

立法會
Legislative Council

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LC Paper No. CB(2)251/19-20

(These minutes have been
seen by the Administration)

Panel on Home Affairs

**Minutes of meeting
held on Monday, 24 June 2019, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon KWOK Wai-keung, JP (Chairman)
Hon AU Nok-hin (Deputy Chairman)
Hon Steven HO Chun-yin, BBS
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon IP Kin-yuen
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon HUI Chi-fung
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Hon KWONG Chun-yu
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS
- Members attending** : Hon Abraham SHEK Lai-him, GBS, JP
Hon WU Chi-wai, MH
- Members absent** : Hon Claudia MO
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Junius HO Kwan-yiu, JP

Hon SHIU Ka-chun
Hon Tanya CHAN

Public Officers : Item III
attending

Mr LAU Kong-wah, JP
Secretary for Home Affairs

Mr YEUNG Tak-keung, JP
Commissioner for Sports
Home Affairs Bureau

Mr Paul CHENG Ching-wan
Principal Assistant Secretary for Home Affairs
(Recreation and Sport) 1

Item IV

The Administration

Miss Vega WONG Sau-wai, JP
Deputy Director of Home Affairs (2)

Miss Grace LI Wai-ting, JP
Assistant Director of Home Affairs (4)

Property Management Services Authority

Mr Tony TSE Wai-chuen, BBS
Chairperson

Mr Thomas LEUNG Tung-choi
Chief Executive Officer

Mr Kevin CHEUNG Ka-yin
General Manager (Regulatory)

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

Staff in : Miss Connie AU
attendance Senior Council Secretary (2) 6

Ms Meisy KWOK
Legislative Assistant (2) 6

Action

I. Information paper(s) issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1681/18-19(02) and (04)]

2. The Panel agreed to discuss the following items proposed by the Administration at the next regular meeting:

- (a) proposal for prohibiting ticket resale activities; and
- (b) football development in Hong Kong.

3. The Chairman said that members were consulted vide LC Paper No. CB(2)1682/18-19 on 19 June 2019 regarding the Administration's proposal to reschedule the regular meeting on 17 July 2019 to 9 July 2019 at 10:45 am. He further said that as a majority of the members who had replied expressed agreement to the proposal, the next regular meeting would be held on 9 July 2019. The Chairman further said that as the Panel would invite the public to give views on item (b) above, he suggested and members agreed that the meeting should start at 10:30 am to allow more discussion time.

Clerk

(Post-meeting note: Members were informed vide LC Paper No. CB(2)1775/18-19 issued on 3 July 2019 that the Panel meeting on 9 July 2019 was cancelled given the prevailing conditions of the Legislative Council Complex .)

III. Proposed injection into the Hong Kong Athletes Fund

[LC Paper No. CB(2)1681/18-19(03)]

4. At the invitation of the Chairman, the Secretary for Home Affairs ("SHA") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)1681/18-19(03)].

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Discussion

5. Mr MA Fung-kwok, Mr Christopher CHEUNG, Mr LAU Kwok-fan, Mr Tony TSE and Mr Holden CHOW expressed support for the proposed injection of \$250 million into the Hong Kong Athletes Fund ("HKAF") to increase scholarship awards in support of the dual career development of athletes, and provide more cash incentives for full-time athletes when they retired from sports. Mr MA asked how many athletes were expected to benefit from the proposed relaxation of the eligibility threshold to apply for the education grant under HKAF from the current elite vote ("EV") level 4 to EV level 3. He expressed concern that in each of the past few years, only about 20 athletes received education grants from HKAF and considered the number was rather small.

6. The Commissioner for Sports ("C for S") responded that upon relaxation of the eligibility threshold, the number of eligible athletes would be increased from 312 to 349 (based on the EV levels achieved by the athletes as at 31 March 2019) and coupled with an increase in the amount of grant, the number of applications for the grant might possibly increase to well over a hundred per year. C for S said that only a few applications for the education grant were rejected each year for failure to meet the eligibility criteria. In reply to Mr Holden CHOW's enquiry, C for S said that to provide a wider choice of programmes to eligible athletes, programmes offered by approved overseas colleges or universities were also covered by the education grant if no comparable courses were offered locally. Some of the courses might be conducted in the form of distance learning.

