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Replies to supplementary questions and oral questions raised by Finance Committee Members in examining the Estimates of Expenditure 2015-16

Director of Bureau : Secretary for Constitutional and Mainland Affairs

Session No. : 20

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CONTROLLING OFFICER'S REPLY

S-CMAB01

(Question Serial No. S0110)

Head: (144) GS: Constitutional and Mainland Affairs Bureau

Subhead (No. & title): ()

Programme: (5) Subvention: Equal Opportunities Commission and Office of the Privacy Commissioner for Personal Data

Controlling Officer: Permanent Secretary for Constitutional and Mainland Affairs (CHANG King-yiu)

Director of Bureau: Secretary for Constitutional and Mainland Affairs

Question:

The Equal Opportunities Commission (EOC) conducted public consultation on the discrimination law review. The EOC's proposals relate to a wide range of defects in all four discrimination ordinances, including the absence of a provision in the Race Discrimination Ordinance prohibiting discrimination by the government in performing its functions and exercising its powers, and the lack of an express statement in the Disability Discrimination Ordinance providing for the requirement to make reasonable accommodation. In this connection, will the government inform this Council of:

- (a) Whether the government has allocated any extra resources to the EOC for conducting this law review and the public consultation in particular and if yes, the details of the funding including the amounts to be spent in different aspects and the period it covers;
- (b) The amounts the EOC has spent and plans to spend on different aspects including publication and promotion, the compilation and analysis of responses from the public, and the publication of reports on the responses from the public; and
- (c) When the EOC will publish a quantitative report and a qualitative report on the responses of the public to the consultation held on the law review in 2014?

Asked by: Hon LAU Wai-hing, Emily

Reply:

According to the information provided by the Equal Opportunities Commission (EOC), the public consultation on the Discrimination Law Review ended last year and a very large number of responses (approximately 122 000 responses) have been received. The EOC is now analysing and recording the responses, and the analysis is both quantitative

and qualitative; the EOC has initially planned to publish a factual report on the consultation responses in mid 2015. For details, please refer to the EOC's paper (Paper No. CB(2)995/14-15(05)) submitted to the Legislative Council Panel on Constitutional Affairs.

2. The EOC's work on this review exercise is absorbed by its internal resources.

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CONTROLLING OFFICER'S REPLY

S-CMAB02

(Question Serial No. S0118)

Head: (144) GS: Constitutional and Mainland Affairs Bureau

Subhead (No. & title): ()

Programme: Not specified

Controlling Officer: Permanent Secretary for Constitutional and Mainland Affairs
(CHANG King-yiu)

Director of Bureau: Secretary for Constitutional and Mainland Affairs

Question:

In respect of the reasons for refusal of requests for information made by members of the public as set out in the Code on Access to Information,

- (1) the Government is requested to provide information on the following in the past 3 years:
 - (i) a breakdown of the number of requests refused by bureaux/departments;
 - (ii) the number of cases in which the applicants asked for review of decision after their requests were refused and the number of cases in which the applicants lodged a complaint with The Ombudsman;
 - (iii) set out in table form the details of the requests refused, the reasons for refusal and the names of the relevant bureaux/departments;
- (2) will the Government make public the reasons for refusal and the details of the requests? If it will not, what are the reasons?

Asked by: Hon MOK Charles Peter

Reply:

During the period from January 2012 to September 2014, a total of 227 requests for information made under the Code on Access to Information (the Code) were refused by bureaux and departments. The bureaux/departments involved and statistical data on reasons for refusal are as follows:

Reasons for refusal (relevant paragraph of the Code)	Number of times requests are refused by policy bureaux/departments
Defence and security (para. 2.3 of the Code)	3 times [Architectural Services Department (3 times)]
External affairs (para. 2.4 of the Code)	7 times [Audit Commission (1 time), Offices of the Chief Secretary for Administration and the Financial Secretary (1 time), Department of Justice (1 time), Immigration Department (1 time), Hongkong Post (1 time), Trade and Industry Department (1 time), Transport Department (1 time)]
Nationality, immigration and consular matters (para. 2.5 of the Code)	2 times [Department of Justice (1 time), Security Bureau (1 time)]
Law enforcement, legal proceedings and public safety (para. 2.6 of the Code)	25 times [Customs and Excise Department (2 times), Department of Justice (5 times), Development Bureau (2 times), Food and Environmental Hygiene Department (1 time), Home Affairs Department (3 times), Hong Kong Police Force (1 time), Independent Commission Against Corruption (1 time), Judiciary Administrator (2 times), Labour Department (3 times), Lands Department (1 time), Legal Aid Department (1 time), Marine Department (2 times), Planning Department (1 time)]
Management and operation of the public service (para. 2.9 of the Code)	18 times [Civil Aviation Department (1 time), Offices of the Chief Secretary for Administration and the Financial Secretary (1 time), Development Bureau (1 time), Electrical and Mechanical Services Department (1 time), Food and Environmental Hygiene Department (1 time), Government Logistics Department (1 time), Hong Kong Police Force (1 time), Housing Department (1 time), Immigration Department (1 time), Information Services Department (1 time), Inland Revenue Department (2 times), Intellectual Property Department (1 time), Lands Department (4 times), Marine Department (1 time)]
Internal discussion and advice (para. 2.10 of the Code)	17 times [Agriculture, Fisheries and Conservation Department (1 time), Buildings Department (4 times), Commerce and Economic Development Bureau (1 time), Offices of the Chief Secretary for Administration and the Financial Secretary (1 time), Development Bureau (1 time), Environment Bureau/Environmental Protection Department (1 time), Government Logistics Department (1 time), Home

