

立法會
Legislative Council

LC Paper No. CB(4)698/20-21
(These notes have been seen
by the Administration)

Ref : CB4/PL/CA

Panel on Constitutional Affairs

**Notes of informal meeting for policy briefing by videoconferencing
held on Tuesday, 5 January 2021, at 4:30 pm**

Members participating : Hon Holden CHOW Ho-ding (Chairman)
Hon Kenneth LAU Ip-keung, BBS, MH, JP (Deputy Chairman)
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon Starry LEE Wai-king, SBS, JP
Hon Mrs Regina IP LAU Suk-yea, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon MA Fung-kwok, GBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, GBS, JP
Hon Jimmy NG Wing-ka, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon LUK Chung-hung, JP

Public Officers attending : Mr Erick TSANG Kwok-wai, IDSM, JP
Secretary for Constitutional and Mainland Affairs

Mr Roy TANG Yun-kwong, JP
Permanent Secretary for Constitutional and Mainland Affairs

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

Ms Maisie CHAN Kit-ling, JP
Deputy Secretary for Constitutional and Mainland Affairs (1)

Ms Elizabeth TAI Ka-pui, JP
Deputy Secretary for Constitutional and Mainland Affairs (2)

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

Staff in attendance Mr Bonny LOO
Senior Assistant Legal Adviser 3

Mr Dennis HO
Council Secretary (2) 3

Mrs Louisa YU
Legislative Assistant (2) 3

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Briefing by the Secretary for Constitutional and Mainland Affairs on the Chief Executive's 2020 Policy Address

(LC Paper No. CB(2)528/20-21(01) — Paper provided by the Constitutional and Mainland Affairs Bureau)

(Index of proceedings of the meeting is attached in the **Appendix**.)

The Chairman reminded members that as this was an informal meeting, the Rules of Procedure of the Legislative Council ("LegCo") would not apply and the privileges and immunities provided by the LegCo (Powers and Privileges) Ordinance (Cap. 382) would not be available to the participants.

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2. At the invitation of the Chairman, the Secretary for Constitutional and Mainland Affairs ("SCMA") briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)528/20-21(01)].

Legislative amendments in respect of oath-taking by public officers

3. Noting that the Administration would introduce legislative amendments in respect of oath-taking by public officers to better reflect the requirements as stipulated in the Interpretation of Article 104 of the Basic Law ("BL 104") by the Standing Committee of the National People's Congress ("NPCSC") ("the Interpretation"), members asked whether District Council ("DC") members would also be subject to the relevant oath-taking requirements, and if so, what the consequences would be if they refused or failed to comply with such requirements. Members considered that DC members should be regarded as public officers and urged the Administration to expeditiously take forward the legislative amendment exercise to stipulate clearly the requirement for all public officers, including DC members, to swear to uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region ("HKSAR") and the related arrangements.

4. The Administration advised that since NPCSC adopted the Interpretation of BL 104 on 7 November 2016, the Constitutional and Mainland Affairs Bureau ("CMAB") had been studying whether and, if so, how the relevant local legislation should be amended in order to implement BL 104 and the Interpretation accurately. In this connection, the Administration would, with reference to the related requirements set out in the Interpretation, relevant local court judgments and the decision on issues relating to the qualification of LegCo Members made by NPCSC on 11 November 2020, rationalize the relevant local legislation including the Oaths and Declarations Ordinance (Cap. 11) and relevant electoral laws. The Administration explained that while the five categories of public officers specified in BL 104 did not cover DC members, Article 6 of the Law of the People's Republic of China on Safeguarding National Security in HKSAR ("the National Security Law") stipulated that a resident of HKSAR who stood for election or assumed public office should confirm in writing or take an oath to uphold the Basic Law and swear allegiance to HKSAR in accordance with the law. In this regard, the Administration noticed that various views had been expressed on the scope of "public officers", including the view that DC members should be regarded as public officers and thus should be subject to the relevant oath-taking requirements. The Administration undertook that it would endeavour to complete the study on scope and drafting of the legislative amendment proposals as soon as practicable with a view to introducing the relevant amendment bill into LegCo in early 2021.

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(*Post-meeting note: The relevant bill, viz. Public Offices (Candidacy and Taking Up Offices)(Miscellaneous Amendments) Bill 2021 was gazetted on 26 February 2021 and is scheduled for introduction into LegCo at its meeting of 17 March 2021.*)

Enhancement of electoral arrangements

5. Members stressed that the Administration should make every endeavour to address the deficiencies in various aspects of the electoral arrangements as revealed in the 2019 DC Ordinary Election and ensure that the upcoming 2021 LegCo General Election ("upcoming LegCo election") would be held in a fair and just manner. While welcoming the Administration's plan to introduce legislative amendments to enable the use of electronic poll register ("EPR") in public elections and empower Presiding Officers of polling stations to set up a special queue for electors in need, members asked whether the Administration would implement other suggestions earlier raised by individual Members/political parties, such as installing closed-circuit televisions ("CCTVs") in polling stations and assigning officers of the Independent Commission Against Corruption ("ICAC") to monitor the polling and counting process on the spot, as well as taking measures to guard against repeated queuing/voting and ensure that candidates and their agents could monitor the counting of votes after the close of poll.