7. Mr LUK Chung-hung and Mr Tony TSE both suggested that consideration might be given to extending the time limit for application of the education grant and the new sports certificate grant under HKAF by retired athletes in order to provide them greater flexibility in their career planning. C for S said that athletes had a two-year grace period following their retirement during which they could apply for the two grants. That apart, the Sports Federation and Olympic Committee of Hong Kong, China ("SF&OC") had been providing education scholarship programmes to support the dual career development of retired athletes through its Hong Kong Athletes Career and Education Programme ("HKACEP") funded by the Government, and the scholarship could be applied by retired athletes up to six years after their retirement. As for the courses that would be sponsored by the sports certificate grant, C for S said that there were more than a few dozens such programmes covering subjects such as coaching, sports science, sports medicine, sports nutrition, fitness instruction, sports event management and sports facility management.

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8. Mr LAU Kwok-fan and Mr LUK Chung-hung hoped that the Administration would also enhance its retirement support for full-time athletes who might not have attained remarkable results in major games. The Deputy Chairman asked whether the education grant under HKAF or similar support was available for athletes in non-elite sports. C for S responded that the education grant under HKAF was available for application by eligible athletes who had attained results at EV3 or above, and not limited to those receiving training at HKSI. In addition, retiring/retired athletes in both elite and non-elite sports could also apply for the education scholarship under HKACEP if they were nominated by their respective "national sports associations" ("NSAs"). C for S said that the Home Affairs Bureau launched the Retired Athletes Transformation Programme ("RATP") in 2016 to subsidize eligible schools and NSAs to employ retired athletes. At present, there were over 50 retired athletes participating in RATP. The Deputy Chairman considered that it might not be necessary to require an athlete to have represented Hong Kong in major games in order to be eligible for the education scholarship under HKACEP. C for S explained that the requirement was set by SF&OC. He said that in the light of the enhancements to the dual career support to athletes under HKAF, SF&OC planned to review HKACEP with a view to enhancing its dual career support programmes to retired athletes. Under the proposed injection, HKAF could be used to provide HKACEP with the necessary resources for implementing its dual career support programmes to retired athletes over the longer run.

9. Referring to the proposed enhancement to the Elite Athletes Performance Recognition Scheme ("EAPRS"), Mr MA Fung-kwok asked whether the grant for athletes of EV level 4 could be further increased as he noted that the proposed increase in the level of grant for athletes of EV level 5 or above was substantially higher than that for athletes of EV level 4. Mr LUK Chung-hung suggested that consideration should be given to providing grants to athletes of EV level 3. Mr Tony TSE asked why the cash grant offered to athletes with the same level of sporting achievement varied according to the years of full-time sports training the athletes received.

10. C for S explained that the eligibility of EAPRS was determined by EV levels and years of full-time training of athletes. To provide greater retirement support and encourage athletes to strive for better achievements in major games and international events, the Administration considered it appropriate to propose a more substantial increase in the grant levels for athletes of EV level 5 or above and just a modest increase in the grant levels for athletes of EV level 4. C for S added that the advice from the Elite Sports

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Committee of the Sports Commission and the Hong Kong Sports Institute ("HKSI") had been sought on the proposed increase in the level of grant.

11. Noting that the cash awards provided to local medallists at the 2018 Asian Games were offered by the Hong Kong Jockey Club Charities Trust and the Henderson Land Group, the Chairman asked whether the Administration had provided any awards to medal winners at major games. SHA explained that apart from government funding, the Administration also encouraged sponsorship from the private sector or other sectors of the community to raise the level of awards for local medallists. C for S said that incentive awards were available to Hong Kong medallists at six major games including the Olympic Games, the Paralympic Games, the Asian Games, the Asian Para Games, the National Games and the World University Games through the Athlete Incentive Awards Scheme administered by HKSI. In addition, cash incentives were provided to junior athletes participating in major sports events through the Youth Athletes Scholarship Awards under HKAF.

12. Mr LAU Kwok-fan and the Chairman expressed concern about whether athletes were adequately protected against sports accidents or sports induced illnesses. C for S said that HKSI specifically arranged insurance to provide comprehensive protection for athletes who received training there. In addition, athletes were provided with full sports science and sports medicine support by HKSI to minimize their chance of injury.

13. Mr Christopher CHEUNG and Mr YIU Si-wing were of the view that the Administration should provide more support to aspiring athletes with potentials and put in place an appropriate system for identifying and nurturing sports talents. SHA responded that NSAs had a system for identification of young athletes with the potential to reach the elite level of their respective sports. Besides, to support the dual-career development of athletes in education and sports training, HKSI had signed Memoranda of Understanding with nine local universities to provide flexible study arrangements for full-time athletes studying in these universities. Moreover, the Administration had partnered with 27 local secondary schools to provide flexible secondary curriculum for student athletes.

