

立法會
Legislative Council

LC Paper No. ESC106/20-21
(These minutes have been
seen by the Administration)

Ref : CB1/F/3/1

Establishment Subcommittee of the Finance Committee

Minutes of the 11th meeting
held in Conference Room 1 of Legislative Council Complex
on Wednesday, 18 August 2021 at 8:30 am

Members present:

Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP (Chairman)
Hon YIU Si-wing, SBS (Deputy Chairman)
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon CHAN Hak-kan, SBS, JP
Hon Steven HO Chun-yin, BBS, JP
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, GBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kwok, GBS, MH, JP
Hon CHUNG Kwok-pan
Hon Jimmy NG Wing-ka, BBS, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon YUNG Hoi-yan, JP
Dr Hon Pierre CHAN
Hon CHAN Chun-ying, JP
Hon Tony TSE Wai-chuen, BBS, JP

Member absent:

Hon WONG Kwok-kin, GBS, JP

Public Officers attending:

Miss Natalie LI Sau-fung	Deputy Secretary for Financial Services and the Treasury (Treasury) 1 (Acting)
Mrs Angelina CHEUNG FUNG Wing-ping, JP	Deputy Secretary for the Civil Service 1
Ms Michelle LI Mei-sheung, JP	Permanent Secretary for Education
Mrs CHAN SIU Suk-fan	Deputy Secretary for Education (3)
Mr Edward TO Wing-hang, JP	Deputy Secretary for Education (4)
Mrs HONG CHAN Tsui-wah	Deputy Secretary for Education (5)
Ms Gracie FOO Siu-wai, JP	Director of Administration and Development Department of Justice
Ms Adeline WAN Ping-siu	Secretary (Law Reform Commission) Department of Justice

Clerk in attendance:

Ms Connie SZETO	Chief Council Secretary (1)4
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Staff in attendance:

Mr Patrick CHOI	Council Secretary (1)4
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Ms Sharon CHAN	Legislative Assistant (1)4
Ms Haley CHEUNG	Legislative Assistant (1)10

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The Chairman drew members' attention to the information paper ECI(2020-21)9, which set out the latest changes in the directorate establishment approved since 2002 and the changes to the directorate establishment in relation to the three items on the agenda. She then reminded members that in accordance with Rule 83A of the Rules of Procedure ("RoP"), they should disclose the nature of any direct or indirect pecuniary interest relating to the item under discussion at the meeting before they spoke on the item. She also drew members' attention to RoP 84 on voting in case of direct pecuniary interest.

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EC(2020-21)12 Proposed creation of three supernumerary posts of two Assistant Director of Education (D2) and one Principal Education Officer (D1) in the Education Bureau for four years with immediate effect upon approval of the Finance Committee to strengthen directorate support to formulate, implement, monitor and review various education policies and to meet the upsurge in service needs for quality and effective education

2. The Chairman remarked that the establishment proposal was to create three supernumerary posts of two Assistant Director of Education ("ADE") (D2) and one Principal Education Officer ("PEO") (D1) in the Education Bureau ("EDB") for four years with immediate effect upon approval of the Finance Committee ("FC") to strengthen directorate support to formulate, implement, monitor and review various education policies and to meet the upsurge in service needs for quality and effective education.

3. The Chairman remarked that the Government originally proposed to create in EDB five directorate posts of two ADE and three PEO on a permanent basis and one ADE post on a supernumerary basis. Following consultation with the Panel on Education, the proposal was endorsed by the Establishment Subcommittee ("ESC") on 11 June 2019 for submission to FC for consideration. Subsequently, having taken into account the latest views of Members on the creation of directorate posts amidst the current situation, EDB had revised the original proposal and now put forward this proposal to seek afresh the support of ESC for creation of three supernumerary posts. The Panel on Education had discussed EDB's original proposal on 29 March 2019 and supported it. The main points of the discussion had been reported to ESC at its meeting on 11 June 2019.

