

**立法會**  
**Legislative Council**

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LC Paper No. CB(4)700/20-21  
(These minutes have been seen  
by the Administration)

**Panel on Constitutional Affairs**

**Minutes of meeting**  
**held on Monday, 18 January 2021, at 2:30 pm**  
**in Conference Room 1 of the Legislative Council Complex**

- Members present** : 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 CHAN Kin-por, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon MA Fung-kwok, GBS, JP  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon Elizabeth QUAT, BBS, JP  
Hon Martin LIAO Cheung-kong, GBS, JP  
Hon CHUNG Kwok-pan  
Hon Jimmy NG Wing-ka, BBS, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon CHEUNG Kwok-kwan, JP  
Hon LUK Chung-hung, JP  
Dr Hon CHENG Chung-tai
- Member attending** : Hon Vincent CHENG Wing-shun, MH, JP
- Members absent** : Hon WONG Kwok-kin, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alice MAK Mei-kuen, BBS, JP

**Public Officers :** Item III  
**attending**

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

Ms Judy CHUNG Sui-kei  
Principal Assistant Secretary (Constitutional and Mainland  
Affairs)5

Miss Cathy LI King-tsz  
Assistant Secretary (Constitutional and Mainland Affairs) 5A

Item IV

The Administration

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

Mr Jacky LUM Kwok-keung  
Principal Assistant Secretary (Constitutional and Mainland  
Affairs)

Office of the Privacy Commissioner for Personal Data

Ms Ada CHUNG Lai-ling  
Privacy Commissioner for Personal Data

Mr Tony LAM Chik-ting  
Deputy Privacy Commissioner for Personal Data

Ms Amy CHAN Mei-yee  
Chief Personal Data Officer

**Clerk in** : Ms Joanne MAK  
**attendance** Chief Council Secretary (4) 7

**Staff in** : Mr Bonny LOO  
**attendance** Senior Assistant Legal Adviser 3

Ms Jasmine TAM  
Senior Council Secretary (4) 7

Mr Dennis HO  
Council Secretary (4) 7

Ms Louisa YU  
Legislative Assistant (4) 7

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

[LC Paper Nos. CB(2)350/20-21(01), CB(2)400/20-21(01) and CB(2)540/20-21(01)]

Members noted that the following papers had been issued after the last meeting:

- (a) letter dated 16 November 2020 from Mrs Regina IP [LC Paper No. CB(2)350/20-21(01)];
- (b) referral from the Subcommittee on Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation ("the former Subcommittee") [LC Paper No. CB(2)400/20-21(01)]; and
- (c) paper provided by the Administration to the Panel in response to the former Subcommittee's request [LC Paper No. CB(2)540/20-21(01)].

**II. Items for discussion at the next meeting**

[LC Paper Nos. CB(2)628/20-21(01) and (02)]

2. Members agreed to discuss the following items proposed by the Administration at the next meeting on 18 February 2021 at 2:30 pm:

- (a) legislative amendments to the National Flag and National Emblem Ordinance; and
- (b) briefing by the Chairperson of the Equal Opportunities Commission ("EOC").

3. With regard to the legislative amendments to be proposed by the Administration in respect of oath-taking by public officers,

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Ms Elizabeth QUAT asked whether the scope of "public officers" would cover District Council members and when the Panel would be consulted on the relevant proposals. The Under Secretary for Constitutional and Mainland Affairs ("USCMA") said that the Administration considered the scope of "public officers" a very complex issue that required careful study. The Administration was actively studying the subject matter and would work out the relevant legislative amendment proposals for consultation with the Panel as soon as practicable. Ms QUAT said that as the matter was of wide public concern, the Chairman should consider convening a special meeting if warranted to discuss the relevant legislative amendment proposals once they were available. The Chairman noted Ms QUAT's view and called upon the Administration to revert to the Panel on its proposals as early as possible.

