

WOMEN'S COMMISSION
Review of the Role and Functions of
Public Sector Advisory and Statutory Bodies

PURPOSE

The Government relies on a wide range of advisory and statutory bodies to provide advice on its policies and to deliver services. In order to enhance the existing system of public sector advisory and statutory bodies, the Home Affairs Bureau is conducting a review of the role and functions of these boards and committees. This paper **consults** Members on the approach to the review, and on the proposed guiding principles for reviewing the system of these bodies.

BACKGROUND

2. In the course of the discussion of the accountability system in the Legislative Council, the Government indicated that it would review the role and functions of advisory and statutory bodies after the implementation of the accountability system and would revert to the Legislative Council on the findings of the review.

3. At the swearing-in ceremony on 1 July 2002, the Chief Executive said in his speech that:

"We will also review and revise the structure covering over 400 advisory boards and committees, so that the organisational arrangements will enable us to consolidate the views and contribution of different sectors including the political, business, academic and grassroots sectors, amongst others."

4. There is a need to review advisory and statutory bodies in the public sector in order to enhance their effectiveness, representativeness and transparency.

Policy

5. The main elements of Government's policy on advisory and statutory bodies are:-

- (a) a new advisory or statutory body should only be set up if there is a demonstrated need for it;
- (b) advisory and statutory bodies should not determine government policies; responsibility for the policies of the day rests with principal officials;
- (c) an advisory or statutory body should be accountable to the Chief Executive or a principal official for the advice they give and/or for the way they carry out their functions;
- (d) the best people for the job should be appointed to an advisory or statutory body;
- (e) an advisory or statutory body should be open and transparent;
- (f) an advisory or statutory body should be representative of the different interests and sections of the community;
- (g) when making appointments to advisory and statutory bodies, there should be no discrimination on the grounds of gender, age, race, disability, religion, marital status, sexual orientation or social background;
- (h) a statutory body should only be set up if it is the most appropriate and cost-effective means of carrying out its given function; and
- (i) an advisory or statutory body which is no longer needed should be wound up so as to keep the number of advisory and statutory bodies to a minimum.

Classification

6. Boards and committees in the public sector can be classified into statutory and non-statutory bodies. Statutory bodies are those that are set up by enabling legislation. They can either be advisory or executive. Non-statutory bodies are those that are set up administratively. They are mainly advisory bodies.

7. Advisory and statutory bodies may also be classified by function as follows:

- (a) advisory committees;
- (b) non-departmental public bodies;

- (c) regulatory boards;
- (d) appeal boards;
- (e) trusts;
- (f) public corporations; and
- (g) miscellaneous boards and committees.

8. Advisory bodies are boards and committees set up to provide ongoing information, professional expertise in particular areas or subjects, and/or to advise on the development of policies or the delivery of services. Examples include the Commission on Youth and the Culture and Heritage Commission.

9. Non-departmental public bodies are non-commercial organisations set up to deliver services to the public at arm's length from the Government. They are not government departments or agencies, but they play a role in the processes of government. Examples include the Hospital Authority and the Hong Kong Trade Development Council.

10. Regulatory boards can be divided into three types, namely registration boards, licensing boards and supervisory boards. A registration board regulates a profession or trade by way of registering entrants to the profession or trade. For example, the Land Surveyors Registration Committee regulates the registration of land surveyors. A licensing board regulates the licensing of premises or equipment for a specific purpose or function. For example, the Liquor Licensing Board issues liquor licences to bars, restaurants and other premises. A supervisory board supervises a specific activity or range of activities. For example, the Electoral Affairs Commission supervises and monitors public elections in Hong Kong.

11. Appeal boards usually perform a semi-judicial function by adjudicating on appeals. Examples include the Hong Kong War Memorial Pensions Appeal Board and the Licensing Appeals Board.

12. Trusts are bodies set up to hold and control property for the benefit of named beneficiaries or for stated purposes. Examples include Board of Trustees of the Sir Edward Youde Memorial Fund and the Li Po Chun Charitable Trust Fund Committee.

13. Public corporations are commercial entities set up by law to provide goods or services. They are usually created by transferring the assets of a government department into a corporate structure. For example, the Kowloon-Canton Railway Corporation was established in this way.

14. Miscellaneous bodies are boards and committees which cannot readily be grouped in any of the above categories, such as university councils.

APPROACH

15. A two-stage approach is used for this review. As the first stage of this review, the Home Affairs Bureau has commenced an overall review of the existing system of advisory and statutory bodies. The objective is to identify issues and problems. After considering these issues and problems, a set of guiding principles for conducting a detailed review will be recommended.

