

**立法會**  
***Legislative Council***

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seen by the Administration)

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**Finance Committee of the Legislative Council**

**Minutes of the 21<sup>st</sup> meeting**  
**held at Conference Room 1 of the Legislative Council Complex**  
**on Friday, 23 April 2021, from 2:45 pm to 5:16 pm**

**Members present:**

Hon CHAN Kin-por, GBS, JP (Chairman)  
Hon CHAN Chun-ying, JP (Deputy Chairman)  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, GBS, JP  
Hon CHAN Han-pan, BBS, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon KWOK Wai-keung, JP  
Hon Christopher CHEUNG Wah-fung, SBS, JP  
Hon Elizabeth QUAT, BBS, JP  
Hon Martin LIAO Cheung-kong, GBS, JP  
Hon POON Siu-ping, BBS, MH

Dr Hon CHIANG Lai-wan, SBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon CHUNG Kwok-pan  
Hon Jimmy NG Wing-ka, BBS, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai, JP  
Hon Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan, JP  
Dr Hon Pierre CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon LUK Chung-hung, JP  
Hon LAU Kwok-fan, MH  
Hon Kenneth LAU Ip-keung, BBS, MH, JP  
Dr Hon CHENG Chung-tai  
Hon Vincent CHENG Wing-shun, MH, JP  
Hon Tony TSE Wai-chuen, BBS, JP

**Members absent:**

Hon Frankie YICK Chi-ming, SBS, JP  
Hon LEUNG Che-cheung, SBS, MH, JP

**Public officers attending:**

Ms Alice LAU Yim, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Mr Raistlin LAU Chun, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Miss CHAN Cheuk Yin, Jennie	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Dr Bernard CHAN Pak-li, JP	Under Secretary for Commerce and Economic Development
Mr Bill WONG Kwok-piu	Principal Assistant Secretary for Commerce and Economic Development (Commerce and Industry) 5
Mr Brian LO Sai-hung, JP	Director-General of Trade and Industry
Ms Ophelia TSANG Oi-lin	Deputy Director-General of Trade and Industry (Bilateral Trade, Controls and Industries Support)

Mr Nicholas CHAN Chun-tak	Assistant Director of Administration 2
Mr Thomas Edward KWONG, JP	Director of Legal Aid
Mr Chris CHONG Yan-tung, JP	Deputy Director of Legal Aid (Policy and Administration)
Mr Steve WONG Yiu-fai	Assistant Director of Legal Aid (Policy and Development)
Ms Christina HADIWIBAWA Ying-man	Assistant Principal Legal Aid Counsel (Legal Management and Support Section), Legal Aid Department
Mr Johnson JONG Yat-sun	Senior System Manager (Information Technology Management Unit), Legal Aid Department

**Clerk in attendance:**

Ms Anita SIT Assistant Secretary General 1

**Staff in attendance:**

Miss Bowie LAM Council Secretary (1)1  
Mr Frankie WOO Senior Legislative Assistant (1)3  
Miss Yannes HO Legislative Assistant (1)7

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Action

The Chairman reminded members of the requirements under Rule 83A and Rule 84 of the Rules of Procedure.

**Item 1 — FCR(2021-22)1  
RECOMMENDATION OF THE ESTABLISHMENT  
SUBCOMMITTEE MADE ON 17 MARCH 2021**

**EC(2020-21)9  
HEAD 45 — FIRE SERVICES DEPARTMENT  
Subhead 000 Operational expenses**

2. The Chairman advised that this item sought the approval of the Finance Committee ("FC") for the recommendation of the Establishment Subcommittee ("ESC") made at its meeting on 17 March 2021 regarding EC(2020-21)9, i.e. the creation of one supernumerary post of Chief Fire Officer (GDS(C)2) in the Fire Services Department to strengthen the

supervision, direction and support to the operation in the New Territories Command. No member had requested that the recommendation be voted on separately at the FC meeting.

Voting on FCR(2021-22)1

3. At 2:46 pm, the Chairman put item FCR(2021-22)1 to vote. The Chairman declared that the majority of the members present and voting were in favour of the item. The item was approved.

**Item 2 — FCR(2021-22)2  
RECOMMENDATION OF THE ESTABLISHMENT  
SUBCOMMITTEE MADE ON 17 MARCH 2021**

**EC(2020-21)10  
HEAD 31 — CUSTOMS AND EXCISE DEPARTMENT  
Subhead 000 Operational expenses**

4. The Chairman advised that this item sought FC's approval for the recommendation of ESC at its meeting on 17 March 2021 regarding EC(2020-21)10, i.e. the creation of one permanent post of Assistant Commissioner of Customs and Excise (GDS(C)2) in the Customs and Excise Department, to be offset by the deletion of one permanent post of Administrative Officer Staff Grade C (D2), to rationalize the directorate support for the Administration and Human Resource Development Branch. No member had requested that the recommendation be voted on separately at the FC meeting.

Voting on FCR(2021-22)2

5. At 2:47 pm, the Chairman put item FCR(2021-22)2 to vote. The Chairman declared that the majority of the members present and voting were in favour of the item. The item was approved.

**Item 3 — FCR(2021-22)3  
RECOMMENDATION OF THE ESTABLISHMENT  
SUBCOMMITTEE MADE ON 17 MARCH 2021**

**EC(2020-21)11  
HEAD 170 — SOCIAL WELFARE DEPARTMENT  
Subhead 000 Operational expenses**

6. The Chairman advised that this item sought FC's approval for the recommendation of ESC made at its meeting on 17 March 2021 regarding EC(2020-21)11, i.e. the retention of one supernumerary post of Assistant Director of Social Welfare (D2) in the Social Welfare Department to continue to head the Licensing and Regulation Branch with a view to strengthening the monitoring of residential care homes for the elderly and residential care homes for persons with disabilities and taking forward various initiatives to improve the service quality of residential care homes on an on-going basis. No member had requested that the recommendation be voted on separately at the FC meeting.