6. The Administration advised that it had reviewed the existing legislation on the regulation of various electoral arrangements, taking into account the recommendations put forward by the Electoral Affairs Commission ("EAC") and the views of the community in respect of the 2019 DC Ordinary Election and the postponed 2020 LegCo General Election. The Administration was actively exploring the feasibility of the recommendations and views received, with a view to formulating practicable options for enhancing the electoral system and arrangements. The Administration undertook that it would submit relevant legislative amendment proposals to LegCo for scrutiny as soon as practicable. The Administration further informed members that in response to the views received about previous elections, EAC had agreed to install CCTVs in counting stations in the upcoming LegCo election. As regards the suggestion of assigning officers of law enforcement agencies to monitor the polling and counting process in polling stations, the Administration advised that assistance of the Police and ICAC would be sought in making relevant arrangements in the upcoming LegCo election.

7. Members also asked whether the Administration would introduce electronic voting in the upcoming LegCo election. The Administration replied that on the premise of ensuring that elections were held in an open, fair and honest manner, the Administration had been studying ways to apply information

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technology in different stages of the election with a view to enhancing the efficiency and accuracy of election procedures. The Administration was actively taking forward the preparatory work for the introduction of EPR and aimed to implement the relevant measure in the upcoming LegCo election. The Administration added that it would continue to explore the feasibility of introducing electronic voting and electronic vote counting in future elections.

8. Members expressed concern that a large number of registered electors who were living, working or studying in the Mainland might not be able to return to Hong Kong to vote in the upcoming LegCo election if the pandemic had still not yet ended by September 2021. They opined that the Administration should put in place external voting arrangement so as to safeguard the right of the electors concerned (especially those who were ordinarily living in the Guangdong Province) to vote in the upcoming LegCo election.

9. The Administration pointed out that amidst the unceasing outbreak of the pandemic before the LegCo general election originally scheduled for September 2020, a large number of electors were stranded in the Mainland under cross-boundary restrictions, and hence were unable to come back to Hong Kong to cast their votes in the election. There had also been strong calls in the community that the Government should make arrangements to facilitate voting by these electors. The Administration advised that against the above background, CMAB, in conjunction with relevant departments including the Registration and Electoral Office ("REO") and the Department of Justice, had been proactively exploring the feasibility of the proposal of setting up polling-cum-counting stations in the Mainland to facilitate voting by registered electors in future elections.

10. The Administration explained that in considering whether and how to implement the proposal of setting up polling-cum-counting stations in the Mainland, the top priority was ensuring that elections were held in an open, fair and honest manner. The Administration advised that it would need to consider the various factors set out in paragraph 7 of its paper in a prudent and holistic manner, and thus had not set a deadline for the completion of the relevant study. That said, the Administration would press ahead with its study on the proposal as well as other recommendations and views put forward by EAC and the community, with a view to formulating practicable options for enhancing the electoral system and arrangements.

11. Mr WONG Ting-kwong expressed concern that there had been some suspected vote-rigging cases in some functional constituencies ("FCs") in the past year. Mr WONG urged the Administration to expeditiously review the eligibility criteria for registration as electors in FCs and asked whether the

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legislative amendments to be proposed by the Administration for enhancing the electoral system and arrangements would include amendments in this regard. On the other hand, Mr MA Fung-kwok expressed concern that the Hong Kong Printing Association ("HKPA") had not been included in the Sports, Performing Arts, Culture and Publication ("SPCP") FC despite HKPA's repeated requests over the past many years. Mr MA stressed that HKPA represented a significant number of printing firms in Hong Kong and requested the Administration to seriously consider including HKPA in the SPCP FC such that HKPA would be eligible to vote in that FC in the upcoming LegCo election. Mr MA further raised concern about the different approaches adopted by the Administration in handling applications from licensed newspaper/periodical distributors for registration as electors in the SPCP FC and asked how relevant applications would be dealt with in future.

12. The Administration advised that the scope of its current review on the electoral arrangements covered issues relating to the eligibility criteria for registration as electors in FCs. The Administration stressed that any proposals involving adjustments to the electorate of FCs would require careful study and consideration with due regard to the principle of balanced participation and the prevailing situation of the FCs concerned. The Administration undertook that it would consult LegCo on the relevant legislative amendment proposals as soon as practicable. As regards HKPA's case, the Administration explained that as HKPA used to be an association of underwriters approved by the Insurance Authority to carry on insurance business, it fulfilled the eligibility to be registered as an elector of the Insurance FC and could only be so registered under the relevant electoral legislation. CMAB would follow up on the request from HKPA for inclusion in the SPCP FC in consultation with relevant bureaux in accordance with the established procedures.