**III. Implementation of the Administrative Guidelines on Promotion of Racial Equality**

[LC Paper Nos. CB(2)628/20-21(03) and (04)]

4. With the aid of PowerPoint, USCMA briefed members on the salient points of the Administration's paper [LC Paper No. CB(2)628/20-21(03)].
5. Members noted a written submission provided by Hong Kong Unison, which was tabled at the meeting.

*(Post-meeting note: The above PowerPoint presentation materials and written submission were issued via LC Paper Nos. CB(4)394/20-21(01) and CB(4)395/20-21(01) respectively after the meeting on 18 January 2021.)*

Discussion

*Implementation of the revised Administrative Guidelines on Promotion of Racial Equality*

6. The Chairman and Mr Martin LIAO expressed concern that owing to the language barrier, some ethnic minorities ("EMs") might have difficulty communicating their health problems clearly to the healthcare personnel when seeking public healthcare services, thereby giving rise to possible delays in the provision of appropriate medical treatments to them. Noting that the Administrative Guidelines on Promotion of Racial Equality ("the Guidelines") had been refined for application by all Government bureaux and departments ("B/Ds") as well as related organizations

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(collectively referred to as "public authorities"), and that a new guidance note on provision of language services had been added to the Guidelines, the Chairman asked whether adequate and timely interpretation services had been provided to EM service users who were in need of such services in public hospitals and clinics following the implementation of the revised Guidelines since April 2020. Pointing out that the size of South Asian population in Hong Kong had been increasing in recent years, Mr LIAO questioned whether adequate providers of interpretation services on EM languages were available locally and whether there was any EM language interpretation service the supply of which had failed to meet the demand.

7. USCMA said that to tie in with the implementation of the revised Guidelines, public authorities had allocated additional resources as necessary for the provision of interpretation and translation services to people of diverse race. For instance, the Home Affairs Department ("HAD") had provided additional funding for the Centre for Harmony and Enhancement of Ethnic Minority Residents to enhance its interpretation and translation services in non-specialized/non-professional areas. USCMA said that according to the statistics collected in the first half year since the implementation of the revised Guidelines (i.e. from April to September 2020), all requests for interpretation services made by service users had been fully met by public authorities. Besides, public authorities had proactively offered to provide interpretation services to service users. In nearly 6 700 cases, 60% of the service users had accepted the public authorities' offers. The most popular languages requested by service users were Urdu, Vietnamese and Bahasa Indonesia.

8. USCMA further said that among the 23 public authorities which had arranged interpretation services for service users during the aforementioned period, the Hospital Authority ("HA") ranked third in terms of the number of interpretation services arranged. He said that according to HA, where interpretation service had been arranged for a patient, the healthcare personnel concerned would register the delivery of such service in the patient's medical record so as to facilitate prior arrangement of interpretation service for subsequent medical appointments made by the patient. For non-scheduled cases (such as hospital admission during emergency), hospital staff would also make appropriate arrangements, such as utilizing telephone/video call interpretation service and arranging on-site interpretation service as soon as possible where necessary and feasible, so as to ensure that appropriate medical treatment could be provided to the patient in a timely manner. The Chairman hoped that HA would continue to make sustained efforts in this regard such that interpretation services could be

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arranged on the spot for EM patients as and when needed. USCMA said that the Constitutional and Mainland Affairs Bureau ("CMAB") would closely monitor the provision of interpretation services by public authorities and make necessary improvements in collaboration with public authorities from time to time in the light of the experience gained.

9. While noting that the revised Guidelines had specified the requirement for public authorities to provide training on racial diversity and inclusion to frontline staff and new recruits, Mr Martin LIAO questioned the effectiveness of such training in enhancing staff competencies in assisting EM service users to overcome the language barrier in accessing public services. USCMA explained that the compulsory training was aimed mainly to enhance staff understanding of the racial diversity and inclusion as well as their sensitivity towards the needs (including language service needs) of service users of different races in the process of delivering public services. Ms Elizabeth QUAT suggested that EOC should develop more training/public education materials and organize more workshops on cultural sensitivity for frontline staff of public authorities and that such training/public education materials and related workshops should be made available online for viewing.