Voting on FCR(2021-22)3

7. At 2:48 pm, the Chairman put item FCR(2021-22)3 to vote. The Chairman declared that the majority of the members present and voting were in favour of the item. The item was approved.

**Item 4 — FCR(2021-22)4  
RECOMMENDATION OF THE PUBLIC WORKS  
SUBCOMMITTEE MADE ON 24 MARCH 2021**

**PWSC(2020-21)37  
HEAD 705 — CIVIL ENGINEERING  
Environmental Protection — Refuse Disposal  
184DR — Refurbishment and upgrading of West Kowloon  
transfer station  
185DR — Refurbishment and upgrading of Island West and  
Island East transfer stations**

8. The Chairman advised that this item sought FC's approval for the recommendation of the Public Works Subcommittee made at its meeting on 24 March 2021 regarding PWSC(2020-21)37, i.e. the upgrading of 184DR, entitled "Refurbishment and upgrading of West Kowloon transfer station", to Category A at an estimated cost of \$2,625.6 million in money-of-the-day ("MOD") price; and the upgrading of 185DR, entitled "Refurbishment and upgrading of Island West and Island East transfer stations", to Category A at an estimated cost of \$2,079.9 million in MOD prices. No member had requested that the recommendation be voted on separately at the FC meeting.

9. The Chairman declared that he was a Director and the Chief Executive Officer of Well Link Insurance Group Holdings Limited. He was also a Director of Well Link General Insurance Company Limited and

Well Link Life Insurance Company Limited, both under the Well Link Insurance Group.

Voting on FCR(2021-22)4

10. At 2:49 pm, the Chairman put item FCR(2021-22)4 to vote. The Chairman declared that the majority of the members present and voting were in favour of the item. The item was approved.

**Item 5 — FCR(2020-21)106**

**HEAD 181 — TRADE AND INDUSTRY DEPARTMENT**

**Subhead 700 General non-recurrent**

**Item 836 Dedicated Fund on Branding, Upgrading and Domestic Sales**

**Item 524 Export Marketing and Trade and Industrial Organisation Support Fund**

11. The Chairman advised that this item invited FC to approve the following changes to Head 181 Trade and Industry Department Subhead 700 General non-recurrent:

- (a) an increase in commitment of Item 836 Dedicated Fund on Branding, Upgrading and Domestic Sales ("BUD Fund") by \$1.5 billion from \$4.5 billion to \$6 billion, and an extension of the geographical coverage to include economies with which Hong Kong had signed Investment Promotion and Protection Agreements ("IPPA") at the time of application under the BUD Fund; and
- (b) an expansion of funding scope of the SME Export Marketing Fund ("EMF") under Item 524 Export Marketing and Trade and Industrial Organisation Support Fund to cover large-scale exhibitions targeting the local market.

The Commerce and Economic Development Bureau had consulted the Panel on Commerce and Industry on the relevant proposals on 16 March 2021. The Panel spent about 1 hour and 9 minutes on deliberating the proposals.

12. At the invitation of the Chairman, Mr CHUNG Kwok-pan, the Chairman of the Panel on Commerce and Industry, reported the results of the Panel's discussion.

13. Mr CHUNG Kwok-pan advised that the Panel on Commerce and Industry had discussed the aforesaid financial proposals at the meeting held on 16 March 2021. The Panel supported in principle the Administration's submission of the proposals to FC for consideration. The views/concerns expressed by members at the meeting were summarized below:

- (a) in view of the lingering of the COVID-19 pandemic, there was a rising trend for small and medium enterprises ("SMEs") to develop online business. The Administration should, through developing the BUD Fund and EMF, provide funding to SMEs to develop online marketing platforms. The Administration should also provide more guidance to SMEs in using online platforms to conduct business and organize seminars for SMEs in this regard;
- (b) the Administration could, through EMF, provide additional support to SMEs in conducting local market promotion activities;
- (c) the Administration should exercise flexibility in the use of funding from the BUD Fund, EMF and other funding schemes (e.g. the Film Development Fund) to provide more targeted support to the industries which were hard-hit by the pandemic; and
- (d) the Administration should provide help to SMEs through the BUD Fund and EMF to counteract the protectionist measures imposed by some overseas countries on Hong Kong and the Mainland.

The Administration had responded to the questions raised by Panel members at the meeting.

#### Dedicated Fund on Branding, Upgrading and Domestic Sales

##### *Implementation fees*

14. The Deputy Chairman expressed support for this item, and pointed out that the total implementation fees provided to the Hong Kong Productivity Council ("HKPC") for the three-and-a-half-year period from July 2017 to January 2021 under the BUD Fund was \$174.5 million, i.e. an average of about \$50 million per annum; after the enhancement, the Government would provide about \$86.3 million per annum to HKPC for covering the staff costs of a dedicated team for programme management,

administrative support and project monitoring, and disburse about \$12.6 million per annum for various publicity and promotional activities, and other implementation expenses. In other words, the annual funding provided to HKPC nearly doubled. He enquired about the staffing establishment of HKPC's dedicated team for programme management, administrative support, etc. under the BUD Fund before and after the enhancement.

