

LCQ1: Oath-taking by civil servants

Following is a question by the Hon Regina Ip (Hon Yung Hoi-yan to ask on her behalf) and a reply by the Secretary for the Civil Service, Mr Joshua Law, in the Legislative Council today (November 27):

Question:

At its meeting on November 4 this year, the Panel on Public Service of this Council passed a motion moved by me, urging the Chief Executive (CE) to issue an executive order under Article 48(4) of the Basic Law to require all civil servants to swear to uphold the Basic Law and swear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR). In this connection, will the Government inform this Council whether CE will exercise the executive powers conferred on her by Article 48(4) of the Basic Law, and formulate a policy and issue an executive order with reference to the Oaths and Declarations Ordinance to require all civil servants (including new appointees) to swear to uphold the Basic Law and swear allegiance to the HKSAR, so as to ensure that civil servants of all ranks and grades will work in solidarity towards common goals, and safeguard the core values of "one country, two systems", "Hong Kong people administering Hong Kong" and a high degree of autonomy?

Reply:

President,

The civil service is the backbone of the Government of the Hong Kong Special Administrative Region (HKSAR). It is responsible to the Chief Executive (CE). It supports the CE and the Government of the day in formulating, explaining and implementing policies; conducting administrative affairs; delivering public services; and undertaking law enforcement and regulatory functions. Article 99 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the Basic Law) states that public servants must be dedicated to their duties and be responsible to the Government of the HKSAR. Civil servants, being a key component of the public service, have a constitutional role to give their best in serving the CE and the Government of the day.

According to the Civil Service Code (Code), civil servants must be law-abiding, dedicated, impartial and politically neutral. Political neutrality means that civil servants shall serve the CE and the Government of the day with total loyalty and to the best of their ability, no matter what their own political beliefs are. They shall not allow their own personal political beliefs to determine or influence the discharge of their official duties and responsibilities. When civil servants express their views, they should ensure that their views would not give rise to any conflict of interest with their official duties or possibly be seen to compromise the important principle of maintaining impartiality and political neutrality when discharging their

duties. All civil servants, regardless of rank, must observe the Code. The HKSAR Government will, in accordance with the established mechanism, seriously follow up any violations of regulations by civil servants.

At the meeting of the Legislative Council Panel on Public Service on November 4, there were views that the recent arrest of some civil servants for participation in unlawful assemblies and the "disharmony" among members of the disciplined services when performing frontline duties showed that the 180 000-strong civil servants have not acted in concert.

At this difficult time of Hong Kong, I cannot agree more that the civil service should stand in solidarity and work together to end the chaos and violence as their priority task. It is thus deeply regrettable that some civil servants were arrested for suspected involvement in unlawful activities. This is especially so since these very few incidents have led people to cast doubt on the solidarity of the civil service in tackling the crisis, and by focusing on a few negative incidents, the community will easily ignore the hard work and effort of the 180 000-strong civil service. That said, I believe that our colleagues will not be disheartened, and instead, will continue to do their part and strive to help Hong Kong restore order as soon as possible.

I have stressed repeatedly that the Government adopts a zero-tolerance attitude towards civil servants who violate the law, and civil servants have been cautioned against taking part in any unlawful activities and actions. A civil servant arrested for participating in illegal activities would be interdicted in the public interest. Civil servants convicted of criminal offence would not only be penalised under the law; the Government would also take disciplinary action against them in accordance with the established mechanism without toleration.

Regarding the incidents of lack of coordination between individual officers of departments, the relevant departments had immediately issued joint statements to clarify and reiterate their continued support for and cooperation with each other. But I admit it is not desirable that there has been coverage about the incidents. I have reminded all departments that they must quickly respond to and handle misunderstandings involving departmental staff so as to avoid such from affecting public perception.

President, I entirely share the view that civil servants must uphold the Basic Law and be loyal to the HKSAR. Please allow me to emphasise once again that Article 99 of the Basic Law stipulates that public servants must be dedicated to their duties and be responsible to the HKSAR Government. The Code also clearly requires that civil servants must serve the HKSAR Government with total loyalty, be committed to the rule of law and abide by the law, etc. Under the framework of the Basic Law and the Code, it has consistently been the duty of civil servants to uphold the Basic Law and be loyal to the HKSAR.

Under the Oaths and Declarations Ordinance, designated officers, including the CE, principal officials, judicial officers, etc., shall take the oath after their appointment. This requirement does not apply to civil

servants and is consistent with Article 104 of the Basic Law.

Regarding the motion passed by the Panel on Public Service on November 4 as mentioned in the question, we have started to look into the issue and will report the progress to the Panel in due course as required.

Thank you, President.