Discussion

Duty arrangements of the proposed posts

4. Mr Tony TSE expressed support for the establishment proposal in principle. Regarding the post of Principal Assistant Secretary (School Administration) ("PAS(SA)") proposed to be created, he enquired about the duties handled by existing staff and those arising from new measures, and whether it would be necessary for the relevant existing staff to take up new tasks subsequent to the transfer of the existing duties. He requested the Administration to provide supplementary information on how the existing work of EDB would be enhanced by creation of the three proposed posts

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and details of the additional work that had been taken up by EDB in recent years.

5. In response, Permanent Secretary for Education ("PS(Ed)") said that part of the major duties of PAS(SA) stemmed from existing work projects, such as monitoring of the implementation of the Direct Subsidy Scheme ("DSS") policy and promotion of home-school co-operation; duties stemming from new projects included coordination of school administration and education arrangements concerning national security as well as that of anti-epidemic strategies at schools. Given that a number of additional tasks had to be taken care of urgently by EDB in recent years, it was considered operationally out of the question for the existing directorate officers to absorb any additional duties. It was imperative for the proposed posts to be created to rationalize the duty arrangements of directorate officers and enhance the standard of service in respect of the existing work. She undertook to approach Mr TSE direct and provide the supplementary information he requested.

6. Dr CHIANG Lai-wan enquired whether the three proposed posts were exclusively responsible for duties relating to national security education ("NSE") and national education. Pointing out that those were posts at the directorate grade, she stressed that the Administration should formulate performance indicators for the relevant posts.

7. Mr KWOK Wai-keung expressed support for the establishment proposal, and agreed that it was necessary to formulate performance indicators for the posts.

8. PS(Ed) remarked that the three proposed posts would be created under the School Development and Administration Branch, the Curriculum and Quality Assurance Branch, and the Professional Development and Special Education Branch managed by three Deputy Secretaries for Education respectively. The paper had set out details of the major duties and responsibilities of each proposed post, including but not limited to efforts related to school administration and education concerning national security and duties relating to national education. For the purpose of evaluating the performance of the proposed posts, EDB would draw up specific action plans, timetables and performance indicators for each item of responsibility and report to the Legislative Council ("LegCo") on the progress of the various areas of work in a timely manner.

9. Mr POON Siu-ping expressed support for the establishment proposal. Mr POON and Mr Tony TSE were concerned if there were sufficient non-directorate officers in EDB to handle the work of the bureau in the future.

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10. Noting that fewer posts were proposed to be created compared to that of the original proposal in 2019, Mr KWOK Wai-keung was concerned if the arrangement would affect EDB's future work plan.

11. PS(Ed) advised that EDB had originally proposed to create five directorate posts on a permanent basis and one on a supernumerary basis. Having taken into account the latest views of Members on the creation of directorate posts amidst the current situation, EDB had revised its original proposal and proposed the creation of just three supernumerary posts instead. EDB would make every effort to complete the work under the original plan with the limited resources available under the existing establishment. Additional manpower including support of non-directorate officers would be sought in accordance with the established mechanism where necessary.

Promotion of national security education

12. While expressing support for the establishment proposal, Ir Dr LO Wai-kwok found it imperative that the Administration must undertake to address thoroughly the long-standing problems in Hong Kong's education system. He asked about the specific measures formulated by EDB to instill in students the correct concepts of national education in order to protect them from being corrupted by the social incidents and riots in recent years.

13. PS(Ed) remarked that EDB undertook to fully implement in schools the Constitution, the Basic Law and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ("NSL") to prevent, suppress and impose punishment for acts and activities occurring on campus that endangered national security, strengthen NSE and national education, and develop in students within and outside the classroom a sense of belonging to the country, an affection for the Chinese people, a sense of national identity, as well as an awareness of and a sense of responsibility for safeguarding national security. Specifically, PAS(SA) would be responsible for coordinating and formulating strategies and measures related to the safeguarding of national security and promotion of NSE in schools from the school administration perspective. Principal Assistant Secretary (Curriculum Support) ("PAS(CS)") would be responsible for formulating, leading and reviewing curriculum support services, which would cover the provision of various multi-media curriculum resources and vetting of textbooks. On the other hand, through monitoring the quality of textbooks and reforming the subject of Liberal Studies ("LS subject"), EDB had plugged the loophole on national security brought about by LS subject in

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the past and rectified the deviation process.