10. USCMA said that in 2014-2015, the Government had provided an additional recurrent funding to EOC for setting up a dedicated EM Unit to enhance the EOC's work on promoting racial equality and integration. This apart, additional funding had also been provided to EOC in recent years to enhance the provision of training, publicity and public education programmes on, among others, racial equality and cultural sensitivity. Between April and December 2020, EOC had organized a number of seminars and workshops on related topics for the staff of public authorities, with a total attendance of over 800. USCMA added that the Civil Service Training and Development Institute would also develop more training materials in collaboration with relevant organizations to complement the provision of training on racial diversity and inclusion to civil servants.

11. Referring to the recent outbreak of Coronavirus Disease 2019 ("COVID-19") confirmed cases in buildings on Reclamation Street in Yau Ma Tei ("Yau Ma Tei outbreak"), Mr Vincent CHENG and Mrs Regina IP expressed concern that owing to the language barrier, many EM residents living in the buildings concerned had difficulty in understanding the compulsory testing and quarantine requirements as well as the related arrangements announced by the Government. They queried whether the revised Guidelines had been effectively implemented by relevant

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B/Ds to ensure timely provision of pandemic-related information and assistance to the EM residents concerned. Mr CHENG said while he noted that HAD had arranged helpers who could speak EM languages to explain the compulsory testing requirements to the EM residents concerned and urge them to undergo the test, there seemed to be little work done by other B/Ds. In his view, other relevant B/Ds and the Steering Committee on Ethnic Minority Affairs should also provide support and assistance in order to enhance the dissemination of anti-pandemic information to and communication with the EM residents. Mrs IP urged the Administration to review the handling of the Yau Ma Tei outbreak by relevant B/Ds. She enquired about the measures to be taken to tackle similar outbreaks which might also occur in other densely-populated districts with a large number of sub-divided flats and a relatively high proportion of EM residents.

12. USCMA said that to enhance the dissemination of anti-pandemic information to people of difference races, the Centre for Health Protection under the Department of Health ("DH") had produced and uploaded onto its website various leaflets/notes providing latest updates on COVID-19 and relevant health advice in nine EM languages. He noted that other relevant B/Ds (e.g. the Labour and Welfare Bureau and the Social Welfare Department ("SWD")) had also made available information on their relevant services for EM service users in multiple EM languages. USCMA further said that while HAD was responsible for coordinating the provision of support services to EM service users amid the pandemic at the district level, other relevant B/Ds also played an important part in the delivery of relevant services under their respective purviews. For instance, staff of the outreaching teams for EMs and Ethnic Minority District Ambassador Pilot Scheme subvented by SWD had assisted in disseminating anti-pandemic channels to EM residents in districts.

13. On the handling of the Yau Ma Tei outbreak, USCMA said that relevant B/Ds acknowledged that there was room for improvement in, among other areas, the dissemination of pandemic-related messages to the residents. Relevant B/Ds would review the related arrangements and make improvements in the light of the experience gained. USCMA stressed that the Administration attached great importance to following up on the Yau Ma Tei outbreak and would examine whether and how collaboration and coordination among relevant B/Ds could be strengthened so as to tackle similar incidents, if any, in future more effectively. He undertook to relay members' views in this regard to HAD for consideration.

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14. The Chairman said he learnt that some EM residents who had worked as qualified medical professionals in the countries they came from were willing to sit for relevant local examinations in order to obtain the necessary qualifications to practise in Hong Kong but they had little knowledge about how to obtain the required qualifications. He hoped that USCMA would liaise with the public authorities concerned (including HA) to follow up the matter.

*Inadequacies of the existing anti-discrimination ordinances*

15. Pointing out that the United Kingdom ("UK") had enacted various pieces of legislation to combat hate speech and hate crimes, Mrs Regina IP expressed disappointment at the lack of action taken by the Hong Kong Special Administrative Region Government in this regard and urged the Administration to actively consider legislating against hate speech and hate crimes. She added that the Administration should also consider introducing legislative amendments to expand the scope of protection provided under the existing anti-discrimination ordinances to cover discriminatory acts on new grounds (e.g. sexual orientation and social/national origin).