14. Mr YIU Si-wing asked if the Administration would sponsor local athletes to receive sports training abroad to enhance their competence in sports. SHA responded that HKSI had provided athletes with opportunities for overseas trainings and for competing with top athletes invited from overseas.

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15. Summing up, the Chairman said that members raised no objection to the submission of the above funding proposal to the Finance Committee for consideration.

IV. Licensing regime proposed by the Property Management Services Authority

[LC Paper Nos. CB(2)1662/18-19(01) and (02)]

16. At the invitation of the Chairman, the Chairperson and the Chief Executive Officer of the Property Management Services Authority ("C/PMSA" and "CEO/PMSA") briefed members on the salient points of the paper provided by the Property Management Services Authority ("PMSA") [LC Paper No. CB(2)1662/18-19 (02)].

(At 10:00 am, the Chairman directed that the meeting be extended by about 15 minutes beyond the appointed ending time.)

Discussion

Consultation with stakeholders

17. Mr SHIU Ka-fai declared that he was engaged in the trading of construction materials. Mr SHIU and some other members including Mr LAU Kwok-fan, Mr Wilson OR, the Deputy Chairman and Ms YUNG Hoi-yan questioned whether PMSA had taken into account the views and concerns expressed by property management ("PM") professional bodies and related stakeholders in drawing up the proposed licensing regime set out in the draft Property Management Services (Licensing and Related Matters) Regulation (Cap. 626 sub. leg. B) (Annex 3 to LC Paper No. CB(2)1662/18-19(02)). Noting that some PM professional bodies still had concerns about the proposed licensing regime, these members urged PMSA to further consult the trade and relevant stakeholders soonest practicable to allay their concerns. Mr SHIU said that he could not render his support for the proposed licensing regime at the present stage pending PMSA's further consultation with stakeholders. He requested the Home Affairs Department ("HAD") to assist PMSA in the consultation work. Mr OR and Ms YUNG considered that as there was no urgency to implement the proposed licensing regime, PMSA should allow ample time for further discussion with the trade and stakeholders (including District Councils ("DCs") and owners' corporations ("OCs")) with a view to reaching a consensus before submitting the relevant subsidiary legislation to the Legislative Council ("LegCo") for scrutiny. Mr WU Chi-wai suggested that the draft subsidiary legislation should be made available to the public to further gauge their views.

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18. C/PMSA said that PMSA had conducted a two-month public consultation from November 2018 to January 2019 on its proposals for the licensing regime. Further to the public consultation, PMSA had fully considered the concerns expressed by stakeholders, and had accordingly clarified some details of the licensing regime to dispel their doubts. C/PMSA further said that PMSA announced the latest details of the licensing regime on 20 May 2019. Afterwards, PMSA had actively liaised with various stakeholders in the past two months and the feedback received was generally positive. He added that PMSA was of the view that the proposed licensing regime was generally able to address the major concerns raised by stakeholders during the public consultation.

19. C/PMSA explained that the concerns expressed by some PM professional bodies were mainly on the drafting issues of the draft subsidiary legislation concerned, including whether certain details of the licensing requirements should be set out in the subsidiary legislation instead of in the relevant codes of conduct/practice and guidelines, and whether the professional bodies recognized by PMSA as meeting the requirement on professional qualifications should be set out in the subsidiary legislation. C/PMSA and CEO/PMSA assured members that PMSA would continue to meet with the trade and relevant professional bodies to address their concerns and to further dispel their misunderstanding. In addition, PMSA would continue to contact the 18 DCs to arrange meetings for explaining the proposed licensing regime and soliciting views.

20. The Deputy Director of Home Affairs (2) ("DDHA(2)") said that as a member of and serving as a policy interface with PMSA, HAD had joined various engagement sessions organized by PMSA with stakeholders to make clear the Government's policy on property management and the policy intent of the Property Management Services Ordinance (Cap. 626) ("PMSO"). HAD would appeal to PMSA to continue to engage stakeholders to listen to their views and address their concerns. She agreed that the subsidiary legislation to be submitted by PMSA to LegCo for negative vetting should strike a right balance between the regulatory requirement and the development of the trade. HAD would continue to proactively participate in the meetings and engagement sessions between PMSA and the stakeholders.