16. During the second stage, individual bureaux will conduct an in-depth review of the advisory and statutory bodies under their purview on the basis of the recommended guiding principles.

GUIDING PRINCIPLES

17. The issues and concerns under consideration are:

(a) Accountability of principal officials

Accountability rests with principal officials who are responsible for the policies of the day. Under this accountability system, principal officials should be responsible for making appointments to (or recommending appointments to) advisory and statutory bodies and for monitoring their work. They should be ultimately accountable for the advisory and statutory bodies under their purview (the accountability principle).

The role of the Home Affairs Bureau is to provide technical and logistical support to other bureaux and to act as the Government spokesman on advisory and statutory bodies in general.

As regards advisory bodies, the basic principle is that such bodies should provide independent expert advice and community input in the policy-making process. As regards statutory bodies, the basic principle is that such bodies should not detract from the role, authority, responsibility and accountability of principal officials. The role and responsibilities of principal officials with regard to advisory and statutory bodies is being examined in this review.

(b) Delaying and restructuring

Existing advisory and statutory bodies should be delayed and restructured so as to simplify the system and to avoid duplication of work (the rationalisation principle). Each advisory/statutory body should be reviewed to see whether it should retain its current status or be abolished, reorganised or merged.

(c) Appointment process

As far as practicable, appointment criteria should be set before the appointment process is under way. All candidates put to the appointing authority (e.g. the Chief Executive or the Chief Secretary for Administration) should meet the appointment criteria set down (the pre-set criteria principle).

(d) Appointment on merit

The overriding principle should be that the candidate most suitable for the post be appointed (the merit principle). However, the selection criteria can take into account the need to maintain a balance of skills and background.

(e) Remuneration for chairmen/members of advisory and statutory bodies

There is now a set of guidelines on the payment of honoraria/allowances to chairmen/members of advisory and statutory bodies. The basic principle is that the service of non-official members is voluntary and, as a general rule, unpaid (the voluntary service principle). This principle should continue to be used.

(f) Equal opportunities

The principle of equal opportunity should be adopted. Individuals from all sectors of the community should be able to participate in the work of advisory and statutory bodies. When making appointments, care should be taken not to discriminate on the grounds of gender, age, race, disability, religion, marital status, sexual orientation or social background (the equal opportunity principle).

(g) Participation of women

Bureaux should take action to ensure that both men and women who are suitable for appointment should have an equal opportunity to be appointed to advisory and statutory bodies. The ratio of women

members in such bodies is low at present. Steps should be taken to promote the participation of women in advisory and statutory bodies. While no quota would be set, at least 25% of either gender has been suggested for the purpose of benchmarking (the 25% benchmark).

(h) Declaration of interests of members

Every advisory or statutory body should put in place a system for its members to declare and register interests, particularly financial interests and membership of societies (the declaration of interests principle).

Members of advisory and statutory bodies should take care to avoid conflict of interest (the conflict of interest principle).

(i) Openness and transparency

In order to gain public confidence, the work of advisory and statutory bodies should be open and transparent. Advisory and statutory bodies should be transparent in its decision-making process (the transparency principle). The agenda and papers of advisory and statutory bodies, if not classified, should be made available upon request. More use should be made of the websites of bureaux.

(j) 6-year rule

As a general rule, a member should not serve more than 6 years in an advisory or statutory body (the 6-year rule). This is to ensure that there is a turnover of members in an advisory or statutory body.

(k) 6-board rule

As a general rule, a person should not serve as a member on more than 6 advisory/statutory committees (the 6-board rule). This is to ensure that a member does not take on more than he or she can practically handle.

(l) Proportionality

On the basis of the findings and conclusions of the review, guiding principles would be set. Bureaux should have the flexibility to adopt measures which they consider to be most suitable and effective for the advisory and statutory bodies under their purview. However, any exception to the principles should be proportional to the special circumstances of the case (the proportionality principle).

WAY FORWARD

18. The Home Affairs Bureau plans to complete the first-stage review by June this year. During the second-stage review, individual bureaux will be asked to conduct a review of the advisory and statutory bodies under their purview in accordance with the recommended guiding principles.

PRACTICES OVERSEAS

19. The system of advisory and statutory boards in Hong Kong is similar to that in other jurisdictions in some aspects and different in others. This is mainly due to different historical, social and political circumstances. In the course of the first-stage review, reference will be taken of good practices in other jurisdictions.

ADVICE SOUGHT

20. Members are invited to comment on the proposals set out in this paper.

Home Affairs Bureau
2 April 2003