

Panel on Constitutional Affairs

List of outstanding items for discussion

(position as at 16 June 2021)

**Proposed timing
for discussion**

1. Role and development of political parties

The Panel held a discussion on the need to introduce a political party law at its meeting on 21 February 2005 and received views from deputations on the role and development of political parties at a special meeting on 26 February 2005. The Administration's position was that the introduction of a political party law would hinder the development of political parties.

To be confirmed

As one of the means to facilitate the development of political party and political talent, the Administration introduced the financial assistance scheme for candidates of Legislative Council ("LegCo") election in 2004. The scheme was extended to District Council ("DC") elections in 2007. The subsidy rate of financial assistance for candidates of DC election and LegCo election is \$15 per vote starting from the 2019 DC Ordinary Election and the 2020 LegCo General Election¹ respectively.

2. Submission of reports by the Hong Kong Special Administrative Region Government to the United Nations under international human rights treaties

The Administration has issued an outline of topics for the third report of the Hong Kong Special Administrative Region ("HKSAR") under the Convention on the Rights of the Child for public consultation. The Panel discussed the outline of topics to be included in the third report on 15 March 2021.

As and when those reports are submitted by the People's Republic of China ("China") to the United Nations ("UN") and published [Constitutional and Mainland Affairs Bureau ("CMAB") & Labour and Welfare Bureau ("LWB")]

The Administration has issued an outline of topics for HKSAR's fourth report under the International Covenant on Economic, Social and Cultural Rights for public consultation. The Panel received public views on the outline of the topics to be included in the fourth report on 21 January 2019. The fourth report has been submitted to UN and was published on 4 February 2020.

The Administration has issued an outline of topics for HKSAR's fourth report in the light of the International Covenant on Civil and Political Rights for public consultation. The Panel received public views on the outline of topics to be included in the fourth report on 4 January 2018. The fourth report has been submitted

to UN and was published on 20 September 2019. The Panel discussed matters relating to the UN hearing on the fourth report with the Administration on 16 November 2020.

The Panel received public views on the outline of topics to be included in the third report of HKSAR under the International Convention on the Elimination of All Forms of Racial Discrimination on 16 November 2015. The third report, which has been submitted as part of China's combined 14th to 17th reports to UN, was published on 3 April 2017. The Panel received public views on the third report on 16 July 2018. The related hearing was conducted on 10 and 13 August 2018. The Panel discussed the outcome of the hearing with deputations and the Administration on 19 November 2018.

UN Human Rights Council has initiated a Universal Periodic Review ("UPR") of all UN member states. The Panel received public views on the outline of topics in the HKSAR report for the third UPR on 30 April 2018. The third UPR on China was held on 6 and 9 November 2018. The Panel discussed the third review of HKSAR by the Working Group on UPR of UN Human Rights Council with deputations and the Administration on 15 April 2019.

The reporting responsibility of the fourth report of HKSAR under the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW") falls under the purview of LWB. The Administration has issued an outline of topics for HKSAR's fourth report for public consultation. The Panel received public views on the outline of topics on 21 May 2018. The fourth report of HKSAR, as part of China's ninth report, was submitted to the Office of the Commissioner of the Ministry of Foreign Affairs on 27 August 2018. China's ninth report was subsequently submitted to the Secretariat of the Committee on CEDAW on 26 March 2020. HKSAR's fourth report was published on 30 April 2021.

The Administration has issued an outline of topics for HKSAR's second report under the Convention on the Rights of Persons with Disabilities for public consultation. The Panel received public views on the outline of topics on 30 April 2018. The second and third report of HKSAR has been submitted to UN and was published on 8 November 2019.

3. Post-office employment control of former Chief Executives and former politically appointed officials

The Panel on Public Service ("the PS Panel") discussed the Report of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants ("the Review Committee") at its special meeting on 13 July 2009. The Review Committee has recommended to the Chief Executive ("CE") in its Report that a separate review should be carried out on the post-office employment control of politically appointed officials. The PS Panel has referred the subject to this Panel for follow-up and requested that its members be invited to join the future discussion of the subject.

To be confirmed

Panel Chairman has directed that the scope of this item should also cover the post-office employment control for former CEs.

4. Press freedom

At the meeting on 17 October 2011, members agreed to discuss the Administration's initiatives to safeguard press freedom at a future meeting. The Administration undertook to co-ordinate its response in respect of the media's concerns about their reporting work.

