

# **Legislative Council Panel on Constitutional Affairs**

## **2011 - 12 Policy Agenda**

### **INTRODUCTION**

This paper briefs Members on the initiatives of the Constitutional and Mainland Affairs Bureau (“CMAB”) set out in the 2011-12 Policy Agenda in relation to electoral arrangements, human rights and Basic Law.

### **POLICY AGENDA**

2. We will pursue two new initiatives and will continue to implement eight on-going initiatives.

#### **New Initiatives**

- (a) Work closely with the Electoral Affairs Commission (“EAC”) to make practical arrangements to ensure that the 2012 Legislative Council (“LegCo”) election and associated electoral arrangements will be conducted in fair, open and honest manner in accordance with the relevant legislation.
- (b) Conclude the public consultation on arrangements for filling vacancies in the LegCo with a view to resuming and completing the legislative exercise in the 2011-12 legislative session.

#### **On-going Initiatives**

- (c) Continuing our work on the promotion of human rights.
- (d) Continuing to monitor the implementation of the Administrative Guidelines on Promotion of Racial Equality.
- (e) Taking forward legislative proposals to strengthen protection of personal data privacy.
- (f) Preparing for the launch of public consultation on the proposed way forward on the recommendations of the Law Reform Commission (“LRC”) on stalking.

- (g) Continuing to implement the Political Appointment System.
- (h) Continuing to facilitate the implementation of “One Country, Two Systems” and to demonstrate its success; and to strengthen our efforts in promoting public awareness and understanding of the Basic Law.
- (i) Continuing to work closely with the EAC to implement practical arrangements to ensure that the 2011 District Council (“DC”) Election, 2011 Chief Executive Election Committee Subsector Elections (“ECSC”), 2012 Chief Executive (“CE”) Election and associated electoral arrangements will be conducted in fair, open and honest manner in accordance with the relevant legislation.
- (j) Continuing to take forward the proposals concerning the abolition of the DC appointment system.

Details of the above initiatives are set out in the following paragraphs.

### **2012 LegCo election and associated electoral arrangements**

3. The Administration will work closely with the EAC to make practical arrangements to ensure that the 2012 LegCo election and associated electoral arrangements will be conducted in a fair, open and honest manner in accordance with the relevant legislation. The EAC is now preparing the practical arrangements for the 2012 LegCo election and will consult the LegCo Panel on Constitutional Affairs on these arrangements in 2012.

### **Arrangements for filling vacancies in the LegCo**

4. The public consultation period on Arrangements for Filling Vacancies in the LegCo ended on 24 September. During the consultation period, we attended over ten consultation sessions for the public and for individual sectors. We also exchanged views with Chairmen and Vice-Chairmen of the DCs. We have listened to the views of different sectors, political parties, trade unions and chambers of commerce on this issue.

5. CMAB will examine all the views received in detail and carefully and prepare a comprehensive report, setting out the views received and giving an account of how to handle this issue, including whether to make

further adjustment to the Legislative Council (Amendment) Bill 2011. We will not rule out the possibility of refining the proposals we put forward earlier in the light of the views of the community. We will ensure that the final proposals put to the LegCo for consideration will be consistent with the Basic Law.

### **Promotion of human rights**

6. There is an extensive mechanism for the protection and promotion of human rights, including the rule of law, an independent judiciary, the Equal Opportunities Commission (“EOC”), the Privacy Commissioner for Personal Data and The Ombudsman, as well as other institutions. We also report to the United Nations regularly on the implementation of relevant human rights conventions.

7. We are committed to protecting and promoting human rights in Hong Kong. We will continue to promote the protection of human rights through a variety of means, including publication and distribution of publicity materials and sponsoring community projects. As in the past, we have earmarked funds for the Children’s Rights Education Funding Scheme and the Equal Opportunities (Sexual Orientation) Funding Scheme. In addition, the EOC organises various programmes to promote equality under the various anti-discrimination Ordinances. We also maintain dialogue with stakeholders through various fora to enhance promotion activities.

