

LCQ19: Subsidy scheme to extend fibre-based networks to villages in remote areas

Following is a question by the Hon Chan Hak-kan and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (January 30):

Question:

The Government put forward in the 2017 Policy Address a Subsidy Scheme to Extend Fibre-based Networks to Villages in Remote Areas (Subsidy Scheme). In this connection, will the Government inform this Council:

(1) of the latest progress of the tendering exercise conducted for selecting fixed network operators (FNOs) to participate in the Subsidy Scheme, and the respective expected dates for commencement and completion of the works on laying fibre-based networks;

(2) of the villages which are now covered by the Subsidy Scheme at present and their respective populations (set out by District Council (DC) district);

(3) as some DC members have relayed that some villages (e.g. Hilltop Garden, Sha Po Tsai and Chung Tsai Yuen Garden in Tai Po, and Ki Lun Tsuen in the North District) are not covered by the Subsidy Scheme, whether the Government has completed consulting the relevant DCs and rural committees; whether it will let the Subsidy Scheme cover more villages; if so, of the details; if not, the reasons for that;

(4) as some DC members have pointed out that based on a conservative estimation, about 200 000 households are currently living in surveyed squatter structures across the territory, and that the broadband services in some squatter areas have rather low Internet access speeds, whether the Government will let the Subsidy Scheme cover squatter areas; if not, how the Government assists the residents of squatter structures in accessing high-speed broadband services;

(5) given that if villagers currently have access to broadband services with an Internet access speed of 25 megabits per second (Mbps) or above, the villages concerned will not be covered by the Subsidy Scheme, of the Government's justifications for setting the threshold at that Internet access speed; in view of the Government's ongoing initiatives of promoting the development of Hong Kong into a smart city as well as cost-effectiveness considerations, whether the Government will raise the threshold to 50 Mbps or higher so as to obviate the need to re-launch the Subsidy Scheme several years later in order to meet the actual needs of the villagers; if so, of the details; if not, the reasons for that;

(6) whether it will formulate performance indicators for the Subsidy Scheme, such as (i) in respect of the villages for which the works under the Subsidy Scheme have been completed, the percentage of villagers who subscribe to the high-speed broadband services provided by the relevant FNOs, and (ii) the Internet access speed and the stability of the broadband services provided by FNOs under the Subsidy Scheme; if so, of the details; if not, the reasons for that;

(7) as some villagers have indicated that they do not have a clear idea about the implementation of the Subsidy Scheme, of the existing means through which the Government disseminates the relevant information; whether it will consider strengthening its liaison with the villagers so as to answer their queries on the Subsidy Scheme; if so, of the details; if not, the reasons for that; and

(8) as some members of the public have pointed out that in tandem with technological advancement, broadband services have become a daily necessity, whether the Government will amend the relevant licensing conditions to stipulate that FNOs must provide their customers with broadband services with an Internet access speed not lower than 50 Mbps; if so, of the details; if not, the reasons for that?

Reply:

President,

To take forward the subsidy scheme of extending fibre-based networks to remote villages proposed by the Chief Executive in the 2017 Policy Address (Subsidy Scheme), the Commerce and Economic Development Bureau and the Office of the Communications Authority (OFCA) consulted the nine relevant District Councils (DCs) (North, Sai Kung, Tai Po, Sha Tin, Yuen Long, Tuen Mun, Tsuen Wan, Kwai Tsing and Islands), 27 Rural Committees (RCs) and the Panel on Information Technology and Broadcasting of the Legislative Council (LegCo) in the first half of 2018. On July 13, 2018, the Finance Committee of the LegCo approved a funding of \$774.4 million for the implementation of the Subsidy Scheme.

My reply to the eight parts of the question is as follows:

(1) OFCA is actively preparing for the tender exercise. It is expected that tender documents will be issued in the first half of this year such that selected fixed network operators (FNOs) can apply for relevant permits of all departments concerned in a timely manner in order to perform different works including excavation and the laying of fibre-based networks and submarine fibre-based cables. Depending on the works progress and views of the villagers, it is expected that the subsidised lead-in connections can be extended to the villages concerned in phases from 2021 onwards.

(2) and (3) The Subsidy Scheme targets remote villages located far away from the existing fibre-based backbone networks of FNOs where villagers can only

choose broadband services delivered over copper-based networks at a speed of 10 megabits per second (Mbps) or below. Having regard to the consideration above and based on the villages specified in the Rural Representative Election Ordinance and the List of Recognised Villages under the New Territories Small House Policy promulgated by the Lands Department, OFCA prepared the list of villages proposed to be covered under the Subsidy Scheme.