14. Mr WONG Ting-kwong expressed support for the establishment proposal. He pointed out that many students had participated in social incidents in recent years because some schools instilled into them some incorrect values. He opined that the Administration should implement relevant remedial measures and adopt a more stringent, open and transparent approach in ensuring teacher quality, scrutinizing teaching materials and regulating schools.

15. Mr Christopher CHEUNG expressed support for the establishment proposal. He enquired whether the Administration was kept informed on how NSE was being implemented in schools, and how PAS(SA) would monitor schools to prevent teachers from taking a perfunctory attitude in NSE and national education. Mr CHEUNG also called on the Administration to properly perform its duty of regulating schools with a view to improving the quality of education.

16. Mr KWOK Wai-keung said that in the event of social incidents, it was expected that schools could take up the role of a firewall to help students identify false information, rectify incorrect values and develop a sense of patriotism.

17. Mr Holden CHOW was concerned about whether EDB would introduce measures (such as establishment of a mechanism for parents to monitor schools' performance, increase the number of surprise on-site inspections of schools by EDB officers, step up the scrutiny of curriculum content and teaching materials as well as carry out regular evaluation of the teaching performance of teachers) to ensure that schools would strictly enforce the guidelines issued by EDB on NSL and national education and adopt a correct and effective approach to foster in students a sense of belonging to the country, an affection for the Chinese people and a sense of national identity.

18. Mr Martin LIAO was concerned about the indicators adopted by EDB to assess the effectiveness of national education in schools and the consequences if schools failed to meet the standards.

19. Sharing the views of members, PS(Ed) advised that insofar as education was concerned, EDB would step up efforts in handling the relevant work to deepen the sense of national identity among students, with a view to resolving the problems at the root and restoring normalcy. She pointed out that EDB has issued administrative guidelines to schools with advice that schools should step up prevention and suppression of teaching or other school activities in breach of the Basic Law, NSL and all laws

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applicable to Hong Kong, and prevent political or other illegal activities from permeating schools and handle such matters. Schools were required to submit to EDB their first "annual report on measures for safeguarding national security and national security education" ("the annual report on national security measures") by the end of August this year. If the report revealed unsatisfactory performance of schools in the implementation of relevant measures or work plans, or other non-compliance incidents, the schools in question must follow up on the matters as soon as possible. Moreover, subsequent to creation of the proposed posts, EDB planned to deploy some of the staff in the Curriculum Development Institute and the Quality Assurance and School-based Support Division under the Curriculum and Quality Assurance Branch to step up inspections (including focus inspections) for monitoring and following up more closely on the implementation of the relevant curriculum and education policies in schools.

20. PS(Ed) added that in addition to issuing relevant curriculum documents and learning and teaching materials to promote NSE, EDB would continue to provide schools with multi-faceted professional support and advice through provision of relevant training for teachers and school visits etc. Meanwhile, EDB encouraged schools to organize more home-school cooperation and parent education activities to help parents cultivate in their children correct values; in the process, parents' feedbacks on the performance of the schools would be collected. In the coming year, EDB would focus on enhancing the overall information literacy of students and schools to prevent students from being misled by false information.

21. Mr POON Siu-ping was concerned that, if approval was not given to the proposal, how EDB would handle matters relating to the duties of PAS(SA) in respect of "coordinating and formulating strategies and measures related to safeguarding national security and promotion of nation security education in schools from the school administration perspective". Mr CHAN Chun-ying was concerned about the criteria to be adopted to assess the effectiveness of work in relation to that duty.

22. PS(Ed) pointed out that while much had been done by EDB in relation to the implementation of NSL, including promulgation of school administration and education guidelines in July last year and February this year, as well as issuance of documents on the curriculum framework of NSE since February this year etc., it was imperative for the proposed posts to be created at EDB to coordinate and formulate relevant strategies and measures for the purpose of monitoring whether schools would adhere strictly to the relevant guidelines and providing greater support to schools.