15. The Deputy Chairman also pointed out that, for the implementation of the Free Trade Agreement ("FTA") and IPPA programmes, HKPC would engage organizations with local knowledge to serve as its collaboration partners for providing advisory and support services in application vetting and project monitoring; HKPC would also send staff to FTA and IPPA markets as necessary to monitor the work progress of the above mentioned local collaboration partners, and to the Mainland for conducting on-site checks of the on-going projects. He considered that the staff expenditure and implementation fees under the BUD Fund were on the high side and that the Government's implementation fees for HKPC could continue to increase along with the actual number of applications received. The Deputy Chairman asked the Administration how costs could be controlled and whether a ceiling had been set for the relevant fees; and what the cost proportion between HKPC's engagement of organizations with local knowledge to provide advisory and support services and HKPC's deployment of staff to monitor the work progress of local partners was.

16. In response, Under Secretary for Commerce and Economic Development ("USCED") advised that HKPC had many years of experience as the implementation partner in aspects such as operating the BUD Fund and providing secretariat support, assisting enterprises in making applications, as well as monitoring and evaluating the progress and effectiveness of the approved projects. He further said that the Government would continue to maintain a cost management and control mechanism in the service agreement to be drawn up with HKPC for implementing the further enhanced programme to ensure that the fees for programme implementation were cost effective. Under the mechanism, the implementation fees to be provided for HKPC by the Government could be adjusted based on the actual number of applications received. In summary, if the actual number of applications received exceeded or fell short of the originally estimated number by 10%, either the Government or HKPC might trigger the mechanism and initiate corresponding adjustment to the implementation fees upon review. Existing provisions would continue to be included in the revised service agreement to ensure that the administrative fees did not exceed 15% of the total approved project funding in the same year.



17. Director-General of Trade and Industry ("DGTI") supplemented that as the number of applications for the BUD Fund continued to rise by multiplies, the administrative fees were expected to double. For example, about 480 applications were received in 2017-2018, but the cumulative number of applications received reached about 3 750 since the implementation of the enhancement measures in January 2020, representing an approximate six-fold increase. In view of this, the Government made manpower arrangements and adjusted the administrative fees accordingly based on the actual number of applications received.

*Extending geographical coverage*

18. Mr Tony TSE expressed support for this item. He considered it desirable for the Government to assist local SMEs in branding, expanding the domestic sales market and upgrading, as well as exploring more overseas markets. Moreover, the provision of more funding support to Hong Kong SMEs by the Government would enable the enterprises to capture the business opportunities brought about by the national dual circulation development strategy. Mr TSE continued that after the extension, the BUD Fund's geographical coverage would expand from the 20 FTA economies to the 37 economies with which Hong Kong had signed FTAs and/or IPPAs. Nevertheless, the United States recently intended to blockade China by garnering support from these countries, and Australia announced earlier its cancellation of a "Belt and Road" agreement signed between the Victoria state and China. He asked whether the Administration had assessed/would assess the impact of the above situation on the FTAs and/or IPPAs signed between Hong Kong and countries concerned.

19. Mr Holden CHOW expressed support for this item, and pointed out that the extension of geographical coverage would help enterprises "go global" under the impact of the epidemic. However, in view of the current international tensions, including the Australian Government's recent cancellation of the "Belt and Road" agreement signed between the Victoria state and China, he considered it necessary for the Administration to assess the risks and put in place a response mechanism to prevent the actions of certain economies from undermining the economic development of Hong Kong.

20. In response, USCED advised that the extension of the BUD Fund's geographical coverage was intended to encourage enterprises to make the best use of the Fund to expand their markets outside Hong Kong, further reinforce Hong Kong's status as an international trade and investment hub, and establish Hong Kong's worldwide network of economic and trade connections. Hong Kong had been actively seeking to forge FTAs and

IPPAs with economies with strong economic and trade connections with Hong Kong, markets with development potentials or at strategic locations, and trading partners with similar visions. He continued that the FTAs and IPPAs signed between Hong Kong and various economies, which contained provisions on trade in goods, trade in services, investment protection, technical cooperation, etc., were aimed to promote and protect the investments of investors of one contracting party in the territory of the other contracting party by offering fair and equitable treatment and better protection for their investments. Any discrimination against or unfair treatment of the local investments of Hong Kong investors in the area of the other contracting party could be addressed in accordance with the provisions of the agreements. He added that the Government would continue to review the various funding schemes in the light of the external environment and the pace of recovery of different sectors.

*Conducting on-site inspections for selected approved projects*

Admin

21. Mr Martin LIAO said he strongly supported the Government's continued implementation of a series of enhancement measures to support SMEs, but considered it necessary for the Administration to ensure the proper use of public money. According to the Government's paper, HKPC would conduct on-site inspections for selected approved projects to help guard against misuse of funds or fraudulent claims. Mr LIAO enquired about the number of selected approved projects under the BUD Fund for which HKPC had conducted on-site inspections, the number of cases in which funding abuse had been identified and the relevant information.

22. In response, DGTI advised that HKPC's role in respect of the BUD Fund included:

- (a) providing preliminary assessment and processing applications;
- (b) monitoring and evaluating the progress and effectiveness of the approved projects;
- (c) submitting progress reports and final reports of the projects to the Programme Management Committee ("PMC") after consulting the Inter-departmental Committee, and submitting annual accounts prepared by an independent auditor in respect of the operation of the BUD Fund to PMC; and
- (d) undertaking publicity and management work.

He continued that the Government would, on the one hand, conduct on-site monitoring and inspections of cases where anomalies were identified based

on interim or final reports and, on the other hand, conduct on-site inspections for selected approved projects based on risk assessment. The ratio of selected approved projects being inspected was about 15%. The Government would provide the information requested by Mr Martin LIAO after the meeting.