Proposed licensing regime for property management companies ("PMCs")

21. Mr MA Fung-kwok, Ms YUNG Hoi-yan and Mr Abraham SHEK considered that the proposed licensing regime failed to specify clearly the

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circumstances under which a business entity that engaged in one or more of the seven categories of the prescribed property management services ("PMSs") was required to obtain a PMC licence (e.g. whether a construction company or a company providing PMS(s) to hostels would be required to obtain a PMC licence under the proposed licensing regime). Mr SHEK asked whether consideration would be given to exempting the works contractors currently on the list of approved contractors of government bureaux/departments from licensing. Ms YUNG also asked whether a business entity would be required to obtain a PMC licence if all the PMSs it provided were literally outsourced to third parties.

22. C/PMSA responded that a business entity whose business did not involve the provision of PMSs that fell within more than one category of services was not required to hold a PMC licence, and PMS(s) incidental to the provision of PMS under a particular category of services was regarded as PMS under that category only. As such, a construction company which might carry out cleansing and/or security services in the course of the repair and maintenance services it provided was not regarded as having engaged in more than one category of services. In addition, PMSO defined "property" as "building" under the Building Management Ordinance (Cap. 344) ("BMO"), and given that "building" as defined under BMO did not include property without a deed of mutual covenant ("DMC"), PMCs which managed properties without DMCs (e.g. hostels) were not required to hold a PMC licence. CEO/PMSA said that PMSA might consider providing elaborations and examples for illustration in the relevant codes of practice or guidelines as appropriate. C/PMSA reiterated that PMSA would continue to explain the proposed licensing regime to various stakeholders in the coming months.

23. Mr WU Chi-wai expressed concern that while the licensing regime was aimed to enhance the quality of PMSs, PMCs might be able to circumvent the requirement to obtain a PMC licence by setting-up different business entities for providing different categories of PMSs. On the other hand, he was also concerned that a business entity which had all along been providing services in a single category of PMS could get licensed only by engaging in an additional category of PMS. CEO/PMSA explained that PMSA was of the view that it would not be feasible for OCs to engage different PMCs to provide different categories of PMSs to them. In addition, by so doing, OCs would forgo the benefit of putting their PMSs providers under regulatory control.

24. The Chairman asked whether PMSA would consider introducing a performance rating system for licensed PMCs to facilitate OCs in choosing

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the right service provider. Mr LUK Chung-hung asked if licensed PMCs would be required to deposit guarantee money with PMSA to strengthen their commitment to conducting the business in a professional manner. Mr WU Chi-wai was concerned about the possibility that unscrupulous directors of a defunct PMC whose licence was revoked by PMSA might continue the operation of the PMC in disguise of a new business entity. The Deputy Chairman was concerned about the possible impact on OCs in the event that the licence of an in-service PMC was suspended/revoked or not renewed by PMSA due to disciplinary reasons.

25. CEO/PMSA responded that PMSA might consider the introduction of a performance rating system for PMCs when the licensing regime was fully developed and upon reaching a consensus among the trade. He said that under PMSO, PMSA would maintain registers of PMCs, property management practitioner ("PMP") (Tier 1) and PMP (Tier 2) at its office and on the Internet for public inspection, which would contain conviction record in relation to disciplinary offences or criminal offences under PMSO of licensees. CEO/PMSA further said that although PMSO had not imposed any guarantee money requirement on PMCs, it was stipulated in section 11 of PMSO that in determining whether a person was suitable for holding a PMC licence, PMSA must have regard to a number of prescribed factors including whether the person had been convicted of a criminal offence involving fraud or dishonesty; or had been convicted of a disciplinary offence or a criminal offence under PMSO. C/PMSA added that PMSA would prescribe procedures for handling complaints about licensed PMCs and PMPs.

26. The Chairman asked whether penalty could be imposed under PMSO on a licensed PMC which failed to disclose information concerning conflict of interests between it and its client. CEO/PMSA explained that failure to disclose conflict of interests between a PMC and its client was a disciplinary offence and, depending on the circumstances of each case, the PMC concerned might be subject to a penalty or revocation of licence. Expressing concern that labour disputes were quite common for certain PMSs jobs (e.g. cleansing and security), Mr LUK Chung-hung asked if PMSO would impose penalty on licensed PMCs for contravention of the Employment Ordinance (Cap. 57) or the Employees' Compensation Ordinance (Cap. 282). CEO/PMSA said that under PMSO, a licensee would commit a disciplinary offence if it was convicted in Hong Kong or elsewhere of a criminal offence that might bring the profession of PMSs into disrepute and was punishable with imprisonment.