Taking into account the comments received during the consultation with the LegCo, the relevant DCs and RCs and after verification of the latest network coverage information with FNOs, OFCA notes that fibre-based networks of FNOs have already reached the vicinity of the entrances of some villages that were initially proposed to be covered under the Subsidy Scheme, and some other initially proposed villages are no longer inhibited. In view of this, OFCA has refined the total number of villages proposed to be covered under the Subsidy Scheme to about 235 villages which are located in nine districts in the New Territories and outlying islands. It is estimated that the Subsidy Scheme can benefit about 120 000 villagers.

OFCA has consulted the relevant RCs again in November 2018 regarding the refined list of villages and has been receiving comments from individual RCs. After receiving comments from all RCs, OFCA will finalise the list of villages to be covered by the Subsidy Scheme. According to the latest information, the number of villages to be covered and the estimated number of benefited villagers (by district) are as follows:

District	Number of villages proposed to be covered	Estimated number of villagers benefited
North	59	About 27 000
Islands	67	About 51 000
Sai Kung	44	About 13 000
Tai Po	26	About 10 000
Sha Tin	13	About 5 000
Yuen Long	12	About 5 000
Tuen Mun	7	About 5 000
Tsuen Wan	6	About 3 000
Kwai Tsing	1	Less than 1 000
Total	235	About 120 000

Given that Tai Po Hilltop Garden, Sha Po Tsai, Tsung Tsai Yuen and Ki Lun Tsuen as mentioned in part (c) of the question are not recognised villages specified in the Rural Representative Election Ordinance nor the List of Recognised Villages under the New Territories Small House Policy, they are not included in the list of villages proposed to be covered under the Subsidy Scheme. Nevertheless, as these four villages are all located close to those recognised villages to be covered by the Subsidy Scheme or

those recognised villages with fibre-based network coverage, it will facilitate the improvement of fixed broadband services in these four villages.

(4) As squatter areas are in general located close to recognised villages, following the completion of relevant works of extension of lead-in connections to villages covered under the Subsidy Scheme by the selected FNOs, the new lead-in connections will not only benefit the recognised villages concerned, but will also help improve the fixed broadband services of the squatter areas nearby.

In addition, if the residents of squatter areas consider that their available fixed broadband services cannot fulfill the needs of the region, OFCA can convey their comments to FNOs and encourage them to improve their network coverage at the areas concerned.

(5) The current status of broadband services in remote villages can be generally classified into two categories: (a) villages with insufficient broadband speed, i.e. lower than 10 Mbps; and (b) villages with a broadband speed of at least 25 Mbps.

The Subsidy Scheme targets villages with a broadband speed of 10 Mbps or below. These villages are generally located far away from the existing fibre-based backbone networks of FNOs, with a small number of subscribers and scattered houses. FNOs do not have sufficient commercial incentives to extend their fibre-based networks to these villages due to the high costs of network roll-out. Without Government subsidy, the villagers concerned may not be able to obtain fibre coverage even in the long-term future.

In view of this, the Government hopes to provide FNOs with financial incentives through the Subsidy Scheme to encourage the extension of fibre-based networks to the vicinity of the entrances of remote villages of this category. Upon the extension of fibre-based networks to the village entrances, FNOs can provide broadband services to villagers by connecting the fibre-based networks to the existing copper-based networks within the villages. Broadband speed can then be raised from the current 10 Mbps or below to at least 25 Mbps, and stability of service will also improve. If the villagers allow FNOs to roll-out fibre-based networks within the village, the broadband speed can further increase substantially to a level comparable to that in the urban areas (e.g. 500 Mbps or 1 000 Mbps). In addition, our tender assessment criteria will include evaluation of whether the bidding FNOs will commit to providing broadband services at higher speeds within the villages. If a FNO hopes to increase the chance of winning the bid, it will need to consider committing the roll-out of fibre-based networks within the villages for the provision of high-speed broadband services.

(6) The villages covered under the Subsidy Scheme will be grouped into six tender projects. The selected FNOs will be required to complete the relevant works of network roll-out in accordance with the requirements stipulated in the tender documents, including the roll-out of fibre-based networks to the villages specified in the individual projects. In addition, the commitments

made by the selected FNOs in their proposals (e.g. the commitment to provide higher speed broadband services to villagers) will be incorporated as terms and conditions of the agreement for the Subsidy Scheme to be entered into with the Government.