To be confirmed

At the meeting on 11 October 2018, Hon IP Kin-yuen² also proposed to discuss the measures to safeguard the press freedom in Hong Kong.

Hon Dennis KWOK³ wrote to the Chairmen of this Panel and the Panel on Security on 19 March 2020 [LC Paper No. CB(2)780/19-20(01)] requesting to discuss, among others, a recent statement issued by the Ministry of Foreign Affairs of the People's Republic of China in relation to press freedom. The Administration provided a written response to Mr KWOK's letter on 20 April 2020 [LC Paper No. CB(2)860/19-20(01)].

5. Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests

At the meeting on 4 June 2012, the Administration undertook to provide a paper on its plan to implement the recommendations of the "Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests" and

To be confirmed
[Admin Wing]

the relevant time-table. The Administration provided a paper on the implementation progress [LC Paper No. FC136/11-12(01)] on 18 June 2012. The Panel agreed to discuss the implementation of the recommendations at a future meeting.

At the Council meeting of 5 December 2012, a LegCo question was raised by Hon Dennis KWOK³ on "Regulatory system for prevention and handling of potential conflicts of interests concerning CE". The Chief Secretary for Administration ("CS") replied that the Administration was actively following up the remaining recommendations and would consult LegCo on the recommendations on amending the Prevention of Bribery Ordinance (Cap. 201) ("POBO") once there was further progress.

Hon Emily LAU proposed to follow up on the above CS' reply, and the revisions already made to the Code for Officials Under the Political Appointment System in the light of the recommendations of the report.

At the request of Hon Emily LAU [LC Paper No. CB(2)1797/12-13(01)], members agreed on 18 November 2013 that the Panel should discuss the "Guidelines for CE in handling potential cases of conflict of interest and acceptance of advantages and entertainment concerning politically appointed officials" at a future meeting.

At the meeting on 20 March 2017, Hon LAM Cheuk-ting² expressed dissatisfaction with the lack of progress of this item and requested the Panel to discuss the subject at the April meeting or convene a special meeting. The Chairman requested the Administration to advise on the appropriate timing for discussion of the subject. CMAB relayed the request to the Administration Wing. On 8 May 2017, the Administration Wing informed the Panel in writing that as the proposed amendments to POBO might have implications on the provisions about the political structure of HKSAR and the constitutional status of CE as prescribed in the Basic Law, the Administration had been studying comprehensively the relevant constitutional and legal requirements as well as operational issues concerned. Upon completion of the study, the Administration would report to LegCo and initiate legislative procedure at the appropriate juncture. The Chairman wrote to the Director of Administration ("D of Adm") on 21 June 2017 to

make further enquiries. D of Adm's reply letter dated 7 July 2017 was issued to members vide LC Paper No. CB(2)1847/16-17(01).

Hon Dennis KWOK³ has prepared two private bills to amend the Independent Commission Against Corruption Ordinance (Cap. 204) and POBO respectively. Mr KWOK wrote to the Panel Chairman on 31 January 2019 requesting consultation with the Panel on the Prevention of Bribery (Amendment) Bill 2017. The Chairman consulted members on Mr KWOK's request vide LC Paper No. CB(2)1019/18-19. Taking into account members' views, the Chairman has decided that it is not appropriate for the Panel to discuss the above Bill at this stage [LC Paper No. CB(2)1116/18-19].

6. Reports published by the Law Reform Commission on various aspects of privacy

The Administration has considered the five reports published by the Law Reform Commission ("LRC") on the topics of: To be confirmed

Interception of communications (December 1996)

Stalking (October 2000)

Privacy and media intrusion (December 2004)

Civil liability for invasion of privacy (December 2004)

Regulation of covert surveillance (March 2006)

According to the Administration, these five reports touch on the sensitive and controversial policy and political issue of how to strike a balance between protection of individual privacy rights and freedom of the media. There were mixed responses and very divergent views from different sectors of the community. Given the complexity and sensitivity of the policy and political issues involved, the Administration would consider the five reports as and where appropriate and map out the way forward in consultation with relevant parties.

At its meetings on 16 December 2013 and 16 June 2014, the Panel discussed the LRC Report on Stalking with the Administration.