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27. Mr Wilson OR asked how many existing PMCs were expected to be qualified for a licence upon implementation of the proposed licensing regime. He expressed concern as to whether the proposed licensing regime would impose additional financial burden on property owners as PMCs, especially the small and medium-sized ones, might have to engage additional licensed PMPs in order to fulfil the licensing requirements. Mr LAU Kwok-fan asked if the proposed three-year transitional period was sufficient for the trade to migrate to the new licensing regime.

28. CEO/PMSA responded that in order to allow sufficient time to facilitate the trade to adapt to the new regime, PMSA would provide a three-year transitional period after the implementation of the licensing regime during which PMCs and PMPs would not be required to be licensed. In-service PMPs who possessed the specified managerial or supervisory experience but did not meet the requirements for academic qualifications and/or professional qualifications could apply for and would be issued a provisional licence during the transition period with a validity period of up to three years. Upon completion of a specified course within the validity period of the provisional licence, the licensee might apply for a formal PMP licence. With this transitional arrangement in place, it was anticipated that the new licensing regime would not put pressure on the manpower market of PMSs.

29. The Chairman noted with concern that it was not stipulated in the proposed licensing regime that OCs self-managing its own property that contained less than 1 500 flats were not required to hold a PMC licence. CEO/PMSA explained that the relevant provision was stipulated in PMSO. DDHA(2) added that HAD had reiterated this policy intent vide a letter on 21 January 2019 issued to all OCs in Hong Kong.

Proposed licensing regime for PMPs

30. Ms YUNG Hoi-yan and the Deputy Chairman pointed out that some PM professional bodies had expressed concern that the licensing criteria for PMPs in terms of academic/professional qualifications and years of relevant working experience were not clearly prescribed in the draft subsidiary legislation. Mr YIU Si-wing considered that PMSA should specify clearly the criteria for deciding whether certain academic qualifications, especially those obtained from institutions in the Mainland or overseas, would be accepted by PMSA. The Deputy Chairman expressed concern whether the proposed licensing regime for PMPs was incompatible with the Housing Managers Registration Ordinance (Cap. 550). The Chairman asked if PMSA had a system for recognition and monitoring of the specified course

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to be completed by PMPs holding a provisional licence, and whether control would be imposed on the course fees.

31. CEO/PMSA responded that a standing committee of PMSA would be responsible for the assessment of the academic qualifications in relation to the application for PMP licence. Regarding the specified course to assist in-service PMPs to migrate to the new licensing regime, CEO/PMSA said that PMSA had invited proposals from interested institutions and it was believed that the institutions would keep the course fee at a reasonable level in order to stay competitive. According to the preliminary information provided by the institutions, the course fee would be in the range of about \$100 to \$200 per hour.

Motions

32. After discussion, Mr Wilson OR moved the following motion which was seconded by Mr LAU Kwok-fan:

(Translation)

"Regarding the licensing regime proposed by the Property Management Services Authority, this Panel urges that before introducing the subsidiary legislation, the authorities should further listen to the views of various stakeholders and allow discussions between the trade and the authorities for reaching a consensus, so as to better meet the needs of various stakeholders."

33. The Chairman put the motion to vote. The voting result was that nine members voted for the motion, no member voted against it and one member abstained from voting. The Chairman declared that the motion was passed.

34. The Deputy Chairman moved the following motion:

(Translation)

"The Property Management Services Authority should consult the trade afresh as soon as practicable in respect of the review on the licensing criteria for enactment of legislation on the licensing regime."

35. The Chairman put the motion to vote. The voting result was that seven members voted for the motion, no member voted against it and two members abstained from voting. The Chairman declared that the motion

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was passed.

(Post-meeting note: The Administration's response to the above two motions was issued vide LC Paper No. CB(2)1852/18-19(01) on 5 August 2019.)

Admin

36. In response to the Chairman's enquiry on whether PMSA would brief the Panel again before gazettal of the Property Management Services (Licensing and Related Matters) Regulation (Cap. 626 sub. leg. B), C/PMSA said that if there was no substantial change in the subsidiary legislation other than textual amendments, it would be submitted to LegCo for negative vetting. At the request of the Chairman, C/PMSA undertook to advise members in writing about the relevant reasons/justifications if any of the major concerns expressed by stakeholders could not be accommodated in the finalized licensing regime.

V. Any other business

37. There being no other business, the meeting ended at 10:46 am.

Council Business Division 2
Legislative Council Secretariat
20 November 2019