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23. Regarding assessment of the effectiveness of the post, PS(Ed) replied that PAS(SA) was responsible for coordinating and formulating strategies and measures related to safeguarding national security and promotion of NSE in schools from the school administration perspective, including the review of and follow-up on annual reports on national security measures to be submitted by schools by end of August this year (and by end of November every year starting from the 2022-2023 school year), as well as coordinating the relevant training for teachers. EDB would review the effectiveness of the work under the ambit of the post based on the post holder's performance on specific duties relating to the safeguarding of national security. In addition, EDB would review the performance of the officer in respect of other duties in detail and the relevant timetables, and report to LegCo on individual issues in a timely manner.

24. Mr YIU Si-wing agreed that it was imperative to have the proposed post created to enhance NSE and national education for students. Mr YIU was concerned that the school administration policies and guidelines formulated by the School Administration Division did not set out the consequences of non-compliance of the guidelines on the part of schools or teachers. He further enquired about the measures in place to help schools implement the administration policies in a progressive and orderly manner.

25. PS(Ed) reiterated that EDB had promulgated in February this year a detailed school administration and education guidelines in respect of NSL implementation. According to the guidelines, school sponsoring bodies were obligated to give directives to their corresponding school governance authorities to ensure that policies and measures related to the safeguarding of national security and NSE were consistent with the Basic Law and all laws applicable to Hong Kong, including NSL. School governance authorities were obligated to maintain quality school staff members who upheld professional ethics. For example, a school governance authority should clearly communicate to school personnel of all levels (including school management, and all teaching and non-teaching staff) the school's requirements and expectations in respect of their responsibilities and conduct, including the obligation to abide by the law. EDB would follow up rigorously on any non-compliant cases and the schools or teachers concerned would have to bear the consequences under the school-based management mechanism. Given that the objectives of NSL were to prevent, suppress and impose punishment for acts and activities that endangered national security, PS(Ed) stressed that priority was given to prevention in order to minimize the need for suppression and punishment.

26. Mr SHIU Ka-fai expressed support for the establishment proposal. He asked how the misconduct behaviours of teachers supporting riots

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would be dealt with by the Administration. In light of the social incidents in recent years, he also expressed concern about whether the Administration had monitored the work performance of school-based social workers and the effectiveness of their work in student counselling.

27. PS(Ed) advised that EDB had rigorously followed up on incidents of alleged teachers' misconduct in the past two years and taken various disciplinary actions ranging from cancellation of teacher registration to issuance of reprimand or warning letter. By providing schools with administrative guidelines through issuance of circulars, EDB required schools to comply with the Bureau's regularity requirements in respect of, among others, appointment of teachers, organization of activities and teachers' conduct in an effort to prevent infiltration of political activities into school campuses. She added that the policy of "one school social worker for each school" could provide support for students in their pursuance of whole-person development. EDB would continue to strengthen various support services for students.

28. Mr CHAN Chun-ying opined that the Administration should set up an office at a higher level beyond the school level for overall coordination of efforts on promotion of NSE among various sectors of the community. He asked about the role of PAS(SA) in coordinating EDB and other policy bureaux/departments to take forward initiatives in this regard.

29. PS(Ed) advised that EDB was mainly responsible for duties within the ambit of the Administration relating to schools as set on in Articles 9 and 10 of NSL. PAS(SA) would coordinate the relevant work of directorate officers across different departments with a view to supporting the Secretary for Education ("SED") in accomplishing his mission in this regard. Meanwhile, the Chief Secretary for Administration would be responsible for the overall coordination and steering of the Government's effort in implementing NSL in various policy areas.

30. With regard to the recent circumstances where schools were having issues with under-enrolment, Mr SHIU Ka-fai was concerned if the Administration would address the problem by reducing the number of students per class, adjusting the structure of teaching staff and merging some of the schools.

31. PS(Ed) pointed out that EDB had been adjusting the overall planning of education policies in light of changes in population. She stressed that EDB's policy of supporting schools to implement NSE would not be affected.