23. Mr SHIU Ka-fai expressed support for this item, and pointed out that the industry welcomed the proposed implementation of the series of enhancement measures to support SMEs. He enquired why the Administration conducted inspections for about 15% of selected approved projects but not all projects, and whether any of these projects had to be brought before the court for prosecution. Mr Wilson OR expressed support for this item, and called for raising the percentage of approved projects selected for inspections to guard against misuse of funds.

24. In response, DGTI advised that the Government, drawing on the experience and figures accumulated since 2012 and then having regard to manpower and time arrangements, considered it reasonable to conduct inspections for about 15% of selected approved projects because only part of the content in a few audit reports and final reports submitted on approved projects in the past had not been clear and detailed enough, and no prosecution had been instituted against any project so far. He continued that the BUD Fund provided funding support on a matching basis, rather than disbursing one-off grants to enterprises. The ratio of initial payment was 75% of the approved government funding, and the remaining 25% would only be disbursed, subject to vetting, after enterprises had completed their projects and submitted their final reports. Therefore, under the mechanism, the Government hoped that enterprises would complete their projects under application properly before the remaining funds were disbursed.

#### Publicity and promotion

25. Mr Tony TSE said that apart from business enterprises, the Government's funding schemes for SMEs should also cover professional services sectors, but some professional sectors relayed to him that they did not have a good understanding of the funding schemes. Mr TSE enquired about the number of applications from the professional sectors. He considered that if the number of applications was small, the Administration should step up promotional efforts to raise awareness of the Government's funding schemes among the professional services sectors.

26. USCED advised that the Government had been promoting and publicizing the funding schemes through various channels to further enhance their effectiveness, including:

- (a) promoting, through local chambers of commerce and SME networks, various enhancement measures and simplified procedures to relevant members and enterprises;
- (b) a dedicated service team entitled "SME ReachOut" was set up to assist SMEs (including professional bodies) by matching them with suitable funding schemes and answering their enquiries on applications through direct meeting and dialogue with them, with a view to raising SMEs' awareness of the Government's funding schemes and encouraging them to make good use of the support provided by the Government; the service team also conducted publicity and promotion through visits to different districts (including industrial areas) and setting up street counters; and
- (c) HKPC had organized two large-scale activities online and offline respectively to promote the funding schemes, in which SMEs from a wide range of different sectors (including professional bodies) had been invited to take part for first-hand information and advisory services on government funding. The Government planned to continue to organize such activities in future to help the enterprises understand and match to the suitable funding schemes for coping with the difficulties arising from the epidemic and developing new opportunities, so that they could seize the chances ahead in the post-epidemic economic recovery.

27. DGTI supplemented that enterprises applying for the funding schemes were from a wide range of industries; the Government mainly broke down the number of applications by manufacturing and non-manufacturing sectors; the proportion of applications involving non-manufacturing sectors, including professional services industries such as information technology, creative industries, legal services, accounting, engineering, construction, banking, insurance and finance, ranged from 55% to 60%, but a further breakdown was not available.

28. Mr Tony TSE suggested that the Administration keep records of the numbers of applications broken down by industry. Given the different difficulties faced by various industries, the relevant data would facilitate the Administration's work to enhance promotion and publicity in a targeted manner, thereby assisting enterprises and spurring the overall economic growth of Hong Kong.

29. Ir Dr LO Wai-kwok appreciated the one-stop promotion and online publicity campaign of the Administration, and considered that this initiative would enable enterprises to grasp the relevant information in the first instance. Mr Wilson OR suggested that online publicity of the funding schemes be enhanced so that enterprises would not have to rely on consultant agencies to make their applications.

Improving and expediting application procedures

30. Mr Christopher CHEUNG expressed support for this item as some consultants or intermediaries in the market claimed to provide services for SMEs in their application for the funding schemes. Moreover, as relayed to him by many SMEs, the application for government funding schemes involved numerous requirements and complicated procedures, and SMEs often needed to engage consultants to assist them in the application procedures in order to make their applications successful. In respect of the two funds mentioned above, he enquired about:

- (a) the respective numbers of applications received and approved by the Administration so far;
- (b) the time required from submission to approval of each application; and
- (c) the respective numbers of received and approved applications from financial enterprises.

31. In response, USCED said he disagreed with Mr Christopher CHEUNG's view that the application procedures for the BUD Fund were complicated, given the numerous measures implemented since the launch of the BUD Fund in 2012 to simplify and continually enhance the application procedures, including the enhancements to website and online e-application form to make the whole application process more user-friendly, simpler and easy-to-understand. While enterprises might choose to go through the application formalities through consultant agencies in the past, they could now approach the dedicated service team entitled "SME ReachOut" and the four SME Centres to learn more about the funding schemes, including success stories, websites, e-application forms, etc. He added that many SMEs he had been in contact with indicated that they had successfully applied for funding on their own following the guidelines. USCED also urged enterprises to ensure that all the necessary documents were ready when submitting their applications so that the Government could process their applications expeditiously.

32. DGTI added that:

- (a) as at end March 2021, around 9 800 applications had been received under the BUD Fund, including about 3 000 applications that could not be processed due to lack of necessary information and those withdrawn by enterprises; 3 422 applications had been approved, representing a success rate of nearly 70%;
- (b) 26 applications had been processed under the BUD Fund in the banking, insurance and financial services sector, of which three applications had been approved;
- (c) as at end March 2021, around 296 000 applications had been received under EMF, of which around 248 000 applications had been approved, representing a success rate of as high as 85%; and
- (d) expanding the funding scope of EMF was mainly to support enterprises in conducting local market promotion activities and making full use of both online and offline avenues to conduct promotion activities, as well as to maintain Hong Kong's leading position as the hub for large-scale merchandise exhibitions, and thus the number of applications from the finance and securities sector was comparatively smaller.