	Affairs Department (1 time), Independent Commission Against Corruption (1 time), Lands Department (2 times), Planning Department (2 times), Transport Department (1 time)]
Public employment and public appointments (para. 2.11 of the Code)	2 times [Development Bureau (2 times)]
Improper gain or advantage (para. 2.12 of the Code)	2 times [Immigration Department (1 time), Lands Department (1 time)]
Research, statistics and analysis (para. 2.13 of the Code)	17 times [Agriculture, Fisheries and Conservation Department (4 times), Buildings Department (1 time), Census and Statistics Department (1 time), Environment Bureau/Environmental Protection Department (1 time), Food and Environmental Hygiene Department (1 time), Food and Health Bureau (1 time), Housing Department (4 times), Labour Department (1 time), Hongkong Post (1 time), Planning Department (1 time), Transport Department (1 time)]
Third party information (para. 2.14 of the Code)	85 times [Buildings Department (5 times), Civil Aviation Department (2 times), Civil Engineering and Development Department (3 times), Civil Service Bureau (1 time), Commerce and Economic Development Bureau (2 times), Correctional Services Department (1 time), Customs and Excise Department (5 times), Department of Health (1 time), Development Bureau (2 times), Education Bureau (12 times), Environment Bureau/Environmental Protection Department (4 times), Food and Environmental Hygiene Department (2 times), Government Logistics Department (3 times), Government Property Agency (1 time), Highways Department (2 times), Home Affairs Department (9 times), Independent Commission Against Corruption (3 times), Lands Department (11 times), Marine Department (2 times), Hongkong Post (4 times), Rating and Valuation Department (1 time), Transport Department (4 times), Water Supplies Department (5 times)]
Privacy of the individual (para. 2.15 of the Code)	44 times [Agriculture, Fisheries and Conservation Department (1 time), Buildings Department (1 time), Civil Service Bureau (2 times), Commerce and Economic Development Bureau (1 time), Education Bureau (2 times), Environment Bureau/Environmental Protection Department (1 time), Fire Services

	Department (4 times), Food and Environmental Hygiene Department (2 times), Home Affairs Department (2 times), Hong Kong Police Force (5 times), Housing Department (3 times), Immigration Department (1 time), Independent Commission Against Corruption (2 times), Judiciary Administrator (1 time), Labour Department (1 time), Land Registry (1 time), Lands Department (5 times), Marine Department (3 times), Rating and Valuation Department (1 time), Security Bureau (1 time), Social Welfare Department (2 times), Transport Department (2 times)]
Business affairs (para. 2.16 of the Code)	23 times [Civil Engineering and Development Department (1 time), Commerce and Economic Development Bureau (2 times), Department of Health (1 time), Development Bureau (1 time), Environment Bureau/Environmental Protection Department (2 times), Government Logistics Department (4 times), Highways Department (3 times), Housing Department (2 times), Lands Department (2 times), Office of the Communications Authority (4 times), Transport Department (1 time)]
Premature requests (para. 2.17 of the Code)	3 times [Agriculture, Fisheries and Conservation Department (1 time), Buildings Department (1 time), Hong Kong Police Force (1 time)]
Legal restrictions (para. 2.18 of the Code)	25 times [Customs and Excise Department (2 times), Department of Justice (1 time), Immigration Department (1 time), Inland Revenue Department (14 times), Labour Department (1 time), Marine Department (1 time), Official Receiver's Office (1 time), Hongkong Post (1 time), Registration and Electoral Office (2 times), Transport Department (1 time)]

Note: The total number of refusal cases is exceeded by the total number of times the reasons for refusal are quoted by bureaux/departments, as there may be more than one reason to refuse a request.

2. During the period from January 2012 to September 2014, a total of 35 requests for review were received by bureaux and departments. In the same period, The Ombudsman received 181 complaints in relation to requests for information.

3. We are planning to revamp the Code on Access to Information Website in 2015-16 to include, inter alia, quarterly statistics on requests for information handled by bureaux/departments, such as the outcome of requests handled in the quarter and the exemption provisions under which information requests are refused.

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CONTROLLING OFFICER'S REPLY

SV-CMAB03

(Question Serial No. SV028)

Head: (144) GS: Constitutional and Mainland Affairs Bureau

Subhead (No. & title): ()

Programme: (5) Subvention: Equal Opportunities Commission and Office of the Privacy Commissioner for Personal Data

Controlling Officer: Permanent Secretary for Constitutional and Mainland Affairs (CHANG King-yiu)

Director of Bureau: Secretary for Constitutional and Mainland Affairs

Question:

Pursuant to paragraph 5 of reply no. CMAB067, the Government is requested to provide information on the number of random checks on mobile applications conducted by the Office of the Privacy Commissioner for Personal Data (PCPD) since 2013-14 and the number of breaches of the Personal Data (Privacy) Ordinance that has been found. The Government is also requested to provide the estimated number of such random checks to be conducted in 2015-16.

The Government is requested to provide information on whether the PCPD will assist government departments with the upgrade of their websites to ensure that personal data is properly protected.

Asked by: Hon MAK Mei-kuen, Alice

Reply:

In 2013-14 and 2014-15, the Office of the Privacy Commissioner for Personal Data (PCPD) conducted compliance checks on 25 mobile applications to ascertain whether they complied with the requirements of the Personal Data (Privacy) Ordinance (the Ordinance). Two cases of incompliance were found, including one contravention of the Data Collection Principle and one contravention of the Data Security Principle.

2. In 2015-16, the PCPD will conduct compliance checks on 30 mobile applications.

3. The advice on proper protection of personal data which the PCPD provides through guidance notes, information leaflets, professional workshops and seminars to various organisations in Hong Kong including government bureaux and departments is applicable to online operations of public organisations.

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