16. In reply to Mrs IP's enquiry, USCMA said that sections 45 and 46 of the Race Discrimination Ordinance (Cap. 602) ("RDO") dealt with racial vilification and serious racial vilification respectively. The Chairman queried the effectiveness of the aforementioned provisions in combating racial vilification/serious vilification, given that the Administration had earlier confirmed that no one had ever been prosecuted under section 46 of RDO. He urged the Administration to look into the matter to ascertain why no prosecution had been brought under the said provision. USCMA said that the Administration would examine whether the lack of prosecution cases relating to serious vilification was due to prosecution difficulties or inadequacies of the existing legislation. He said that the Administration would continue to study the follow up work in detail and maintain dialogue with EOC. The current goal was to strive for the determination of the way forward within this term of Government.

17. Mr LUK Chung-hung said that he had assisted members of the public to lodge complaints of racial vilification with EOC before but EOC had not actively followed up on such cases which, in EOC's view, had little chance of success in court given the narrow definitions of "vilification" and "serious vilification" under RDO. He was concerned that EOC, nonetheless, had not submitted to the Government any legislative amendment proposals to refine



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the relevant provisions in RDO. In his view, the Government could assume a more proactive role in monitoring the work of EOC so as to ensure effective enforcement of the anti-discrimination ordinances. To this end, he considered that the Government should initiate communication with EOC on cases of wide public concern and instruct EOC to make the best endeavour to carry out the investigation work and gather relevant evidence.

18. USCMA said that while it was difficult to discuss in detail EOC's judgement on individual complaint cases in the absence of the specific details of the cases, it was clear that the work of EOC was subject to public scrutiny and EOC was obliged to handle any complaint with due diligence. He added that the Government had all along maintained effective communication with EOC, and that he would relay to EOC members' views on its work.

**IV. Briefing by the Privacy Commissioner for Personal Data**

[LC Paper Nos. CB(2)628/20-21(05)and (06)]

19. At the invitation of the Chairman, the Privacy Commissioner for Personal Data ("the Privacy Commissioner") briefed members on the salient points of the paper on the work of her Office ("PCPD") in 2020 [LC Paper No. CB(2)628/20-21(05)].

Discussion

*Measures to combat doxxing*

20. Ms Starry LEE expressed concern about the large number of doxxing incidents that had taken place since 2019, the victims of which included public figures, judges, Government officials, Members of the Legislative Council, police officers, as well as members of the public who held different political views. She asked whether there had been any successful convictions against the doxxers.

21. The Privacy Commissioner replied that since June 2019, PCPD had referred over 1 400 suspected doxxing cases which might involve contravention of section 64 of the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO"), i.e. disclosure of personal data obtained without consent from the data user, causing psychological harm to the data subject, to the Police for criminal investigation and consideration of prosecution. By mid-January 2021, there were two convictions under section 64(2) of PDPO.

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PCPD had also referred 57 doxxing cases which involved suspected violations of relevant injunctions issued by the High Court to the Department of Justice for follow-up. So far, four persons had been convicted of civil contempt of court for posting/sharing the personal data of police officers and/or their family members on social media platforms in breach of the relevant injunctions.

22. Noting from Annex B to PCPD's paper that all of the convicted doxxing-related cases were those involving doxxing of police officers and their family members, Mr CHAN Kin-por expressed concern that there seemed to be no conviction secured so far in relation to doxxing against members of the general public. Moreover, he noted that three out of the four defendants who had been convicted of violating the relevant injunctions received a suspended sentence. He doubted whether such a sentence could deter people from engaging in doxxing acts. The Chairman also expressed concern about the small number of convictions under section 64(2) of PDPO and urged the Administration to make appropriate amendments to the relevant section(s) of PDPO to tackle the problem of doxxing more effectively. Ms Elizabeth QUAT asked whether consideration would be given to introducing a separate piece of legislation to specifically deal with doxxing.