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Curriculum support and school-based support services

32. Expressing concern on Hong Kong's education system which had been riddled with problems for years in areas such as curriculum, teaching materials, examinations and assessment, teacher training and school management etc., the Chairman supported the measures implemented by EDB to rectify past errors. She pointed out the trend of a decreasing standard in the current curriculum of a number of subjects for senior secondary education. For example, the standards of the mathematics subject fell short of meeting the basic requirements for certain engineering-related programmes in universities, while LS subject were impractical. That being the case, many parents were sending their children to DSS schools, international schools or overseas for study. To improve the standards of the local curriculum, the Chairman also asked whether consideration would be given to appointing more stakeholders of different interests (including parents and employers) to become members of the Committees on Key Learning Areas under the Curriculum Development Council ("CDC"), or accepting self-recommendation from members of public to become members of the Committees.

33. In response, PS(Ed) said that over the past two years, EDB had launched various measures to improve curriculum designs, including introducing the subject of Citizenship and Social Development ("CS subject") subsequent to the reform of LS subject with a view to developing critical thinking skills among students. Textbooks for CS subject were subject to review and approval. EDB had also completed a review on the overall development of the curriculum.

34. Regarding appointments to CDC, Deputy Secretary for Education ("DS(Ed)") (5) explained that the structure of CDC comprised the Council proper in the first tier and the Committees on Key Learning Areas in the second tier. Members of CDC, which currently included one parent representative, were appointed by SED under the power delegated by the Chief Executive. EDB would consider the views of various sectors to improve the development of the curriculum on an on-going basis.

35. The Chairman asked whether EDB had plans to make it mandatory that textbooks for all senior secondary subjects, including CS subject (which would gradually replace LS subject starting from the 2021-2022 school year), would be subject to review, and how EDB would ensure that the content and quality of school-based teaching materials were up to standard.

36. Mr KWOK Wai-keung suggested that EDB should prepare more teaching material templates to reduce the dependence of schools on

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teaching materials provided in the market.

37. Mr Martin LIAO asked about the authors/editors of the NSE teaching materials and good educational practices provided by EDB, and whether schools were allowed to compile their own NSE teaching materials. If schools were allowed to compile and use school-based teaching materials, whether EDB would require schools to submit those materials for review, and whether funding would be provided for the development of the relevant teaching materials.

38. Ms YUNG Hoi-yan expressed support for the establishment proposal. Given that NSE and national education were related to the Constitution, the Basic Law and national affairs, she was concerned that teachers might not have the expertise to compile the teaching materials. She asked for details on the relevant support provided by EDB for schools. Furthermore, she asked whether EDB would consider seeking assistance from departments such as the Judiciary and the Correctional Services Department to compile relevant teaching process tools and teaching materials for schools.

39. In response, PS(Ed) said that when EDB released the curriculum document titled "Curriculum Framework of National Security Education in Hong Kong", it had also developed learning and teaching materials and provided teacher training in accordance with students' needs at different levels to support the promotion of national education and NSE in schools. In addition to developing teaching reference materials and compiling resources for teachers' reference, EDB had also arranged professional training provided by relevant professionals (such as lawyers) for teachers to enhance their professional knowledge on NSE and national education. Furthermore, schools could apply for the on-site services introduced by EDB for assistance in establishing a planning team for the development of curriculum and for consolidating teaching materials used by schools.

40. DS(Ed)5 added that in order to facilitate teachers' accurate acquisition of the curriculum content and interpretation of the learning focuses, EDB had prepared 12 sets of presentation slides on the curriculum of CS subject to provide knowledge and content relevant to the Secondary Four curriculum. Moreover, with regard to curriculum management, the CS Curriculum and Assessment Guide had reminded the panel chairpersons/middle managers to provide guidance and support in light of curriculum implementation and help teachers teach the subject with accuracy in accordance with the EDB's requirements. While schools could prepare their own teaching materials for NSE, national education and CS subject, school-based learning and teaching resources related to the constitutional order (including the Constitution and the Basic Law

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education as well as NSE) should be archived for retention for no less than two school years. On receipt of complaints on teaching materials, EDB would follow up seriously by reviewing whether the school-based materials had been compiled in a professional manner with full justifications and whether there was negligence in the monitoring mechanism of the school concerned.