13. Mr MA Fung-kwok expressed dissatisfaction that REO had not actively followed up a complaint lodged by him about the 2019 DC Ordinary Election. In response, the Administration undertook to advise in writing the outcome of complaint cases received and investigated by EAC in relation to the 2019 DC Ordinary Election.

(Post-meeting note: The Administration's written response was issued vide LC Paper No. CB(2)671/20-21(01) on 15 January 2021.)

Promotion of the Constitution of the People's Republic of China, the Basic Law and national security education

14. Members opined that the social incidents in 2019 had reflected a general lack of in-depth understanding of the Constitution of the People's Republic of China ("the Constitution") and the Basic Law in the community and an

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inadequate awareness of the "one country" principle among some members of the public. Members urged the Administration to step up promotion of the Constitution and the Basic Law.

15. The Administration stressed that the Constitution and the Basic Law formed the constitutional basis of HKSAR, and that the HKSAR Government had spared no effort in promoting the Constitution and the Basic Law to various sectors of the community. The Administration advised that to commemorate the 30th anniversary of the promulgation of the Basic Law, the HKSAR Government had organized a series of special publicity and education programmes, including staging a webinar on 8 June 2020. In addition, the HKSAR Government had organized on the Constitution Day in 2020 (i.e. 4 December 2020) an online seminar with the theme of "The Constitution and National Security", featuring renowned Mainland and Hong Kong experts and academics to examine the close relationship amongst the Constitution, the Basic Law and safeguarding national security. Furthermore, the HKSAR Government had continued with other year-round promotional efforts, including organizing regular roving exhibitions at the district level; arranging the Basic Law mobile resource centres to pay visits to different districts and schools; and subsidizing community organizations to conduct research or organize activities (e.g. talks and quizzes) for the public, with a view to promoting and strengthening the atmosphere of studying and learning the Constitution and the Basic Law in the community and schools. The Administration stressed that it would continue to enhance its promotion and education efforts to enable the public to gain a more comprehensive and accurate understanding of the Constitution, the Basic Law and the "one country, two systems" principle.

16. Members expressed concern about how the Administration would carry out its education and promotion work on the Constitution and the Basic Law given the suspension of face-to-face classes and school activities and the implementation of work-from-home arrangements for civil servants amid the pandemic. The Administration responded that some promotion and education activities on the Constitution and the Basic Law had to be re-scheduled due to the ongoing outbreak of pandemic. The Administration advised that subject to the development of the pandemic, the Administration would step up efforts to promote the Constitution and the Basic Law via different means and channels, including launching education and promotion activities online and through social media platforms commonly used by the young people, with a view to enhancing the effectiveness of the education and promotion work.

17. While considering that stability had been gradually restored to society since the implementation of the National Security Law on 30 June 2020, members stressed the need for the Administration to enhance the public's understanding of national security (including the National Security Law) and

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law-abiding awareness so as to safeguard national security comprehensively. Members were particularly concerned whether the Administration would seek to promote national security education alongside the Constitution and the Basic Law education at the school level, and if so, how CMAB and the Education Bureau ("EDB") would take forward and coordinate the relevant work so as to ensure effective implementation of education on the Constitution, the Basic Law and national security for students.

18. The Administration stressed that the HKSAR Government attached great importance to the implementation of the National Security Law and the promotion of the Law to members of the public. The Administration advised that the Basic Law Promotion Steering Committee ("BLPSC") had agreed that it would focus its work on promoting the National Security Law in addition to the Constitution and the Basic Law, with a view to enabling the public to have a more comprehensive and thorough understanding of the Constitution, the Basic Law and the National Security Law. Among the various sectors, the Administration attached particular importance to the education and promotion work on the Constitution, the Basic Law and the National Security Law for students and young people. In this connection, the Working Group on Teachers and Students under BLPSC, which was assisted by EDB, would formulate strategies and action plans.

19. Members asked whether the Administration would proactively monitor the implementation of education on the Constitution, the Basic Law and national security education for students. They also enquired about the means or indicators that the Administration would adopt to evaluate the effectiveness of the relevant work. The Administration agreed to provide a written response after the meeting.

(Post-meeting note: The Administration's written response was issued vide LC Paper No. CB(2)671/20-21(01) on 15 January 2021.)

Protection of personal data

20. Members expressed grave concern that a large number of doxxing incidents had taken place since June 2019. They asked whether the Office of the Privacy Commissioner for Personal Data ("PCPD") was empowered under the law to require the online platforms involved to take down the doxxing posts. Members called on the Administration to expeditiously examine how the problem of doxxing could be tackled more specifically and effectively by legislation. Members also hoped that the Administration would urge PCPD to take more proactive actions and enhance collaboration with the Police to combat doxxing behaviour.