**Proposed timing
for discussion**

7. Follow up discussion on the computer theft incident of the Registration and Electoral Office during the Chief Executive election in March 2017

At the meeting on 12 October 2017, Hon Charles Peter MOK² proposed to discuss the implementation progress of the recommendations made by the Task Force concerned and those by the Privacy Commissioner for Personal Data, as well as the outcome of the internal investigation conducted by the Registration and Electoral Office. To be confirmed

8. Political reform

At the meeting on 12 October 2017, Dr Hon Helena WONG² suggested that the Panel should revisit the issue of political reform. To be confirmed

9. Nomination matters in public elections

Dr Hon Helena WONG² and Hon LAM Cheuk-ting² jointly wrote to the Panel Chairman on 5 February 2018 [LC Paper No. CB(2)881/17-18(01)] expressing concerns on matters relating to the Confirmation Form and the vetting of candidate eligibility in public elections. The Administration has provided a paper entitled "Nomination matters in LegCo elections" in response to the joint letter [LC Paper No. CB(2)903/17-18(01)]. On 23 February 2018, Dr Hon Helena WONG² and Hon LAM Cheuk-ting² further wrote to the Panel Chairman [LC Paper No. CB(2)968/17-18(01)] proposing to discuss the above-mentioned Administration's paper. The Panel Chairman has agreed to include the item on this list. To be confirmed

At the meeting on 11 October 2018, Hon AU Nok-hin⁴ proposed to discuss the appointment system of the Nominations Advisory Committees.

Hon Claudia MO⁵ wrote to the Panel on 3 December 2018 [LC Paper No. CB(2)404/18-19(01)] proposing to discuss and receive public views on decisions made by the Returning Officer on the nomination of candidates in the 2019 Rural Ordinary Election. The Administration provided a written response to Ms MO's letter on 14 December 2018 [LC Paper No. CB(2)457/18-19(01)].

**Proposed timing
for discussion**

10. Review of the Sex Discrimination Ordinance

Hon Elizabeth QUAT wrote to the Panel Chairman on 13 November 2020 [LC Paper No. CB(2)330/20-21(01)] proposing to discuss review of the Sex Discrimination Ordinance (Cap. 480).

To be confirmed

11. Follow-up on the recommendations in the Equal Opportunities Commission's submissions to the Government on the Discrimination Law Review

Hon Elizabeth QUAT wrote to the Panel Chairman on 13 November 2020 [LC Paper No. CB(2)330/20-21(01)] proposing to discuss the recommendations of (a) providing protection from sexual, disability and racial harassment between tenants and/or sub-tenants occupying the same premises (recommendation 18 of the Discrimination Law Review ("DLR")); and (b) providing protection of persons being accompanied by an assistance animal from discrimination (recommendation 2 of DLR).

To be confirmed

12. Hate speech

At the meeting on 16 November 2020, Hon Mrs Regina IP expressed concern about the inadequacy of the existing anti-discrimination ordinances in prohibiting hate speech. She urged the Administration to tackle the issue by legislation and brief members on the subject at a future meeting.

To be confirmed

13. Discrimination against people from the Mainland

At the meeting on 16 November 2020, Hon Starry LEE requested the Administration and the Equal Opportunities Commission to brief the Panel on the measures to tackle discrimination against people from the Mainland.

To be confirmed

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- ¹ The Administration announced on 31 July 2020 that amid the severe Coronavirus Disease 2019 ("COVID-19") epidemic situation, CE in Council had decided to postpone the 2020 LegCo General Election, originally scheduled for 6 September 2020, for a year to 5 September 2021, in order to protect public safety and public health as well as ensure elections were conducted openly and fairly.
 - ² Pursuant to section 15(1)(a) of the Legislative Council Ordinance (Cap. 542), IP Kin-yuen, LAM Cheuk-ting, Charles Peter MOK, and Helena WONG ceased to hold office as members of LegCo upon their resignation on 1 December 2020.
 - ³ According to the announcement made by the HKSAR Government on 11 November 2020 pursuant to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Qualification of the Members of the Legislative Council of the Hong Kong Special Administrative Region, Dennis KWOK Wing-hang was disqualified from being a member of LegCo on 30 July 2020.
 - ⁴ Pursuant to the judgment and determination made by the Court of First Instance of the High Court and the Appeal Committee of the Court of Final Appeal on 2 September and 17 December 2019 respectively, AU Nok-hin has ceased to be a Member of LegCo since 17 December 2019.
 - ⁵ Pursuant to section 15(1)(a) of the Legislative Council Ordinance (Cap. 542), Claudia MO ceased to hold office as a member of LegCo upon her resignation on 13 November 2020.