

LCQ10: Secondary school students participating in activities that may be unlawful

Following is a question by the Hon Wong Ting-kwong and a written reply by the Secretary for Education, Mr Kevin Yeung, in the Legislative Council today (February 24):

Question:

It has been reported that recently, some secondary school students, aided and abetted by some members of District Councils (DC members), set up street counters in a number of districts in the name of student bodies. Ostensibly, such students and DC members voiced their objection to the Government's proposed reform of the subject of Liberal Studies for senior secondary education, but in substance they openly spread views that aimed at discrediting the Government and advocating the independence of Hong Kong, which may be in contravention of the law. In this connection, will the Government inform this Council:

(1) of the Government's procedure for vetting and approving applications for setting up street counters; whether the considerations in the vetting and approval of such applications include the background and the source of funding of the applicant organisations, as well as the purposes of setting up street counters;

(2) whether the co-hosting of the aforesaid street counters falls within the scope of responsibilities of DC members; if not, whether the DC members concerned have been reimbursed public funds for the expenses incurred in setting up the street counters; if they have been reimbursed public funds, whether the Government will ask them to return the money concerned;

(3) whether it knows the current number of secondary school student bodies whose objects are to follow social issues, and the detailed information of such bodies (including the date of establishment, number of members and background);

(4) whether it has enhanced the communication with secondary schools to prevent students from joining student bodies which may engage in unlawful activities; and

(5) given that the authorities may, under certain circumstances, treat offenders under the age of 18 leniently (e.g. by cautioning them under the Police Superintendent's Discretion Scheme in place of institution of prosecution, or by the prosecution offering no evidence when the accused has agreed to be bound over) so as to give them an opportunity for rehabilitation, whether the Government has examined if such arrangements will embolden minors to participate in activities that may be unlawful?

Reply:

President,

Students are the future pillars and hopes of society. The Government has been, through different channels, cultivating their outlook on life and positive social awareness and establishing their correct values. No one should incite students to indicate their stance on controversial or evolving political issues, stir up their emotions, or even mobilise them to take part in inappropriate or even unlawful activities. We strongly condemn any organisations or people who use students as political chips and commits acts which cause harm to our students and affect their normal learning and psychological development.

After consulting the Development Bureau, the Home Affairs Bureau and the Security Bureau, our consolidated reply to the question raised by the Hon Wong is as follows:

(1) Prior application to the Lands Department is required for setting up street counters on Government lands for holding non-profit making and non-fund raising activities. Designated spots available for application can be ascertained at the relevant District Lands Offices or the "GeoInfo Map" webpage of the Government. According to existing guidelines, parties which may submit applications include: incumbent Legislative Council members/District Council members, charitable institutions or trusts of a public character which are exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112), societies registered under the Societies Ordinance (Cap. 151) and other legally registered bodies, as well as Government departments and statutory organisations. No commercial promotions or commercial advertisements are permitted at these street counters. An applicant is required to fill in an application form and provide the necessary information including scheduled date(s), time and location(s), and a brief description of the non-profit-making activity. Once an application is received, the Lands Department would process it in accordance with established mechanism, including checking the applicant's eligibility according to the aforementioned criteria and checking whether the location(s) under application is/are within the designated spots available for application and available for use.

(2) The Guidelines on the Remuneration Package for Members of the District Councils of the HKSAR (Remuneration Guidelines) formulated by the Home Affairs Department set out the eligibility criteria for claiming various types of expenses reimbursements. If a District Council member claims for expenses which are not related to the District Council duties, the related expenses will not be reimbursed. The District Council Secretariat can also recover the amount concerned in accordance with the Remuneration Guidelines.

(3) The Government does not possess related information on organisations which are established by students on their own initiative outside schools with objectives related to social issues.

(4) The Education Bureau (EDB) has been maintaining close communication with

schools. Earlier on, in view of the social incidents, we have issued guidelines to schools from time to time to remind them to adopt appropriate measures to shield schools from political interference coming from sources outside schools. We also issued a Circular titled "National Security: Maintaining a Safe Learning Environment Nurturing Good Citizens" in February to provide schools with guidelines and specific measures on school administration and education with a view to maintaining a safe and orderly learning environment in schools and nurturing students to be good law-abiding citizens. If students are identified to have joined activities or bodies which may be unlawful outside schools, we will provide timely advice to schools. If necessary, we will also contact relevant law enforcement agencies to understand the incident and follow up as appropriate.

The EDB adopts the strategy of "prevention is better than cure". We strongly encourage home-school cooperation and strengthen schools' guidance and discipline support. The EDB encourages schools to establish correct values and virtues through learning activities inside and outside classrooms.

(5) For arrestees under the age of 18 who have expressed contrition and are not involved in serious offences, in consideration of the fact that some of them committed criminal offences under peer pressure, if they admit their wrongdoings, the Police are prepared to consider handling the cases with measures conducive to their rehabilitation as appropriate, for example, by cautioning them under the Police Superintendent's Discretion Scheme (PSDS) or imposing bind-over orders, with the prerequisite that the minors must admit their wrongdoings. Under PSDS, a police officer at the rank of Superintendent or above may exercise his discretion in considering the issue of a caution to a juvenile offender in place of criminal prosecution with a view to facilitating the rehabilitation of juvenile offenders and promoting law-abidingness. Regarding the persons arrested in relation to the violent and illegal acts since June 9, 2019, as at December 31, 2020, 19 persons were released after being issued with superintendent's cautions and around 130 students being bound over.

In deliberating whether to administer a caution, a police officer will carefully take into account a number of factors related to the case, such as whether the juvenile offender was under the age of 18 at the time the caution is administered; whether the offender voluntarily and unequivocally admits the offence; and whether the offender and his parents or guardian(s) agree(s) to the superintendent's caution; the nature, seriousness and prevalence of the offence (e.g. the harm suffered by the victim, the degree of damage done to the property, the value of the property stolen); the offender's previous criminal record. The Police have also been implementing measures on various fronts to facilitate the rehabilitation of juveniles issued with superintendent's cautions in an effort to reduce recidivism, for example considering to refer them to the Social Welfare Department, Education Bureau and/or non-governmental organisations.