Selected FNOs are also required to open up at least half of the capacity of the fibre-based networks and submarine fibre-based cables subsidised under the Subsidy Scheme for use by other FNOs for free. Such a requirement can allow other FNOs to also provide broadband services to the villages concerned by sharing the use of the subsidised facilities, thereby offering more choices to the villagers and keeping the service charges at a competitive level under the market mechanism.

(7) OFCA has all along been maintaining close communications with the relevant DCs and RCs for the Subsidy Scheme to ensure that the comments of the relevant stakeholders and villagers would be fully considered and the broadband networks could be extended to the relevant villages in a timely manner.

(8) The current universal service obligation aims to provide the public with basic telephone services, mainly covering basic fixed voice telephony services and public payphones. Its net cost is shared among telecommunications service providers. If the universal service obligation is extended to cover fixed broadband services, not only will financial burden on the telecommunications industry be substantially increased, there will also be a fundamental impact to the understanding of basic telecommunications services, and thus the matter must be considered carefully and holistically. We do not have such a plan at the moment.

[LCQ21: Combating acts of racial vilification](#)

Following is a question by the Hon Holden Chow and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Patrick Nip, in the Legislative Council today (January 30):

Question:

Section 45 of the Race Discrimination Ordinance (Cap. 602) (the Ordinance), which came into operation in 2008, provides that any act that incites, by any activity in public, hatred towards, serious contempt for, or severe ridicule of a person on the ground of the race of that person, is an unlawful act of racial vilification. Section 46 provides that any act of racist incitement that involves threats of physical harm towards persons of a targeted race or their property constitutes an offence of serious

vilification. In this connection, will the Government inform this Council:

(1) of the respective numbers of prosecutions and convictions involving the offence referred to in section 46 since the Ordinance came into operation; whether it has assessed if such figures are on the low side and (if this is the case) the reasons for that;

(2) whether it will compile statistics on the number of claims in tort, since the Ordinance came into operation, which were lodged under civil proceedings in respect of the unlawful acts referred to in section 45; and

(3) whether it will step up law enforcement efforts to combat acts of racial vilification; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government does not tolerate and strongly condemns racist views of any person or organisation. In fact, the laws of the HKSAR prohibit racist acts.

After consulting the relevant responsible bureau/department, the consolidated reply to the questions raised by Hon Holden Chow is as follows:

The Race Discrimination Ordinance (Cap. 602) (RDO) came into full operation in 2009. Section 46 of the RDO makes it a criminal offence for a person, by any activity in public, to intentionally incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons on the ground of race, and which involves threatening physical harm or inciting others to threaten physical harm towards another person, or the property or premises of that other person. A person convicted of this offence is punishable by a fine of \$100,000 and imprisonment for two years. The Police have not received any report relating to section 46 of the RDO since the implementation of the RDO in 2009. As at the end of September 2018, no one has been prosecuted under section 46 of the RDO.

Section 45 of the RDO makes it unlawful for a person, by any activity in public, to incite hatred towards, serious contempt for, or severe ridicule of, another person or members of a class of persons on the ground of race. A victim may bring a civil claim in respect of such unlawful conduct (known as vilification) pursuant to section 70. As a victim may make a civil claim in the Court directly against the wrongdoer, the Government does not normally know about the case unless it is reported by the media or the Government is named as a respondent. The Government also does not hold records on the total number of such claims. We will carefully examine how best to compile the number of such claims in an effective manner. According to the Equal Opportunities Commission (EOC), they are not aware of any cases where a person has made a successful claim for racial vilification. In 2011, the EOC received an application for legal assistance in relation to a complaint of racial vilification, but the application was not accepted due to insufficient

evidence.

In addition to RDO, Section 17B(2) of the Public Order Ordinance (Cap. 245) makes it an offence for any person who in any public place behaves in a noisy or disorderly manner, or uses, or distributes or displays any writing containing threatening, abusive or insulting words, with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be caused. In some situations, such behaviour may also constitute the common law offence of outraging public decency or the offences of obstruction of public places and public nuisance under sections 4(28) and 4A of the Summary Offences Ordinance (Cap. 228).

Relevant government bureau/department and the EOC will closely monitor the situation of racial vilification/serious vilification, and review areas for improvement in a timely manner.