23. The Privacy Commissioner said that upon receipt of doxxing-related complaints, irrespective of the occupation or background of the persons involved, PCPD would follow up on every case promptly and in an impartial manner in accordance with the powers conferred by PDPO. She informed members that between June 2019 and December 2020, PCPD had written to 18 online platforms for more than 250 times, urging them to remove over 4 800 web links. Since some of the platforms involved were operating from or registered outside Hong Kong, PCPD had liaised with relevant data protection authorities and domain registration companies in other jurisdictions to seek their assistance in taking necessary follow-up actions. So far, the authorities/companies concerned in general were cooperative. On the other hand, PCPD had strengthened its collaboration with the Police to combat doxxing.

24. The Privacy Commissioner also pointed out that among the four convicted cases involving violations of the relevant injunctions, one defendant was sentenced to 21 days' immediate imprisonment. Besides, there had been two convictions under section 64(2) of PDPO, with one of the defendants sentenced to imprisonment for 18 months; and the other had already pleaded guilty and awaiting sentence. She believed that the above

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sentences should have adequate deterrent effect. The Privacy Commissioner further said that in the light of public concerns about doxxing and PCPD's experience in handling relevant cases, the Government and PCPD were conducting an in-depth study on how PDPO should be amended in order to handle and regulate doxxing-related behaviour more effectively. Issues such as the definition of doxxing offence, criminal penalties, power to issue notice to remove doxxing content, evidential threshold and the Privacy Commissioner's statutory criminal investigation and prosecution powers were being examined. She undertook that PCPD would continue to maintain close communication with the Government in mapping out concrete legislative amendment proposals for consultation with the Panel as soon as practicable.

25. Dr Junius HO asked whether PDPO contained any express provisions requiring online service providers (e.g. operators of websites and social media platforms) to remove posts/web links involving unlawful disclosure of personal data, and if not, whether it had empowered the Privacy Commissioner to direct them to do so if warranted. He also asked whether similar provisions were included in the General Data Protection Regulation ("GDPR") enacted by the European Union ("EU"). The Privacy Commissioner replied that depending on the actual circumstances of each case, website operators might be regarded as data processors rather than data users under PDPO. However, there was no direct regulation on data processors under PDPO at present. On the other hand, data processors were subject to direct regulation under GDPR. The Privacy Commissioner further said that she was currently not vested with the power under PDPO to request the removal of doxxing contents from online platforms and websites. As such, PCPD had to resort to writing to the platforms/websites concerned to seek their cooperation to do so. She added that while GDPR did not stipulate explicitly the regulatory authority's power in this regard, EU was considering a legislative proposal entitled "Digital Services Act" which provided for, among others, the power for regulatory authorities to request the removal of harmful contents from online platforms. In response to Dr HO's further enquiry, the Privacy Commissioner said that PCPD would make reference to relevant laws in other jurisdictions and take into account local circumstances and needs with an aim to propose reasonably practicable proposals to amend PDPO. The amendment directions under consideration included, among others, providing for direct regulation of data processors and introducing legislative amendments to address doxxing more specifically.

26. Dr Elizabeth QUAT said that she had served as a member of the Personal Data (Privacy) Advisory Committee for six years. She had all

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along been calling for review and amendment of PDPO, which in her view was outdated and failed to address the data privacy challenges brought about by the prevalent use of the Internet and mobile communication. She was particularly concerned that little legal protection was currently afforded to data subjects given the lack of comprehensive regulation over the collection, storage, retention and disposal of personal data as well as the absence of a mandatory data breach notification mechanism under PDPO. In this connection, she noted that users of WhatsApp ("the App") in Hong Kong had recently been requested to agree to the App's updated terms of service and privacy policy, which included sharing the users' information with the App's parent company and its subsidiaries, if they wished to continue using the App. She pointed out that in contrast, the App's users in the UK and EU were reportedly not affected by those updated terms. This, in her view, might be attributable to the availability of a stringent regulatory regime for personal data protection and stiff penalties for non-compliance under the relevant legislation in the UK and EU. She hoped that PCPD would expeditiously propose necessary amendments to PDPO in order to strengthen the protection of personal data privacy especially in the online environment.

