

LCQ5: Public consultation

Following is a question by the Hon Tanya Chan and a reply by the Secretary for Home Affairs, Mr Tsang Tak-sing, in the Legislative Council today (July 6):

Question:

It had been the practice of the Government in the past to conduct public consultation on major public policies, e.g. the National Security (Legislative Provisions) Bill in 2003 and the constitutional development proposals in 2010, and the relevant consultation work also formed part of the procedures for policy formulation and law enactment. However, regarding the Legislative Council (Amendment) Bill 2011 (the Bill), the Government had decided to introduce the Bill to the Legislative Council (LegCo), without conducting public consultation, on the basis of the voter turnout rate for the LegCo by-election held in 2010 and the public comments about the conduct of by-elections because of the resignation of LegCo Members. In this connection, will the Government inform this Council:

(a) whether the Government's decision of not conducting public consultation on the Bill goes to show that the Government has adjusted its principle of conducting public consultation on major policy proposals; if so, of the present principles adopted by the Government in determining whether to conduct public consultation, the way in which public consultation is to be conducted and how the results of public consultation are to be applied after analysing the views expressed by the public; if not, how its decision of not conducting public consultation on the Bill has adhered to those principles;

(b) given that apart from the replacement arrangement for filling vacancies of LegCo arising from resignation of LegCo Members, the Bill also covers the replacement arrangement for filling vacancies of LegCo arising from the death of a LegCo Member or a LegCo Member being relieved of his or her duties, why the opinions expressed in the community concerning the LegCo by-election in 2010 can be interpreted as the community's expression of support for such proposal in the Bill which will deprive voters of their right to vote in those by-elections; given that the Government has not sought the public's view on the replacement arrangement to be adopted for filling vacancies of LegCo arising from the death of a LegCo Member or a LegCo Member being relieved of his or her duties, whether it has assessed if the Bill will give rise to controversy in the community; if the assessment outcome is in the affirmative, whether the Government will consider withdrawing the Bill in the light of

these results; if the assessment outcome is in the negative, of the reasons for that; and

(c) whether the Government can undertake that it will definitely conduct public consultation on all policy changes relating to political system, electoral system and civic rights; if it cannot undertake to do so, of the reasons for that?

Reply:

President,

It is the declared policy of the SAR Government to be, as far as possible, open and transparent, and to be accountable to the public. The Government proactively responds to the concerns of the public, and listens carefully to public opinions expressed through various channels in formulating policies and programmes. In each policy area, the relevant subject bureau and department decide how to conduct public consultation on their respective policy proposals. The Home Affairs Bureau and its departments will provide support at the district level.

Our reply to the three parts of the question is as follow:

(a) The Government has not changed the policy on public consultation. The subject bureaux take into account a number of key principles in considering to conduct public consultation exercises, including to carry out consultation in a timely manner in order to provide adequate time for the public to express opinions, to set out clearly the purpose of consultation and the available options, to present to the public detailed information relevant to the issues, and to ensure adequate publicity to be given to the consultation exercises.

We note the recent views on the arrangement of public consultation for the Legislative Council (Amendment) Bill 2011. In dealing with this important issue, the Government has been attaching importance to the discussions in society and the views of the public.

Last January, five Legislative Council (LegCo) Members resigned to trigger a by-election. The so-called "referendum" has led to grave concern in the community. The public generally does not accept the resignation of Members at will and making the Government to drain on considerable public fund for holding the by-election. The

public is also of the view that the loophole should be plugged to prevent occurrence of similar incidents in future. More than half of the LegCo Members agree that the legislation should be amended.

In the past one and a half years, various proposals for plugging the loophole have been put forward and discussed in the community. Since the Government put forward its proposal nearly two months ago, there has been extensive discussion both within and outside the legislature. After listening to the views, the Government put forward a revised proposal last week. Under the revised proposal, the vacancy concerned will first be filled by a candidate on the same list of the Member who has vacated his seat. If there is no candidate on the same list who can or is willing to fill the vacancy, the vacancy will be filled by the candidate on the list which obtained the largest remaining votes at the general election. If the vacancy cannot be filled by the above methods, a by-election will be held. The proposed revision has addressed much of the opinion expressed by the community over the replacement mechanism. As Members are aware, the Government has decided to conduct a public consultation on the basis of the Bill in order to listen further to the views of the public. After considering fully the views received during the public consultation, the Government will resume and complete the legislative exercise within the 2011-12 legislative session.

(b) The Government has been listening carefully to the views of the public and revised the proposal. That said, there are still quite some views that if the vacancy arises because the Member has died or is seriously ill, consideration could be given to continuing to hold a by-election to fill the vacancy.

There is a strong consensus in the community to plug the loophole through consideration of legislative amendments. The Government has a responsibility to respond to the concern of the public. We hope the community will have rational discussion and build greater consensus to plug the loophole to ensure that the concern of the public is addressed.

(c) This SAR Government has announced from the beginning of its term that our policy would be based on the principle of "Always People First". It is the Government's declared policy to be accountable to the public. For example, around this time last year, the Government conducted public consultation and the constitutional reform was passed by a two-thirds majority, marking an important step in taking forward the constitutional development of Hong Kong. Likewise, as regards the arrangements for public consultation on future policy proposals, the Government

will handle them carefully having regard to the issues involved and the views of the community.

Ends/Wednesday, July 6, 2011

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