LCQ1: Schools applying for all their Primary 3 students to participate in the Primary 3 Territory-wide System Assessment

Following is a question by the Hon Ip Kin-yuen and a reply by the Secretary for Education, Mr Kevin Yeung, in the Legislative Council today (January 30):

Question:

Last year, the Education Bureau (EDB) resumed the Primary 3 Territory-wide System Assessment (TSA), which was administered by the Hong Kong Examinations and Assessment Authority (HKEAA). Approximately 10 per cent of Primary 3 students from each public sector and Direct Subsidy Scheme (DSS) primary school are sampled to participate in TSA. In addition, schools may on their own apply to the HKEAA for all their Primary 3 students to participate in TSA (full participation in TSA), and may request for their TSA school reports under such circumstances. The Secretary for Education indicated in March last year that the EDB would not ask about the relevant information. It has been reported that in variance with the practice adopted last year, the HKEAA refuses in this year to disclose the number of schools which applied for full participation in TSA. In this connection, will the Government inform this Council:

(1) of the respective numbers of schools that applied for full participation in TSA last year and this year to date, and the total number of students

involved, together with a breakdown by school type (i.e. aided, DSS, government and private primary schools);

(2) as the Chief Executive (CE) told the media on the 8th of this month that she would "request the various policy bureaux to be more proactive and positive when making arrangements for giving an account of important issues to the media" and that she was "very respectful of the media's function of overseeing the Government for the public", and there are views that the number of schools applying for full participation in TSA provides important reference information for formulating primary schools' curriculum, teaching arrangements and assessment system, whether the CE will require the EDB to gain an understanding from the HKEAA of the reasons for its refusal to disclose the relevant information, so that the EDB can give a full account of the implementation of the policy to the public; and

(3) whether it will require schools to consult all of their teachers and all of the parents of their students before they apply for full participation in TSA, so as to implement the policy objectives of "Led by Professionals" and "Listening to Views Directly" in the field of education, as advocated by the CE?

Reply:

President,

The Coordinating Committee on Basic Competency Assessment and Assessment Literacy (the Committee) conducted over two years since 2015 a review, during which views of stakeholders, such as school sponsoring bodies, school heads, teachers and parents, were collected through various means and channels in full demonstration of the principles of "Led by Professionals" and "Listening to Views Directly". The Committee's report and recommendations included the arrangements for Primary 3 TSA in 2018 and beyond and the related enhancement measures. The Government accepted the recommendations in the report, and started handling Primary 3 TSA separately at the territory-wide and school levels with effect from 2018.

At the territory-wide level, the Hong Kong Examinations and Assessment Authority (HKEAA) samples around 10 per cent of students from each public sector and Direct Subsidy Scheme school for Primary 3 TSA each year. Students' assessment results are only counted as territory-wide data serving as useful information for the Education Bureau (EDB) in fine-tuning education policies and curriculum arrangements.

If schools consider that the school-level reports can help them understand the overall strengths and weaknesses of students as well as formulate targeted measures to facilitate students' learning, the HKEAA can arrange for full participation of their Primary 3 students in TSA. Respective schools will be provided with individual school reports. Since the EDB merely needs territory-wide data and does not see the number of schools arranging for full participation of students in Primary 3 TSA has any relationship with the primary school curriculum, learning and teaching as well as assessment system, the EDB would not request school reports of individual schools from

the HKEAA, or enquire about the identities of participating schools.

Primary 3 TSA of 2018 was conducted in May and June last year. The relevant TSA Report was also uploaded to the HKEAA's website in mid-October last year.

Our reply to the Hon Ip Kin-yuen's various questions is as follows:

(1) and (2) As I pointed out earlier, Primary 3 TSA has been conducted on the basis of "no student names, no school names, no collection of reports and selection of participants by sampling" since 2018. As it is a low-stake assessment, the education sector and the public do not have to be over anxious. Schools arranging their Primary 3 students for full participation in Primary 3 TSA approach the HKEAA directly without any involvement of the EDB. Since this is entirely a school-based decision, and the number of participating schools is also not pertinent to the policy objective, the EDB has repeatedly reiterated that it will not enquire about or request school reports of individual schools from the HKEAA, or seek information about the identities of participating schools, and does not hold the information about the number and type of schools opted for full participation of their Primary 3 students in TSA in order to avoid being misconstrued as exerting pressure on schools. We feel rather helpless about being sometimes alleged of refusing to disclose data that we do not possess and are not pertinent to policy implementation.