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21. The Administration advised that PCPD had been actively following up on doxxing-related cases in accordance with the powers conferred under the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO"). To curb the harm caused to the victims of doxxing as soon as possible, PCPD had written to the online platforms concerned urging them to remove the relevant doxxing posts/web links, of which around 70% had been removed. The Administration further advised that it was studying concrete proposals in collaboration with PCPD to amend PDPO in order to handle and regulate doxxing-related behaviour more effectively. The Administration added that PCPD had all along maintained effective collaboration with the Police in following up on doxxing-related cases. That said, the Administration undertook to relay to PCPD members' request for closer collaboration between PCPD and the Police in this regard.

22. Members also expressed concern about possible abuse of personal data obtained from public registers for doxxing-related purpose. Noting that the Transport Department had recently launched an email notification service whereby vehicle owners who had subscribed to such service would receive a notification email when a certificate was issued for their registered vehicles alerting them that their personal data had been disclosed to a third-party, members asked whether similar arrangement would be put in place for handling requests for access to other public registers (e.g. records of the Land Registry) so as to enhance protection of personal data contained in those registers.

23. The Administration advised that to strengthen protection against abuse of personal data contained in public registers, other relevant Government departments were examining whether appropriate administrative measures needed to be taken to ensure that the purposes of making available the relevant registers for public inspection were fulfilled without compromising the data subjects' right to personal data privacy. The Administration assured members that the Government departments concerned would actively follow up the matter. In response to members' further enquiry about the Administration's timetable for amending PDPO, the Administration advised that the Government was working full steam ahead in conjunction with PCPD to formulate relevant legislative amendment proposals. The Administration's aim was to endeavour to map out concrete legislative amendment proposals on doxxing within 2021 and to consult the Panel, followed by legislative work.

Review of anti-discrimination legislation

24. Ms Elizabeth QUAT expressed support for reviewing how the existing anti-discrimination legislation should be amended in order to tackle discrimination against new arrivals from the Mainland effectively and enhance protection from sexual harassment. Ms QUAT urged the Administration to

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expeditiously complete the review and put forward concrete legislative amendment proposals for consultation with the Panel.

25. The meeting ended at 6:33 pm.

Council Business Division 4
Legislative Council Secretariat
29 March 2021

**Proceedings of the informal meeting for policy briefing
by videoconferencing of the Panel on Constitutional Affairs
on Tuesday, 5 January 2021, at 4:30 pm**

Time Marker	Speaker	Subject(s)	Action Required
Briefing by the Secretary for Constitutional and Mainland Affairs on the Chief Executive's 2020 Policy Address			
000000 – 000225	Mr Holden CHOW ("Chairman")	Meeting arrangements	
000226 – 001612	Administration	Briefing by the Administration	
001613 – 002548	Chairman Ms Elizabeth QUAT Administration	Legislative amendments in relation to oath-taking by public officers Enhancement of electoral arrangements Review of anti-discrimination legislation Protection of personal data	
002549 – 003543	Chairman Mr Kenneth LAU Administration	Development of the Guangdong-Hong Kong-Macao Greater Bay Area Promotion of the Constitution of the People's Republic of China ("the Constitution"), the Basic Law and national security education	
003544 – 004733	Chairman Ms Alice MAK Administration	Enhancement of electoral arrangements Promotion of the Constitution and the Basic Law Protection of personal data	
004734 – 005541	Chairman Mr Jeffrey LAM Administration	Promotion of the Constitution and the Basic Law Enhancement of electoral arrangements	
005542 – 010448	Chairman Mr WONG Ting- kwong Administration	Enhancement of electoral arrangements	
010449 – 011437	Chairman Mr Christopher CHEUNG Administration	Enhancement of electoral arrangements Promotion of the Constitution, the Basic Law and national security education	

Time Marker	Speaker	Subject(s)	Action Required
011438 – 012214	Chairman Mr Martin LIAO Administration	Promotion of the Constitution, the Basic Law and national security education	Admin (para. 19 of notes of meeting)
012215– 013411	Chairman Ms Starry LEE Administration	Legislative amendments in respect of oath-taking by public officers Enhancement of electoral arrangements Protection of personal data	
013412 – 014440	Chairman Dr Junius HO Administration	Enhancement of electoral arrangements Issues relating to dual nationalities	
014401 – 015308	Chairman Administration	Legislative amendments in respect of oath-taking by public officers Enhancement of electoral arrangements Protection of personal data	
015309 – 020326	Chairman Mr MA Fung-kwok Administration	Enhancement of electoral arrangements	Admin (para. 13 of notes of meeting)