### **Promotion of racial equality**

8. The Race Discrimination Ordinance, which prohibits discrimination, harassment and vilification on the ground of race, and the Administrative Guidelines on Promotion of Racial Equality, which promote racial equality and ensure equal access by ethnic minorities to public services in key areas concerned, have been operating smoothly since their implementation. We will continue to keep in view their operation.

### **Protection of personal data privacy**

9. The Personal Data (Privacy) Ordinance (“PDPO”) has been in force since 1996. Having regard to developments over the last decade or so and public concern about the use of personal data for direct marketing activities, the Government has reviewed the PDPO with the support of the Privacy Commissioner for Personal Data (“PCPD”), and proposed a

number of measures to strengthen the protection of personal data privacy, enhance the effectiveness of and improve the operation of the PDPO.

10. After considering the views received during the public consultation on the review of the PDPO from August to November 2009 and the further public discussions from October to December 2010, we introduced the Personal Data (Privacy) (Amendment) Bill 2011 into the LegCo in July 2011 proposing various amendments to the PDPO. Key proposals include introducing specific requirements regarding use of personal data in direct marketing and sale of personal data and empowering the PCPD to provide legal assistance to aggrieved persons in instituting legal proceedings. We will work with the LegCo to facilitate early passage of the amendment bill.

### **Proposed way forward on the recommendations of the LRC on stalking**

11. The LRC Report on Stalking proposed that any person who pursues a course of conduct causing another person alarm or distress should be guilty of a criminal offence and liable in tort to the object of the pursuit. Defences and various related matters were also proposed. As the proposals touch on fundamental rights of privacy and press freedom, we consider that this subject should be discussed comprehensively and thoroughly by the community before we decide on the next step. In this regard, we are preparing a consultation paper and plan to launch the public discussion before the end of this year.

### **Political Appointment System**

12. The HKSAR Government will continue to implement the Political Appointment System. Politically-appointed officials will endeavour to assist the CE in dealing with work in respect of different policy areas in the remainder of the current term Government.

### **Implementation of “One Country, Two Systems” and promotion of the Basic Law**

13. We have set aside resources for organising various promotional activities to enhance public awareness and understanding of the Basic Law, in particular on the relationship between the Central Authorities and the HKSAR, and the importance of the Basic Law to Hong Kong’s implementation of the principles of “One Country, Two Systems”, “Hong Kong People administering Hong Kong” and high degree of autonomy.

We will continue to make use of the electronic media including television and radio programmes, as well as Announcements of Public Interest as the main promotional channel. We will also enhance public awareness of the Basic Law by staging promotional activities at the district level and strengthening co-operation with community organisations.

### **Practical Arrangements for the various elections in 2011-12**

14. The 2011 DC Election will be held on 6 November this year. The nomination period ended on 28 September and a total of 915 valid nominations have been received. There are 336 contested constituencies and 76 uncontested constituencies. The 2011 ECSS Elections will be held on 11 December. The nomination period for the non-DCs subsectors is from 8 to 15 November while the one for the DCs subsectors is from 18 to 24 November. We will work closely with the EAC to ensure that the above elections will be conducted smoothly. The EAC has issued the proposed guidelines on election-related activities in respect of the CE Election and has launched a two-week public consultation. The EAC will consult the LegCo Panel on Constitutional Affairs on the proposed guidelines and practical arrangements in respect of the CE Election.

### **DC Appointment System**

15. The Administration already put forth our position on 14 September that the DC Appointment System could be abolished in phases after a transitional period. We intend to reduce by one-third the number of members to be appointed in the fourth term of the DCs in 2012. In other words, we will appoint only 68 instead of 102 members. After the DC election in November, we will embark on further public discussions. This will include the duration of the transitional period and how the relevant legal provisions should be dealt with. As to the duration of the transitional period for the remaining 68 seats after 2012, we are prepared to consider abolishing them over one term or two terms. On this, we have an open mind.

## **CONCLUSION**

16. Members are invited to note the content of this paper.