In the same vein, the HKEAA is solely adhering to the policy intent of the new arrangements for Primary 3 TSA in taking a prudent approach to handle the information of schools which opted for full participation of their Primary 3 students in TSA. If the number of such schools is disclosed, we cannot rule out that persons holding different views may come up with their own interpretations, thereby exerting undue pressure on schools (irrespective of whether the schools have participated in Primary 3 TSA by sampling or have opted for full participation), as was the case last year in which the government primary schools were accused as "taking the lead" when the majority of government primary schools had been reported for having opted for full participation in Primary 3 TSA.

We understand that the new arrangements for Primary 3 TSA adopted since 2018 are a matter of concern to Members of this Council, parents, the public and the media, and the Government has the responsibility to explain its policies to the public. Therefore, in last year, shortly after accepting the Committee's recommendations set out in the review report on Primary 3 TSA, the EDB arranged a briefing session for the media on the same day, and gave an account on the new arrangements to the Legislative Council as quickly as possible, with a view to enabling the public to apprehend that the sampling requirement for Primary 3 TSA and school-based decisions would be handled separately. This was done purely out of respect for the communication with Members of this Council and the media.

We will continue to strengthen communication with Members of this Council and the media on important matters of concern, strive to explain in detail the related policies and their operation, and make our best efforts to

provide the information requested and respond to the questions raised as far as practicable.

(3) At present, under the school-based management principle, the School Management Committees (SMC)/Incorporated Management Committees (IMC) of government or public sector schools have put in place a well-established mechanism to communicate with stakeholders and seek their views on the handling of daily school matters of various scales, as well as riding on the backgrounds and experience of SMC/IMC members in the education sector, to make decisions that are in the best interests of students. Whether individual schools will arrange for all their Primary 3 students to participate in TSA is a school-based decision, and that should be deliberated professionally by SMCs/IMCs in accordance with their well-established decision-making mechanism.

If individual parents or teachers have any concerns, as in other matters under the purview of school-based management, they could approach the school to express their views. We will continue to keep in view the implementation of school-based assessment through various channels, including inspections, school visits and daily contacts with schools, etc.

The arrangements for Primary 3 TSA have been greatly enhanced. While we do not request schools to opt for full participation in Primary 3 TSA, we neither endorse any measures which would negatively label schools opting for full participation in Primary 3 TSA. I appeal to members of the community to refrain from exerting pressure on schools on this matter, but to allow room for schools to make school-based decisions professionally to cater for the learning needs of students.

The EDB will, as always, closely monitor the implementation of Primary 3 TSA, maintain communication with schools and stakeholders at hand, explore further room for continued enhancement, and inform the public of the implementation of our policies in a timely manner.

Thank you, President.

LC: CS presents Government Minute in response to Report of Public Accounts Committee No. 70A

Following is the speech (translated from Chinese) by the Chief Secretary for Administration, Mr Matthew Cheung Kin-chung, in presenting the Government Minute in response to the Report of the Public Accounts Committee No. 70 in the Legislative Council today (January 30):

President,

Laid on the table today is the Government Minute (GM) responding to Report No. 70A of the Public Accounts Committee (PAC).

When presenting Report No. 70A on November 14, 2018 to the Legislative Council (LegCo), the Chairman of PAC offered comments on two chapters in the Director of Audit's Report No. 70, namely, "Management of restored landfills" and "Sha Tin Section of Route 8".

I sincerely welcome PAC's Report and am grateful for the time and effort that the Chairman and Members of PAC devoted to investigating these subjects. The Government accepts PAC's various recommendations and sets out in detail the specific responses of the relevant bureaux/departments in the GM. Today, I would like to highlight the key measures that the Government has taken in the two important policy areas and the progress.

Management of restored landfills

Regarding "Management of restored landfills", as pointed out by the Chairman of PAC, there are many site constraints in the 13 closed landfills in Hong Kong. Before we could further develop the sites, various technical difficulties such as ground settlement and continuous generation of landfill gas have to be overcome. Nonetheless, the Environmental Protection Department (EPD) would seriously follow up on the recommendations of PAC with a view to developing the closed landfills for recreational or other suitable afteruse under these constraints.