41. Noting that the curriculum support services provided by EDB included provision of professional advice on learning activities such as field studies, exchanges outside Hong Kong and workplace experience that were organized by schools, Mr YIU Si-wing asked whether PAS(CS) would be responsible for reviewing the format of such activities to ensure that students could deepen their understanding of the Guangdong-Hong Kong-Macao Greater Bay Area ("GBA") through workplace experience and that the field studies and exchanges could achieve the aim of national education instead of simply taking the form of tourist activities.

42. PS(Ed) stressed that instead of being no more than a tourist activity, life-wide learning ("LWL") activities should form a part of the content of the curriculum. In addition to emphasis on national education, the Mainland exchange programmes and LWL activities currently organized by schools also introduced students to the history, culture, latest development and achievements of the country catering the various needs of the school curriculum. Meanwhile, workplace experience activities highlighted the enormous opportunities brought about by GBA for students. PAS(CS) would strengthen the coordination in this regard and undertake the relevant steering work.

43. Referring to the recent FinTech Tour for Young Teachers jointly organized by the banking industry and EDB, Mr CHAN Chun-ying asked whether consideration would be given to allowing schools to use their LWL Grant on areas other than humanities, STEM education, physical and aesthetic development, and moral and civic education, to organize, for instance, experiential learning activities related to financial management or the development of financial technology ("fintech") with a view to imparting crucial knowledge of financial management to students.

44. DS(Ed)5 advised that in addition to acquainting students the latest development in fintech, LWL activities could also relate to the curriculum study of Key Learning Areas such as Business, Accounting and Financial Studies or Economics. She pointed out that teachers who had participated in the activity referred to by Mr CHAN could provide feedback to their schools or EDB regarding the positive parts of the learning activity to help promotion of more diversified learning activities on financial management in the future.

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45. Ms YUNG Hoi-yan suggested that EDB could coordinate additional programmes on NSE and national education, such as co-organizing summer camps with the Chinese People's Liberation Army Hong Kong Garrison, to develop in students a sense of belonging to the country, an affection for the Chinese people and a sense of national identity.

46. PS(Ed) replied that EDB had received assistance from the offices set up by the Central People's Government in the Hong Kong Special Administrative Region. EDB would step up communication and promote suitable activities to schools in a timely manner.

Voting on the item

47. There being no further questions from members, the Chairman put the item to vote. All the members present voted in favour of this proposal. The Chairman declared that ESC agreed to recommend the item to FC for approval. Mr Tony TSE requested that the item be voted on separately at the relevant FC meeting.

(Post-meeting note: Mr Tony TSE's decision to withdraw his request for a separate vote was circulated to members on 27 August 2021 vide LC Paper No. ESC101/20-21.)

EC(2020-21)13 Proposed upgrading of one permanent post of Principal Government Counsel (DL3) to Law Officer (DL6) in the Department of Justice with immediate effect upon approval of the Finance Committee to provide strong support to the Secretary for Justice in her capacity as the Law Reform Commission Chairman and to lead a new project of "Systematic Review of the Statutory Laws of Hong Kong"

48. The Chairman remarked that the establishment proposal was to upgrade one permanent post of Principal Government Counsel (DL3) to Law Officer (DL6), designated as Secretary to the Law Reform Commission ("S/LRC"), in the Department of Justice ("DoJ") with immediate effect upon FC's approval to provide support to the Secretary for Justice ("SJ") in her capacity as the LRC Chairman and to lead a new project of "Systematic Review of the Statutory Laws of Hong Kong" ("Statutory Laws Review").