27. The Privacy Commissioner responded that the Government and PCPD were actively reviewing and studying possible amendments to PDPO with a view to strengthening protection of personal data privacy. She reiterated that PCPD would make reference to relevant laws in other jurisdictions (including GDPR) and take into account local circumstances and needs in order to propose reasonably practicable proposals to amend PDPO. She assured members that the Government and PCPD were working full steam ahead to formulate concrete proposals to amend PDPO and would consult the Panel on the relevant proposals as soon as practicable.

28. Dr Junius HO asked whether PCPD could provide for members' reference a paper to tabulate the major areas of inadequacy identified in PDPO, the amendments proposed to the relevant provisions under each identified area, and the relevant laws in other jurisdictions to which reference had been made in drawing up the proposed amendments. The Privacy Commissioner replied that as the Government and PCPD were still studying various possible amendments to PDPO, she considered it more appropriate to provide the requested information after concrete amendment proposals had been mapped out.

29. Ms Starry LEE considered that before necessary amendments were made to PDPO, PCPD should step up efforts to proactively identify and combat doxxing-related cases other than following up on complaints.

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The Privacy Commissioner said that in view of the prevalence of doxxing activities since June 2019, PCPD had set up a special team to conduct online patrols proactively for tracking cases involving doxxing posts. Furthermore, PCPD had recently strengthened collaboration with the Police, other supervisory bodies and trade associations in a bid to combat doxxing behaviour more effectively. Among other measures taken by relevant organizations, PCPD noted that the Hong Kong SAR Licensed Money Lenders Association Limited had appealed to its members to tighten up their customer due diligence and verification procedures to prevent identity thefts. PCPD also learnt that DH had put up a warning notice on its organ donation website to warn people against the fraudulent use of others' personal data to apply for registration of organ donation.

30. Ms Starry LEE and Mr CHAN Kin-por expressed concerns about possible abuse of the personal data contained in public registers maintained by the Government (e.g. Companies Register) for doxxing-related purposes. Ms LEE also raised concern about the protection of personal data of candidates participating in public elections, adding that the disclosure of candidates' particulars during the election period had posed security risks to the candidates concerned. Mr CHAN suggested that PCPD should, in tandem with the review of PDPO, examine whether the current arrangements for access to public registers provided under the relevant legislation were compliant with the requirements of PDPO and recommend legislative amendments where appropriate. The Privacy Commissioner responded that PCPD would consider examining relevant issues with a view to making recommendations to the Government on ways to improve the protection of personal data contained in public registers.

*Privacy issues arising from the COVID-19 pandemic*

31. Mr Christopher CHEUNG said that the successful experience of the Mainland in combating the COVID-19 pandemic had shown that utilizing technologies to conduct contact tracing could greatly facilitate "early identification, early isolation and early treatment" of infected persons, thereby enhancing the effectiveness of controlling the spread of the disease in the community. He noted with concern that there had been various unfounded allegations against the anti-pandemic measures implemented by the Government, including that the "LeaveHomeSafe" mobile application ("app") was designed to track the movements of individual citizens and that DNA information would be collected from the participants of the Universal Community Testing Programme ("the Programme") and transferred to Mainland authorities. He asked whether PCPD had proactively clarified

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relevant rumours and explained to the public that using the app and taking the COVID-19 nucleic acid test under the Programme would not result in leakage of personal data as alleged by some people.

