2019, EOC would line up a meeting with the Education Bureau to follow up the views received to enhance the implementation of sex education. Meanwhile, the Education University of Hong Kong was also formulating proposals on reforming the sex education curriculum. EOC would consult the stakeholders on the relevant proposals in due course.

Outlawing discrimination against sexual minorities

22. Mr CHAN Chi-chuen expressed dissatisfaction that the paper submitted by EOC for this meeting did not mention the issue of eliminating discrimination against sexual minorities. In his view, EOC should urge the Government to expeditiously launch a public consultation exercise with a view to legislating against discrimination on the grounds of sexual orientation and gender identity. He also expressed grave concern that the Airport Authority Hong Kong and the MTR Corporation Limited had refused to display an advertisement of Cathay Pacific Airways showing two men strolling hand-in-hand along a beach and displaying the message "Move beyond labels". Mr CHAN and Dr CHENG Chung-tai sought EOC's stance on the incident.

23. The Chairperson of EOC said that EOC would seek responses from the organizations concerned on the incident before considering any further action. He further said that EOC would continue to conduct research studies on discrimination issues, identify any gaps in legal protection against discrimination and make relevant policy recommendations to the Government.

24. Referring to the incident brought up by Mr CHAN Chi-chuen, Dr Priscilla LEUNG took the view that commercial organizations had the right to determine whether to display an advertisement based on their commercial considerations. She expressed grave concern that legislating against discrimination on the ground of sexual orientation might lead to "reverse discrimination". Dr LEUNG suggested that Announcements in the Public Interest could be produced to promote mutual respect among those who held different views on the issue. The Chairperson of EOC said that in formulating the relevant legislative proposal, EOC would strive to eliminate "reverse discrimination" against those holding different views.

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Issues relating to ethnic minorities, new arrivals, employees returning from maternity leave and barrier-free access

25. The Deputy Chairman raised concern about the seriousness of discrimination and vilification against EMs of South Asian origins and new arrivals from the Mainland and he further enquired why no successful conviction had been made pursuant to the Race Discrimination Ordinance (Cap. 602) ("RDO"). The Chairperson of EOC advised that while a victim might bring a civil claim in respect of racial vilification pursuant to RDO, an act of racial vilification was difficult to prove. Meanwhile, EOC believed that protection should be introduced by amending RDO to protect individuals from discrimination on the ground of residency status. In response to the Deputy Chairman's further enquiry on the protection of employees returning to work from maternity leave from being unreasonably treated or dismissed, the Chairperson of EOC said that EOC would study strengthening the protection against discrimination on the grounds of sex and family status.

26. Mr Vincent CHENG pointed out that many EMs encountered difficulties in job seeking and urged EOC to work with the Labour Department to seek ways to enhance the employment support services for EMs. He also sought details of the "Study on Education and Career Pathways of EM Youths in Hong Kong" being conducted by EOC.

27. The Chairperson of EOC said that good progress had been made in implementing the Racial Diversity and Inclusion Charter for Employers since its launch, with 60 organizations having pledged their support to creating a diverse and inclusive workplace for employees. EOC would work with these organizations to identify more job opportunities suitable for EMs. The Chairperson of EOC said he hoped that over 100 organizations would eventually sign up to support the above Charter.

28. Dr Helena WONG expressed concern that barrier-free access facilities were not available at some public footbridges and this caused inconvenience to wheelchair users. She suggested that EOC should conduct an audit to locate those premises without barrier-free access. The Chairperson of EOC said that EOC would follow up with Government departments on the relevant cases.

Process Review and staffing/financial situation

29. Mr Dennis KWOK requested EOC to publish the report of its review of EOC's complaint handling and legal assistance services as he noted that the review exercise was already completed in February 2019. The Chairperson of

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EOC said that a review panel comprising three EOC members had consolidated the inputs from the former High Court judge Prof Anselmo REYES and the Chief Project Manager. The Chairperson of EOC said that he was now studying the findings and recommendations of the report, which would be published once ready. In response to Mr KWOK's suggestion that certain EOC meetings should be opened to the public in order to enhance the transparency of EOC's work, the Chairperson of EOC said that he would consider the suggestion.

30. Mr CHAN Chi-chuen noted from the paper submitted by EOC that EOC was facing the perpetual risk of running into deficit in the not-too-distant future, as the rental of the current EOC office premises was expected to increase when its leasing contract was due for renewal in August 2020. He sought the Administration's response in this regard and asked whether the Administration would consider providing a permanent office for EOC.

31. The Deputy Secretary for Constitutional and Mainland Affairs ("DSCMA") said that additional funding had been earmarked in the 2019-2020 Budget to increase the annual subvention to EOC to cover the additional operating expenditures arising from inflation. The Administration would keep in view the rental increase of EOC's office premises and seek additional funding resources where necessary. DSCMA added that with nearly \$20 million spent on EOC's recent office relocation and fitting-out work, the Administration would need to be prudent in considering the idea of providing a permanent office for EOC at this juncture.

V. Any other business

32. There being no other business, the meeting ended at 4:27 pm.