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49. The Chairman advised that the Panel on Administration of Justice and Legal Services ("AJLS Panel") had discussed the proposal at its meeting on 21 June 2021. While supporting submission of the proposal to ESC for consideration, the AJLS Panel had expressed concerns about how the proposal could contribute to a qualitative improvement in the leadership of the LRC Secretariat and facilitate LRC in implementing its work in a more effective manner, as well as the work plan and timetable for the Statutory Laws Review. Members agreed in general that it was necessary to implement the Statutory Laws Review and update the legal provisions expeditiously. Members were of the views that, to compensate for the lack of foresight among policy bureaux and departments, LRC should take forward initiatives for legislative reform relating to the new challenges facing Hong Kong (such as technological development and the promotion of the development of new industries). Moreover, some members were concerned about whether the LRC Secretariat had adequate manpower resources and whether the arrangement on upgrading S/LRC from a Principal Government Counsel (DL3) post to a Law Officer (DL6) post was in line with similar arrangement in respect of civil service posts in general. The Chairman pointed out that the Administration had addressed the enquiries and concerns of members at the Panel meeting.

Discussions

Systematic Review of the Statutory Laws of Hong Kong

50. Mr YIU Si-wing expressed support for the establishment proposal. Given that it had been 24 years since the reunification, he asked why efforts had not been made expeditiously to take forward initiatives for adaptation of laws in a comprehensive manner to address the matter of various provisions or references in statutory laws having colonial connotations. Pointing out that the public might not have enough understanding on the relevant work being undertaken by the Administration, and that there might be public concerns when amendments were introduced to legal provisions having colonial connotations, Mr YIU asked about the departments responsible for explaining to the public if and when necessary.

51. Director of Administration and Development of DoJ ("D/AD") pointed out that the Interpretation and General Clauses Ordinance (Cap. 1) had provided for how provisions or references that had yet to be adapted were to be construed pending adaptation. However, although the interpretation principles were provided in the Ordinance, other provisions requiring adaptation and certain references that were obviously obsolete (such as those referring to certain institutions of the United Kingdom) could not be adapted simply by applying such principles. Since it was expressly provided in the Ordinance that the interpretation principles did

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not apply if the context required otherwise, the adaption or removal of any obsolete references in a given provision could not take place without conducting in-depth study on the background of and policy intent for the statutory law concerned to understand the context of the provision. Furthermore, given the scope of matters relating the impending law adaptation exercises and the policy bureaux and departments involved, the LRC Secretariat had to secure cross-bureaux coordination in addition to conducting studies on the provisions for successful completion of the adaptation exercise. In response to the views expressed by Mr YIU, D/AD added that it was an established practice of the LRC Secretariat to conduct public consultations on each and every legislative research project. As the Secretariat was familiar with the procedures and possessed relevant experiences, it would be capable of explaining to the public matters relating to the initiative.

52. Mr CHAN Chun-ying and Mr Tony TSE expressed support for the establishment proposal. They enquired whether the Administration had drawn up timetables for completion of the various work under the Statutory Laws Review.

53. Mr CHAN Chun-ying noted that the existing directorate and non-directorate support staff of the LRC Secretariat would remain unchanged apart from provision of a Motor Driver and a Senior Personal Secretary for the upgraded S/LRC post. Mr CHAN asked whether the Administration would increase LRC's support staff over the next two years. Mr Tony TSE was concerned about whether LRC could cope with its expanded portfolio of work with its existing support staff.

54. Mr YIU Si-wing asked whether it was LRC's plan to handle the initiative of the Statutory Laws Review with its existing staff, or with additional short-term manpower employed for completion of the Review in an expeditious manner, and in the case of the latter, the arrangement for the staff employed for the purpose upon completion of the short-term work.

55. D/AD pointed out that as at 7 June 2021, there were 710 ordinances and 1 616 pieces of subsidiary legislation in force in Hong Kong. Given the breadth and depth of the work involving the Statutory Laws Review, that was going to be a formidable process. The three areas of work referred to in the discussion paper (i.e. adaptation of laws, consolidation of laws and repeal of obsolete laws) had to be carried out regularly on an on-going basis, which were extra tasks in addition to the existing duties of the LRC Secretariat. Among those work, there was a more urgent need for adaption of laws to be completed expeditiously.