33. Dr CHENG Chung-tai shared Mr Christopher CHEUNG's view. He considered that in view of the increase in the cumulative funding ceiling per enterprise, enterprises might use part of the funding to engage consultant agencies, which would in effect benefit those companies. Mr SHIU Ka-fai also considered that the increase in the funding ceiling might become an incentive, prompting a small number of ill-intentioned people to misuse the schemes, and that the authorities should beware of this. Dr CHENG enquired about the number of proposals prepared and the number of applications submitted through consultant agencies among the 3 422 approved applications.

34. In response, USCED and DGTI said that the Government had introduced streamlined and enhanced procedures since 2018 and had redesigned the website and online electronic application forms to provide application tips, a list of documents to be submitted, and so on, so that applicants were given sufficient information and support at the outset to submit applications on their own, without having to do so through consultant agencies. USCED said that the Government would keep liaising with

Members and the industry to review the situation and continue to cut red tape, so as to guard against misuse of funds. DGTI added that HKPC would directly contact the applicants instead of the consultant agencies when processing applications and thus could not provide the number of proposals prepared or the number of applications submitted through consultant agencies.

35. Ir Dr LO Wai-kwok said that he supported increasing the approved commitment to provide assistance for SMEs during the epidemic, but in January this year, he received requests for assistance from the industry, claiming that enterprises had to spend quite a lot of time liaising with HKPC after submitting applications, causing a delay in receiving funding. He suggested the Administration speed up the administrative procedures as much as possible, so as to avoid hindering the progress of funding approval, as cash flow was very important to enterprises during this difficult time. Mr Wilson OR considered that in light of the need of enterprises to apply for funding due to financial difficulties, the Administration should enhance their work efficiency, streamline procedures and set clear performance pledges.

36. In response, USCED said that he had noted members' views and the Government would strive to enhance efficiency in checking invoices and other administrative work and make continuous improvements, with a view to tiding over the difficulties together with the industry.

#### Concerns about Government's tightening of public search arrangements

37. Dr CHENG Chung-tai pointed out that the Government's tightening of the public search arrangements might hinder HKPC's procedures for conducting random checks of cases, thereby giving lawbreakers opportunities to make applications through shell companies. He asked whether the Government's amendment to the regulations on public search would create direct impact on or difficulties in HKPC's monitoring and vetting work, and whether HKPC would still have the authority to conduct the searches.

38. In response, USCED said that HKPC maintained a fund database which served as a basis for processing and vetting applications as well as conducting random checks, thus the Government's tightening of the public search arrangements would not have any significant impact on the work of HKPC.

39. DGTI further explained HKPC's actual operational arrangements for monitoring and processing applications. He pointed out that upon receipt of an application, HKPC would ascertain whether the enterprise had

substantive business operation in Hong Kong by checking the enterprise's tax records and documents for daily operations, whether it had employed any employees in Hong Kong, whether contributions had been made to the Mandatory Provident Fund Scheme, and so on; after vetting the application, HKPC would also conduct on-site inspections in Hong Kong or outside Hong Kong. For example, if the enterprise's factory or part of its operation was located in the Mainland or ASEAN region, HKPC would send officers to the region or engage consultants to conduct on-site inspections locally.

40. Mr SHIU Ka-fai and the Chairman considered that the Government's tightening of the public search arrangements sought to protect privacy and HKPC, as a public organization, should be exempted from the restriction. The Chairman pointed out that the Administration should respond to members' question directly by specifying whether the arrangements would have any impact on conducting official searches, so as to avoid doubt. Mr Wilson OR agreed with the Chairman's view.

41. In response, USCED reiterated the Government's view that the tightening of the public search arrangements would not have any specific impact on the work of HKPC, and DGTI had already explained the specific operational arrangements to members earlier.

Voting on FCR(2020-21)106

42. At 3:46 pm, the Chairman put item FCR(2020-21)106 to vote. The Chairman declared that the majority of the members present and voting were in favour of the item. The item was approved.

**Item 6 — FCR(2020-21)107  
CAPITAL WORKS RESERVE FUND**

**HEAD 710 — COMPUTERISATION**

**Legal Aid Department**

**New Subhead "Revamp of Case Management and Case Accounting System and the related query system of the Legal Aid Department"**

43. The Chairman said that this item invited FC to approve the creation of a new commitment of \$79.072 million for the revamp of the Case Management and Case Accounting System ("CM&CAS") and the related query system of the Legal Aid Department ("LAD"). On 1 March 2021, LAD briefed the Panel on Administration of Justice and Legal Services on the proposal. The Panel had spent about 43 minutes to discuss the proposal.



Planned implementation schedule

44. Mr Tony TSE said that the revamp of CM&CAS and Knowledge Support System ("KSS") of LAD would help build Hong Kong into a smart city; however, citing the example of the Leisure and Cultural Services Department's new intelligent sports and recreation services booking and information system, he said that with the ever-evolving technological advancement, a delay in the project might render the new systems obsolete, thereby incurring additional funding for another system revamp, and thus he asked how the Administration would ensure proper monitoring for timely implementation of the current project.

45. Dr Junius HO pointed out that the current proposal would take five years from 2021-2022 to 2025-2026 and asked whether the implementation schedule of the project could be compressed.

46. In response, Director of Legal Aid ("DLA") said that CM&CAS and KSS had been in use for over 17 years and the technologies adopted were already outdated, rendering the systems inflexible in adding new functions to cope with the operational needs of LAD and also vulnerable to security threats. He therefore proposed to revamp the aforesaid two systems. He added that the Government would endeavour to adhere to the planned implementation schedule of the revamp project, which was being undertaken by an in-house Information Technology Management Unit of LAD headed by a Senior System Manager, and he was confident that the current project could be completed within the deadline.