In 2016, EPD thoroughly reviewed the monitoring system and promptly implemented numerous improvement measures, including stepping up the frequency of irregular inspections, strengthening the training of EPD's on-site staff to enhance their technical knowledge and alertness, and arranging the installation of additional monitoring equipment to more closely monitor the operation of the waste facilities, etc. As regards the monitoring of the contractors of restored landfills, EPD accepts the recommendations made by PAC and will take appropriate follow-up action, including expediting the progress of installing advanced equipment at various restored landfill sites with leachate treatment plants, with a view to automating the monitoring work and detecting cases of non-compliance in a more timely manner; continuous supervision of the contractors' operation on restoration facilities and their compliance with relevant statutory and contractual requirements; and reviewing the feasibility of including non-compliance with the relevant statutory environmental requirements under the demerit point system of the design-build-operate contracts for the restoration and management of closed landfills in future, etc.

For the Restored Landfill Revitalisation Funding Scheme (the Funding Scheme), EPD is working closely with the two organisations selected under Batch 1 of the Funding Scheme with a view to taking forward the revitalisation projects as soon as possible. EPD will also review Batch 1 of the Funding Scheme to formulate necessary improvement measures to enhance the operation of subsequent batches of the Funding Scheme.

In response to PAC Chairman's recommendations on Kwai Chung Park, Jordan Valley Park and Wan Po Road Pet Garden, relevant bureaux and departments have promptly followed up on the recommendations. I would like to briefly update the progress as follows.

Kwai Chung Park

The Kwai Chung Park (the Park) covers a very large area of over 25 hectares surrounded by slopes on restored landfills, which is unique in Hong Kong and much different from other open space projects. Over the past years, progress was mainly impeded by complicated site conditions, technical constraints and competing priorities for comprehensive development. While there was no shortfall of open space in Kwai Tsing District as a whole according to the recommendations of the Hong Kong Planning Standards and Guidelines, the Leisure and Cultural Services Department (LCSD) has spared no effort to press ahead with the planning work for the Park to the extent possible under the prevailing mechanism. To show the Government's commitment to develop the Park, the Kwai Chung Park project was included in the Five-Year Plan for Sports and Recreation Facilities as announced in the 2017 Policy Address. The Home Affairs Bureau issued the revised Project Definition Statement on May 18, 2018. The Architectural Services Department (ArchSD) has taken immediate action afterwards and submitted the Technical Feasibility Statement to the Development Bureau (DEVB) in November 2018 for approval. LCSD and relevant bureaux and departments will make the best efforts to implement the Kwai Chung Park project to meet the Five-Year Plan. The aim is to finish the preparatory work such as detailed design and consultation with the Kwai Tsing District Council on the design, etc., and seek funding approval from the LegCo in the legislative year 2020-2021 for commencement of works by end-2021.

Jordan Valley Park

ArchSD has shared its experience in the construction of the Jordan Valley Park with relevant organisations with a view to enhancing the management of works projects at restored landfills in future.

Wan Po Road Pet Garden

Drawing on the experience of Wan Po Road Pet Garden project, if the Home Affairs Department is to take up in future any works project in restored landfills, it will implement appropriate measures to address the potential risk of unusual ground settlement at the sites.

Sha Tin Section of Route 8

Regarding "Sha Tin Section of Route 8", Works departments have all along carried out monitoring and management of consultants' performance in strict compliance with the relevant government circulars and handbooks including the Engineering and Associated Consultants Selection Board Handbook and the Architectural and Associated Consultants Selection Board Handbook. Works departments will continue to regularly evaluate the consultants' performance and report to the bureaux in accordance with the relevant requirements. If

the performance of a consultant is found to be unsatisfactory, the Government will take appropriate regulatory action including suspension from tendering for consultancy agreements for public works projects. The Government will also review the relevant circulars and handbooks in a timely manner to facilitate effective administration, and continue to discharge its duties, ensuring that the professional services provided by the consultants are up to the standards.

As regards the Sha Tin Section of Route 8 works project, there is certainly room for improvement on the part of the Government in the vetting and monitoring of the consultants' performance. After learning a lesson from this experience, the Government updated the Project Administration Handbook for Civil Engineering Works in August 2018, requiring the consultants of all works departments to consult the works department concerned before issuing official replies to tenderers. At the same time, Highways Department has also updated internal guidelines to improve the process of checking of contract clauses and drawings, in order to increase the accuracy of checking. Apart from checking the tender documents, works departments have to conduct careful checking and pre-tender cross-checking procedures in the preparation of Bills of Quantities, and to use the Building Information Modelling technology for checking where appropriate.

