

LCQ5: Functions of and support for District Councils

Following is a question by Dr Hon Helena Wong and a written reply by the Secretary for Home Affairs, Mr Caspar Tsui, in the Legislative Council today (April 29):

Question:

On January 21 this year, the Kowloon City District Council (KCDC) decided to form a "Committee on Monitoring Law Enforcement of the Police". However, during the election of the Chairman and Vice Chairman for that Committee at the KCDC meeting on February 25, the District Officer (DO) of Kowloon City under the Home Affairs Department (HAD) refused to provide any support for that Committee on the grounds that the Committee's terms of reference fall outside the functions of a District Council (DC) as specified in the District Councils Ordinance (Cap. 547), and the DO left the venue together with the staff members of the DC secretariat. Regarding the functions of and support for DCs, will the Government inform this Council:

- (1) given that the functions of a DC provided under section 61 of Cap. 547 include advising the Government on the following: "matters affecting the well-being of the people in the District" and "the provision and use of public facilities and services within the District", whether it has assessed if "the law enforcement in various DC Districts by the Police and the related complaints" are outside the scopes of the two aforesaid issues; if it has assessed and the outcome is in the affirmative, of the justifications for that; if the assessment outcome is in the negative, the legal justifications for the HAD's refusal to provide support for the aforesaid Committee;
- (2) as the KCDC has, in accordance with the powers conferred on DCs under section 71(1) of Cap. 547, appointed the aforesaid Committee in respect of which the KCDC holds the view that the terms of reference of the Committee conform with the functions of DCs provided under section 61, while the HAD holds the opposite view, whether the Government has any established mechanism and guidelines to deal with the situation in which a DC and the HAD hold opposite views on the interpretation of Cap. 547;
- (3) of the circumstances under which the HAD may refuse to provide support for DCs and their committees or attend the relevant meetings, and the specific criteria and guidelines adopted for making such decisions;
- (4) whether, since the commencement of the current DC term, there have been incidents, apart from the aforesaid incident, in which the HAD refused to provide support for DCs or their committees; if so, of the (i) names of the DCs and committees involved, (ii) number of meetings concerned, (iii) types of support involved in the refusal, as well as (iv) reasons for not providing support; and

(5) whether a mechanism is currently put in place to impose punishments on those DOs who refuse, without legal justifications, to provide support for DCs and their committees; if so, of the details?

Reply:

President,

A consolidated reply to the various parts of the question is as follows:

It is specified in section 61 (Note) of the District Councils Ordinance (the Ordinance) (Cap. 547) that functions of a District Council (DC) are to, inter alia, advise the Government on district administration affairs and where funds are made available for the purpose, to promote community, recreational and cultural activities and environmental improvement projects within the district. For the purpose of carrying out its functions, a DC may appoint committees according to section 71 of the Ordinance. DCs and their committees and working groups have to conform to the relevant requirements under the Ordinance in terms of establishment, composition and functions as well as items for discussion.

When handling DC affairs (including whether an item for discussion is compatible with the DC functions specified in section 61 of the Ordinance), District Offices will, as necessary, consult the relevant departments (including the Department of Justice). After taking into consideration advice from the relevant departments, if a proposed committee/working group or item for discussion is found not compatible with the functions specified in the Ordinance, the Government will follow up accordingly, such as writing to the DC Chairman concerned about the problem and request the Chairman to follow-up and re-examine the committee's terms of reference. If the DC concerned still keeps the terms of reference or items for discussion which are not compatible with the Ordinance, the DC secretariat cannot provide secretariat service for these matters, and secretariat staff or other government officers will neither attend the relevant parts of the meeting nor join the discussion of the relevant papers.

Regarding the Committee on Monitoring Law Enforcement of the Police under the Kowloon City District Council (KCDC), the Government is of the view that its name, terms of reference and proposed work are not compatible with the DC functions specified in section 61 of the Ordinance. Furthermore, an established mechanism has already been put in place to deal with those issues in the proposed terms of reference of the Committee. Given the reasons above, the Home Affairs Department (HAD) has written to the Chairman of the KCDC to suggest the DC to re-examine the Committee's terms of reference, and pay attention to the fact that the statutory functions of a DC is to advise the Government on specific issues and that matters or items for a DC's discussion must be affairs of the respective district. As the KCDC kept those areas in the terms of reference of the Committee that are not compatible with the Ordinance, DC secretariat could not provide support to the Committee, and secretariat staff and other government officers could not attend the relevant parts of the meeting.

The HAD does not keep the breakdown of information on cases of not providing support for DCs or their committees.

Note: Functions of a District Council, as specified in section 61 of the District Councils Ordinance, are –

(a) to advise the Government:

- (i) on matters affecting the well-being of the people in the District; and
- (ii) on the provision and use of public facilities and services within the District; and
- (iii) on the adequacy and priorities of Government programmes for the District; and
- (iv) on the use of public funds allocated to the District for local public works and community activities; and

(b) where funds are made available for the purpose, to undertake:

- (i) environmental improvements within the District; and
- (ii) the promotion of recreational and cultural activities within the District; and
- (iii) community activities within the District.