47. Assistant Principal Legal Aid Counsel, LAD ("APLAC/LAD") added that:

- (a) the revamped systems were complex and comprised two parts, namely CM&CAS and the query system (KSS), involving different sections and functions of various departments of LAD, and the project would therefore be implemented in phases;
- (b) according to paragraph 21 of the Government's paper, as regards CM&CAS, the target completion date for tender preparation, tendering and award of tender was June 2022 (about 15 months); the target completion date for System Analysis and Design (Phase 1 and 2) was January 2023 (about seven months); the target completion dates for Phase 1 User Acceptance Test and Live Run were May 2024 and June 2024 respectively (about 17 months); and the target completion dates for Phase 2 User

Acceptance Test and Live Run were May 2025 and June 2025 respectively (about 12 months);

- (c) as regards the procurement and user acceptance test of the query system (KSS), the implementation schedule would overlap with Phase 2 of the aforesaid system, with a view to shortening the implementation time of the project from the original 55 months to 53 months; and
- (d) there was no need for members to worry about the obsolescence of the systems as there had not been significant changes to the nature of services provided by LAD over the years, and the new systems would run on the Government Cloud Infrastructure Services, enabling automatic updates of hardware and software from time to time.

#### Data searching and information sharing

48. Ms YUNG Hoi-yan expressed support for this item and considered that CM&CAS and KSS had been in use for over 17 years and there was an urgent need to revamp the two systems. However, she was concerned about the proposed system database of LAD and enquired how the Administration would gather and utilize appropriate data. For example, for legal aid applications involving domestic violence and child abuse, whether the Administration would enhance the procedures for case reporting or referral to the Social Welfare Department or other departments for follow-up, so as to facilitate inter-departmental collaboration and information sharing, thereby assisting families in need and safeguarding the well-being of victims in child abuse cases.

49. In response, DLA said that the objectives of revamping the systems included facilitating data search, retrieval and analysis, and more efficient information sharing with various parties. He pointed out that the revamped KSS would provide regular snapshots of operational data to facilitate comparison of data trend; provide on-demand analysis of a large volume of cross-functional data from CM&CAS to support management and operational decisions; allow users to retrieve data from CM&CAS in a more user-friendly and flexible manner; and compile comprehensive management and statistical reports more promptly so as to respond to the request for statistics relating to LAD's operations, thereby enhancing data retrieval for comprehensive analysis and facilitating inter-departmental collaboration and information sharing, so that departments could take prompt action accordingly. He added that LAD had a referral mechanism in place to refer

cases involving domestic violence and child abuse to other departments for follow-up when necessary.

Non-recurrent expenditure and recurrent expenditure

50. Dr Pierre CHAN expressed support for this item and enquired about the details of the cloud services to be procured for the new systems and why the implementation services expenditure as set out in paragraph 7(e) on page 6 of the Government's paper represented the largest proportion of the total non-recurrent expenditure and increased year on year.

51. In response, Senior System Manager, LAD said that:

- (a) the revamped system would be operated and hosted in the Government Cloud Infrastructure Services platform, which conformed to the latest government security regulations, policies and guidelines, provided advanced security features, streamlined the system operations and reduced system support effort and operating costs;
- (b) the estimated non-recurrent expenditure of \$50.125 million was for acquiring implementation and support services from service providers; main implementation activities included system analysis and design, application development, system installation and configuration, infrastructure implementation at data centres, production rollout and nursing, etc.;
- (c) in view of the scale and complexity of the revamped systems, the project would be implemented in two phases; similar to other major information technology projects of the Government, payment would be made to the service providers in phases; and
- (d) the recurrent expenditure from 2026-2027 onwards after the implementation of the two new systems was set out in paragraph 18 of the Government's paper, including an annual expenditure of \$1.253 million for cloud services and an annual expenditure of \$6.254 million for system maintenance.

52. Dr Junius HO enquired about the reasons for the high annual system maintenance expenditure of \$6.254 million, while according to the Government's paper, fragmented reduction in staff effort could be achieved

in various Sections/Units with the improvement to be brought about by the new systems; and whether there was room for downward adjustment.

53. APLAC/LAD explained that:

- (a) \$79.072 million was the non-recurrent expenditure of the current proposal; upon the implementation of the new systems, the estimated annual recurrent expenditure for maintaining and supporting the new systems from 2026-2027 onwards was \$10.33 million, including an expenditure of \$6.254 million per annum for system maintenance;
- (b) as stated in paragraph 19 of the Government's paper, the implementation of the proposed project would bring about cost savings in three areas, including the avoidance of a non-recurrent cost of \$10.992 million that would otherwise be required for upgrading and enhancing the existing systems;
- (c) with the improvement to be brought about by the new systems, notional annual savings of \$9.919 million would be achieved through fragmented reduction in staff effort in various Sections/Units, and reduced support effort and operating costs after adopting cloud technologies;
- (d) it was estimated that the proposed revamp of CM&CAS and KSS would generate annual savings of \$15.445 million from 2026-2027 onwards;
- (e) the annual savings of \$15.445 million less the estimated annual recurrent expenditure of \$10.33 million for maintaining and supporting the new systems would result in a net saving of over \$5 million per annum; and
- (f) the Government would keep various indicators and performance pledges under constant review and would make improvements if there was room for doing so.