We understand that the Audit Commission and PAC have expressed serious concern over contract negotiation process involved in Contract A. Currently, the Government has put in place a comprehensive monitoring mechanism for vetting and approving works departments' solutions to contractual settlements, including extra-contractual settlements. Even if the Approved Project Estimates are not exceeded in the solutions, works departments are required to follow the prevailing government guidelines/requirements and seek approval from the relevant delegated authorities. Furthermore, works departments should provide copies of approved settlements to the Audit Commission for reference. If the situation warrants, the Audit Commission will conduct audits and, where necessary, report the cases to PAC. DEVB considers that the aforesaid monitoring and reporting mechanism has been working well, and will continue to monitor its operation in order to conduct a review in a timely manner.

President, I would like to sincerely thank the Chairman and all Members of PAC again for their efforts and guidance. Relevant bureaux and departments will strictly follow their responses in the GM and implement the improvement measures as soon as possible to ensure the proper use of public funds.

Thank you, President.

LCQ9: Appointment of the Director of Public Prosecutions

Following is a question by the Hon Dennis Kwok and a written reply by the Secretary for Justice, Ms Teresa Cheng, SC, in the Legislative Council today (January 30):

Question:

The Government announced by a notice published in the Gazette on December 29, 2017 that the Chief Executive (CE) had, on the same date, appointed a Principal Government Counsel of the Department of Justice (DoJ) as the Director of Public Prosecutions (DPP) (with the following remark in the notice: Acting as Law Officer). Later on, the Government announced by a notice published in the Gazette on January 11, 2019 that CE had appointed the said person as DPP on June 29, 2018. Regarding the appointment of DPP, will the Government inform this Council:

- (1) of the criteria and procedure for the selection of DPP by DoJ;
- (2) as the aforesaid person was officially promoted to DPP on June 29, 2018, of the reasons why not until more than half a year later (i.e. January 11, 2019) did the Government publish the appointment concerned in the Gazette; and
- (3) of the respective durations of the acting appointments (if any) in respect of the successive DPPs since July 1, 1997?

Reply:

President,

In consultation with the Civil Service Bureau (CSB), the consolidated reply is set out as follows:

(1) The selection criteria for the Director of Public Prosecutions (DPP) included professional competence, integrity, knowledge and experience in criminal law and prosecution work, judgement, leadership, communication skills and vision, etc. Following the established appointment procedures for civil servants, the selection procedures comprised setting up a selection board and formulating the selection criteria, etc. Moreover, the Public Service Commission (PSC) was consulted on the recommendations put forward by the selection board as required.

(2) Mr David Leung, SC, was appointed as DPP after the conduct of a promotion-cum-open recruitment exercise in late 2017. The appointment was announced and gazetted on December 29, 2017, and Mr Leung commenced acting as DPP for six months from the same date. Following the completion of the acting period and relevant administrative procedures on appointments in the civil service, the CSB approved in late December 2018 Mr Leung's promotion to

Law Officer (Directorate (Legal) Pay Scale 6) with effect from June 29, 2018 (i.e. completing an acting period of six months). The arrangement was subsequently gazetted on January 11, 2019.

(3) Officers recommended for promotion to Head of Department (HoD) ranks through internal promotion are normally required to go through an acting process before substantive promotion, so as to ensure that they are fully competent of discharging the duties and responsibilities at HoD level. Recommendations on promotion to HoD ranks including acting arrangements are made by promotion boards having regard to all relevant factors and approved by the CSB as the appointment authority taking into account the advice tendered by the PSC.

Apart from promotion, open recruitment exercises were also conducted concurrently in the past to identify suitable candidates for the post of DPP. Where a person is recommended through an open recruitment exercise, acting arrangement does not apply.

Since July 1, 1997, a total of three DPPs, namely Mr Ian Charles McWalters, SC, Mr Kevin Paul Zervos, SC, and Mr David Leung, SC, were substantively promoted after acting for three or six months. Besides, Mr Grenville Cross, SC, was directly and substantively promoted when succeeding as DPP in October 1997. Moreover, Mr Keith Yeung, SC, was appointed as DPP in September 2013 after an open recruitment exercise, in which case the acting arrangement did not apply.

As recruitment and promotion involve different arrangements and procedures, it is inappropriate to compare the respective durations of the acting appointments in respect of the DPPs.