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56. D/AD further pointed out that subsequent to the proposed upgrading, S/LRC would examine the existing and additional duties of the Secretariat in a holistic manner, draw up a work plan for the Secretariat (including the formulation of milestones and expected outcomes) from a high level and macro perspective, review critically the manpower need of the Secretariat and report to SJ in her capacity as the LRC Chairman as well as LegCo in a timely manner. The Administration would not preclude the possibility of adjusting the manpower arrangement of the supporting staff in future in light of the actual operational needs of the Secretariat, although it would be difficult for the Administration to formulate a specific timetable and manpower deployment plan for the relevant work at this stage.

Priorities and implementation of law reform proposals

57. Pointing out that legal provisions often failed to keep up with the times, Mr Tony TSE suggested that when laws were being drafted, the Administration should endeavor not to impede the development of the society. He enquired about the criteria adopted by LRC for prioritizing the initiatives on law consolidation and whether those priorities would be reviewed regularly.

58. The Chairman expressed support for the establishment proposal in principle. Pointing out that the recommendation for introduction of a new criminal offence in respect of stalking made by LRC in a study report on issues relating to privacy had not been implemented, the Chairman hoped that LRC would draw up timetables for the implementation of the various law reform proposals. She asked how LRC would ensure that its recommendations in its study reports would be followed up on by the relevant policy bureaux.

59. D/AD and S/LRC advised that the consolidation of laws facilitated the general public's access to and understanding of statutory laws. Examples of such consolidation in the past included the Securities and Futures Ordinance (Cap. 571) and Companies Ordinance (Cap. 622) which were made by way of rewriting and updating numerous pieces of legislation. Under the existing mechanism, SJ would in each year submit to AJLS Panel of LegCo an annual report setting out the progress in respect of the LRC's recommendations made in its reports which had yet been implemented and the responses made by the relevant policy bureaux or departments. The LRC report on issues relating to privacy and stalking which the Chairman had referred to was listed in the annual report. The reporting mechanism would continue to operate. Based on the information set out in the annual report each year, Members could follow up at the meetings of the relevant panels of LegCo on the progress in

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respect of the LRC's recommendations which had yet been implemented by different policy bureaux. The Administration would also take the opportunity to gauge Members' views on the areas of laws that needed to be consolidated and their priorities. With the support of extensive legal research, LRC would continue to keep abreast of the times and put forth law reform proposals that were in tune with the new development needs of the community.

60. Ms YUNG Hoi-yan expressed support for the establishment proposal. She noted that in light of the drafting instructions given by the relevant policy bureaux, LRC would study the legal issues in areas where law reform was urgently required. Yet, while land supply was an issue of great public concern, it was not covered in the seven references of LRC at the moment. She asked that in cases where policy bureaux found it difficult to prepare drafting instructions for a topic due to perceived complicated legal issues, whether LRC would proactively conduct a study on the matter under such special circumstances. Ms YUNG further remarked that she would make a suggestion to SJ to include in the new references of LRC legislation related to land supply.

61. S/LRC advised that while a proposal on law reform could be made by a policy bureau or by LRC based on the findings of its research, a proposal put forth by the latter must first be submitted to the relevant policy bureau for a decision to be made on whether the proposal would be adopted and for consideration of the extent to which the proposal would be implemented. That being the case, policy bureaux in general would accord priority to law reform proposals that were closely related to their policy purview, or those that needed to be formulated or implemented expeditiously. Meanwhile, LRC would handle aspects of the law that required the dedication of full-time legal input to conduct a review. LRC was working full steam in following up on the seven formal references. As regards individual new subjects and whether those subjects should be referred to LRC for study, that would be decided by SJ in her capacity as the LRC Chairman or the Chief Justice of the Court of Final Appeal after taking into account all relevant factors.

Voting on the item

62. There being no further questions from members, the Chairman put the item to vote. All the members present voted in favour of this proposal. The Chairman declared that ESC agreed to recommend the item to FC for approval. No members requested that the item be voted on separately at the relevant FC meeting.

Action

63. There being no other business, the meeting ended at 10:27 am.

Council Business Division 1
Legislative Council Secretariat
9 September 2021