Concerns about abuse of the judicial review mechanism and legal aid

54. Mr WONG Ting-kwong expressed support for this item but was very dissatisfied with the work of LAD. He considered that legal aid was originally intended to ensure that no one who had reasonable grounds for pursuing or defending a legal action in the courts of Hong Kong was denied

access to justice because of a lack of means, but citing the cases of the "King of Judicial Reviews from Cheung Chau" and the woman sustaining severe eye injury as examples, he criticized the repeated abuse of legal aid and asked how the Administration assessed the eligibility of applicants for legal aid.

55. Mrs Regina IP, Mr Holden CHOW, Mr LUK Chung-hung and Ms Elizabeth QUAT believed that legal aid had all along been abused. Citing the cases of the "King of Judicial Reviews from Cheung Chau" and the woman sustaining severe eye injury as examples, they criticized LAD for assisting them in conducting judicial reviews on frivolous grounds and even hiring senior counsel to handle the cases, which might be tantamount to a waste of public money. Mrs Regina IP was of the view that the purpose of legal aid was to help disadvantaged members of the public attain judicial justice and she therefore supported this item. However, she queried whether the fact that the lawyer representing the client in the case of the woman sustaining severe eye injury was Mr Paul HARRIS, SC (i.e. the incumbent Chairman of the Hong Kong Bar Association) would exert pressure on LAD, and whether the independent legal advice sought by LAD from lawyers practising human rights law was truly independent and unbiased. Mr CHOW expressed similar views.

56. In response, DLA advised that:

- (a) to qualify for legal aid, a person had to satisfy both the means test and the merits test as stipulated in the Legal Aid Ordinance (Cap. 91);
- (b) to ensure that only those applications with reasonable grounds for taking proceedings were granted legal aid, all legal aid applications were vetted by professional lawyers employed in LAD to assess if applicants could satisfy both the means test and merits test and be granted legal aid;
- (c) regarding legal aid applications for judicial review, legal aid would be granted, subject to means, if the applicant had a sufficient interest in the matter to which the judicial review application related and the case had reasonable grounds;
- (d) if complicated legal issues were involved in an application, LAD might seek independent legal opinion from counsel in private practice on the merits of the application under section 9 of the Legal Aid Ordinance to help LAD determine whether legal aid should be granted;

- (e) the Government understood that members and the community were concerned about whether the judicial review mechanism and legal aid were used in a proper manner; in fact, the relevant mechanisms and penalties against abuse of legal aid services were provided by the Legal Aid Ordinance and its subsidiary legislation. It was stipulated under section 23 of the Ordinance that any person seeking or receiving legal aid who knowingly made any false statement in furnishing information should be guilty of an offence and liable on conviction to a fine at level 3 (i.e. \$10,000) and to imprisonment for six months;
- (f) to tie in with the above provisions, LAD had also introduced measures and a monitoring mechanism to prevent abuse of legal aid services. Anyone who believed that a legal aid applicant or aided person had furnished false information on the merits or means might provide relevant details to LAD. If the case was substantiated upon investigation, LAD should cease the provision of legal aid concerned and refer the case to the Police for follow-up actions; and
- (g) from 2017 to 2019, the rate of approval of judicial review cases in relation to legal aid applications was very low at 5% only.

57. DLA further clarified that in June 2017, LAD had issued a letter to Mr KWOK Cheuk-kin, who frequently filed judicial review applications against the policies proposed by the Government, that he had abused legal aid and it had invoked the power conferred on DLA under Regulation 11 of the Legal Aid Regulations (Cap. 91A) to give no consideration to any application made by Mr KWOK in the next three years, hence Mr KWOK had not been granted any legal aid by LAD for the judicial review applications filed by him in recent years. Regarding the other case mentioned by members, as the court had just handed down its judgment and the client of the case might appeal, it was not appropriate for him to make any comments so as not to compromise the legal proceedings, but he stressed that LAD had followed all the procedures in processing the legal aid applications for the case, including seeking independent legal opinion from counsel. He added that DLA's decision on a legal aid application for judicial review was not final as the applicant might appeal to the Registrar of the High Court against DLA's decision. The decision of the Registrar on the appeal would be final. He reiterated that LAD had followed all the procedures and done its best to deal with the case.

58. Dr Junius HO criticized that the 612 Humanitarian Relief Fund had so far raised over \$200 million since 2019 to provide funding to those arrested in connection with the "anti-extradition amendment bill" incidents

for hiring lawyers, and that a large number of the people had been granted legal aid at the same time. He considered that when national security cases and large-scale crimes were involved, the Department should not approve the legal aid applications concerned. Ms Elizabeth QUAT was also of the view that as the aforesaid arrested persons had already received legal support from the Fund, their legal aid applications should not be approved. In response, DLA reiterated that a person had to satisfy both the means test and the merits test before he or she could be granted legal aid, and stressed that there was no coordination between LAD and the Fund.

59. Mr LUK Chung-hung pointed out that there had been a significant drop in the number of legal aid applications rejected on merits in recent years, and enquired about the reasons for that and whether the enhanced functions of the Case Management System would facilitate the merits test. DLA responded that the new system would enhance the database by collecting similar cases, views of experts and counsels and so on to facilitate the processing of legal aid applications in future. The decrease in the number of applications rejected on merits was due to the reduction in the number of judicial review applications. Mr LUK further enquired about the annual expenditure incurred by LAD for obtaining independent legal opinion on judicial review cases. DLA undertook to provide the relevant information after the meeting.

*[Post-meeting note: The supplementary information provided by the Administration was issued to members vide LC Paper No. FC149/20-21(01) on 14 May 2021.]*

60. The Chairman pointed out that according to LAD, if an application for legal aid involved complex legal issues and the issues raised in the case were not covered by previous court judgments or advice, LAD might seek independent legal opinion from counsel in private practice on the merits of the application to help LAD determine whether legal aid should be granted. The Chairman viewed that such a practice would in effect encourage applicants to seek new legal arguments for judicial review, and at the same time create opportunities for counsel to be consulted by LAD about their independent legal opinions and to take up judicial review cases.