32. The Privacy Commissioner said that relevant Government departments had consulted PCPD on the privacy issues involved in formulating anti-pandemic measures, and that PCPD had provided its views with respect to the requirements of PDPO and relevant data protection principles. With regard to the Programme which was launched on 1 September 2020, the Privacy Commissioner said that PCPD had issued a press release in late August 2020 stating clearly its view that the Programme complied with the requirements of PDPO. PCPD had also clarified misconceptions about the Programme, including highlighting PCPD's observation that there was no information showing that the Programme involved collection of participants' DNA information and transfer of such information outside Hong Kong. As regards the "LeaveHomeSafe" mobile app, the Privacy Commissioner said that she had repeatedly pointed out in some media interviews conducted earlier that the app was, by international standards, in line with the least privacy-intrusive principle for the following reasons: it did not have location tracking function using the global positioning system; it could be used without the need for registration of any personal data; and most importantly, it did not involve centralized storage and processing of user records and the venue check-in data was encrypted and stored in the user's mobile phone only.

33. Dr CHENG Chung-tai considered that PCPD should conduct privacy impact assessments on the "LeaveHomeSafe" mobile app and other anti-pandemic software tools to be launched by relevant Government departments and organizations, and should explain more proactively and clearly to the public the personal data privacy issues involved in using such tools. He hoped that PCPD would also examine whether any legal protection was currently afforded to members of the public in relation to the use of the aforementioned tools, including the mechanism through which members of the public could lodge complaints about and/or claim damages arising from the use of these tools. Pointing out that the use of contact tracing apps might possibly give rise to negative labeling effect on or even discrimination against infected persons, Dr CHENG called on PCPD to keep in view and maintain close communication with CMAB on relevant issues.

34. The Privacy Commissioner acknowledged that the accelerated pace of technological developments had posed unprecedented risks to the protection of personal data privacy. She said that as such, a major focus of PCPD's

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work in 2021 was to continue to provide professional opinions on the protection of personal data privacy to the Government on the development and application of new technological initiatives and to develop more practical guidance notes on personal data privacy protection to provide guidance to relevant sectors as well as the general public. For example, in view of the resumption of classes in phases from 23 September 2020, PCPD issued on the same day the "Guidance for Schools on the Collection and Use of Personal Data of Teachers, Staff and Students during COVID-19 Pandemic". Besides, PCPD issued three other practical guidance notes relating to work-from-home arrangements on 30 November 2020 to provide practical advice to organizations, employees and users of video-conferencing software to enhance data security and the protection of personal data privacy.

35. The Privacy Commissioner further said that the Government had consulted PCPD on data protection and privacy-related issues in the course of developing the "LeaveHomeSafe" mobile app. PCPD noted that the app had undergone privacy impact assessment conducted by independent third-party consultants to ensure its compliance with PDPO. The Privacy Commissioner said that PCPD had all along encouraged relevant departments/organizations to conduct privacy impact assessment before implementing any large-scale programme or special measure. She informed members that as part of its efforts to advocate protection of personal data amidst the pandemic, PCPD had spearheaded the compilation of the Compendium of Best Practices in Response to COVID-19, which contained relevant experience and case studies of good privacy protection practices in the context of the pandemic contributed by members of the Global Privacy Assembly through a survey conducted by PCPD in August and September 2020. The relevant best practices included, among others, conducting privacy impact assessment before launching contact tracing apps, allowing the use of relevant apps on a voluntary basis, collecting minimally required personal data from users, and deleting the data collected as soon as reasonably practicable once the purpose of collection was fulfilled.

36. The Chairman considered that a reasonable balance should be struck between protecting personal data privacy and safeguarding public health. In his view, implementing anti-pandemic measures such as electronic COVID-19 vaccination records and health code system would not necessarily infringe upon personal data privacy so long as appropriate safeguards were put in place in implementing the relevant measures. He hoped that the Privacy Commissioner would in future provide more explanation and examples of relevant overseas experience in this regard to alleviate public concerns.

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37. The Privacy Commissioner pointed out that privacy concerns associated with the implementation of anti-pandemic measures had arisen across different jurisdictions. She said that while the departments/ organizations concerned were advised to provide sufficient information and explanation about the relevant measures to allay public concerns as far as practicable, PCPD would also proactively clarify misconceptions about the relevant measures in relation to personal data privacy as and when appropriate.

**V. Any other business**

38. There being no other business, the meeting ended at 4:14 pm.

Council Business Division 4  
Legislative Council Secretariat  
29 March 2021