61. In response, DLA explained that for judicial review cases, legal aid applicants were required to provide relevant documents to support their applications. The legal aid counsel responsible for the processing of the applications would assess the merits of the cases once all the relevant documents were available. Independent counsel's opinion would be obtained by LAD unless the available documents already disclosed strong

ground for taking proceedings or the issues raised in the cases were already covered by previous court judgments or advice. He supplemented that if a legal aid application was refused, the applicant might appeal against DLA's decision to the Registrar of the High Court. The decision of the Registrar was final.

Impact by the revamp of systems on efficiency of case assignment

62. Dr Junius HO and Ms YUNG Hoi-yan hoped that the cases could be evenly distributed among different lawyers after the systems were revamped. Dr HO said that he himself had not received more than five legal aid cases over the years and suggested that in assigning cases, apart from considering the number of legal aid cases handled by solicitors and counsels, the Administration should also take into account factors such as the number of legal aid cases handled by each law firm, the total amount of litigation fees received and which lawyers had never received legal aid cases. Ms YUNG said that under the existing system, there was a phenomenon in which legal aid cases of a particular type (e.g. torture claims and judicial review cases) were assigned to several certain solicitors/counsels in an unduly concentrated manner, and that she herself had never been allocated any legal aid cases. She suggested that apart from developing new systems, the Administration should review the existing mechanism for assigning cases with a view to assigning cases to different lawyers in a fair, impartial and open manner. Mr Holden CHOW expressed a similar view and suggested that the complexity of each case should be taken into account, as lawyers with complex cases at hand would have too much workload that it was not possible for them to allocate time for taking up other cases. He also enquired how the revamped systems would make the assignment of cases more efficient.

63. In response, DLA said that he noted and appreciated members' views and the Department would consider them in detail. He further advised that under the revamped systems, the refined case assignment workflow would save handling time for manual checking and verification of information. These included increased search and filtering criteria for lawyers on the Legal Aid Panel ("Panel") to render the identification of suitable lawyers more efficiently. The revamped systems would convert manual assignment processes to e-assignment processes. They would also keep track of more information about Panel lawyers and provide alerts to users during assignment.

64. Ms Elizabeth QUAT considered that it was a serious loophole that legal aid applicants could select their own lawyers. For instance, some



lawyers might encourage applicants to lodge judicial review and ask the clients to specify them as their representatives; some applicants selected senior counsel as their representatives regardless of the nature of the cases, which put the burden of high litigation costs on taxpayers in the end and wasted public money. She asked whether the Administration had conducted any investigation into the aforesaid legal aid application cases which might involve transfer of benefits, whether/when the Administration would review the loophole concerned, and what the current respective assignment limits of criminal and civil cases for solicitors and counsels were.

65. Mrs Regina IP viewed that allowing legal aid applicants to select their own lawyers to act on their behalf was not a bad thing in itself, but she criticized LAD for being too lenient in its criteria for vetting and approving applications, and opined that the Administration had to vet and approve legal aid applications more stringently. The Chairman considered that the Administration should explore ways to plug the existing loopholes to address members' concerns. These included how to avoid abuse of legal aid by people who casually lodged judicial review on frivolous matters, how to ensure the quality of solicitors or counsels on the Panel, and why the legal aid cases which could be handled by counsel in private practice as nominated by aided persons themselves were confined to civil cases only.

66. Ir Dr LO Wai-kwok opined that it was an obvious waste of public money for LAD to assign senior counsel nominated by applicants to handle simple litigations and that the issue should be examined by the Administration. He said that he would ask the Chairman of the Public Accounts Committee to follow up on the matter after the meeting.

67. In response, DLA said that:

- (a) the Legal Aid Ordinance provided that DLA might act for an aided person through in-house professional lawyer or assign any lawyer in private practice selected from the Panel by either DLA or the aided person. In civil proceedings, aided persons might nominate their own lawyers in accordance with the Ordinance and LAD would generally respect such nominations in the interest of the aided persons;
- (b) LAD had devised criteria on the assignment of legal aid cases based on factors such as the experience and expertise of the lawyers as well as the nature and complexity of the particular case. The criteria had also been endorsed by the Legal Aid

Services Council;

- (c) LAD might reject the nomination if the lawyer nominated by an aided person was considered not appropriate on grounds such as having previous records of unsatisfactory performance, disciplinary actions taken against the nominated lawyer by a regulatory body and so on which were likely to undermine the aided person's interest in the proceedings;
- (d) LAD would take appropriate action in cases of unsatisfactory conduct or performance of assigned lawyers, including placing such lawyers' names on the Record of Unsatisfactory Performance and Conduct or removing their names from the Panel;
- (e) since 2018, the assignment limits of civil legal aid cases had been adjusted to 35 and 20 for solicitors and counsels respectively, and the assignment limits of criminal legal aid cases were 25 for both solicitors and counsels; LAD would review the above limits from time to time with the advice of the Legal Aid Services Council, the Law Society of Hong Kong and the Hong Kong Bar Association; and
- (f) if there was sufficient evidence of transfer of benefits in a legal aid application, LAD would definitely investigate the case and, if necessary, would be prepared to examine with the Administration Wing to see if there was a need to amend the relevant legislation.

Voting on FCR(2020-21)107

68. At 5:15 pm, the Chairman put item FCR(2020-21)107 to vote. The Chairman declared that the majority of the members present and voting were in favour of the item. The item was approved.

69. The meeting ended at 5:16 pm.