

LCQ2: Influence of offices set up in Hong Kong by departments of the Central People's Government

Following is a question by the Hon Gary Fan and a reply by the Secretary for Constitutional and Mainland Affairs, Mr Patrick Nip, in the Legislative Council today (June 13):

Question:

It has been reported that two companies under Guangdong Xin Wenhua, which is a company wholly owned by the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG), have full control of three major bookstore chains, namely Joint Publishing (H.K.), Chung Hwa Book Co. and The Commercial Press, as well as a number of publishers and publications distributors in Hong Kong, with a market share as high as 80 per cent. In this connection, will the Government inform this Council:

(1) as Article 22 of the Basic Law (BL) stipulates that "(n)o department of the Central People's Government ... may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law", whether the Government has assessed if LOCPG-owned companies' conducting business in Hong Kong and impacting on the environment of the local publishing industry have constituted a violation of that provision; if it has assessed, of the outcome;

(2) given that the three major bookstore chains indirectly held by LOCPG have dominated Hong Kong's publication market (especially in the business area of publishing teaching materials and children's educational books) and those chains have refused to sell in their bookstores books relating to the Umbrella Movement, democratic movements and the relevant subjects, whether the Government has assessed if the freedom of publication enjoyed by Hong Kong residents under Article 27 of the BL has been undermined by the aforesaid situation; and

(3) whether the Government will discuss with the Central People's Government if it is necessary to draw up criteria for regulating the conducting of business in Hong Kong by the offices set up in Hong Kong by the Central Government and companies under them?

Reply:

Acting President,

Having consulted the Department of Justice, our consolidated reply to the Hon Gary Fan's question is as follows:

According to Article 12 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the Basic Law), the Hong Kong Special Administrative Region (the HKSAR) shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government (the CPG). Article 2 of the Basic Law stipulates that the National People's Congress authorises the HKSAR to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of the Basic Law.

At the same time, Article 22 of the Basic Law stipulates that no department of the CPG and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the HKSAR administers on its own in accordance with the Basic Law. If there is a need for departments of the Central Government, or for provinces, autonomous regions, or municipalities directly under the Central Government to set up offices in the HKSAR, they must obtain the consent of the government of the Region and the approval of the CPG. All offices set up in the HKSAR by departments of the Central Government, or by provinces, autonomous regions, or municipalities directly under the Central Government, and the personnel of these offices shall abide by the laws of the Region.

Currently, the Central Government has set up three institutions in the HKSAR, including the Liaison Office of the Central People's Government in the HKSAR (the LOCPG), the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR (the OCMFA), and the Hong Kong Garrison of the Chinese People's Liberation Army (the Garrison). Since the establishment of the HKSAR, the HKSAR Government and the offices set up by the CPG in the HKSAR have been acting in strict accordance with the basic policies of "one country, two systems", "Hong Kong people administering Hong Kong" and a high degree of autonomy, as well as complying with the provisions of the Basic Law in performing their respective duties.

The question refers to the functions and roles of the LOCPG. As stated in its official website, the LOCPG is an office set up by the CPG in the HKSAR. Its main functions include liaising with the OCMFA and the Garrison; liaising with and assisting relevant Mainland departments to manage Chinese organisations in Hong Kong; promoting economic, educational, scientific and technological, cultural and athletic exchanges and co-operation between Hong Kong and the Mainland; liaising with various sectors of the community of Hong Kong to enhance exchanges between the Mainland and Hong Kong; and reflecting the views of Hong Kong residents on the Mainland, etc. The work of the offices set up by the Central Government in the HKSAR is determined by the Central Authorities. As long as the LOCPG is carrying out its work in accordance with its operation and functions and which complies with law, we will not interfere with the LOCPG's work. We believe that the LOCPG will, as always, follow the laws of HKSAR in accordance with the requirement stipulated in Article 22 of the Basic Law.

Regarding the LOCPG's ownership of bookstores and publishing companies, and being a publications distributor, as far as I understand, Joint

Publishing (H.K.), Chung Hwa Book Co. and The Commercial Press are companies under Sino United Publishing (Holdings) Limited, which is a local enterprise registered and operated in accordance with the laws of Hong Kong. The HKSAR Government will not interfere with any bookstore, publishing company or publications distributor which are operating in accordance with law.

Regarding the question on the freedom of publication, the HKSAR Government has always strived to protect the freedoms provided for Hong Kong residents under Article 27 of the Basic Law, including the freedom of publication. The setting up and operations of bookstores, publishing companies and publications distributors in Hong Kong by individuals or companies are purely business operations; the market share of individual bookstores, publishing companies or publications distributors is also a result of free market. I understand that there are many different ways to publish books and publications in Hong Kong. The HKSAR Government will ensure that Hong Kong is an open market for publishing activities, and will not interfere with lawful publishing of books and publications. Hong Kong is an international metropolis where East meets West. The publishing market has always been diverse, with enterprises from the Mainland, Taiwan, Europe, the United States and elsewhere, in addition to local ones. There are physical bookstores of different sizes as well as various online channels for people to purchase and read books and publications of different genres from different parts of the world through various channels at their own will. As for the mechanism of selecting books for sale by individual bookstores, it is entirely an independent act based on business considerations of each individual bookstore, and is a process which the Government will not and cannot participate in; otherwise, it will constitute an interference. This is precisely what the Government is doing to uphold Article 27 of the Basic Law to protect the freedom of publication. The freedom of press, of speech and of publication, etc. are important elements in maintaining Hong Kong's position as an international metropolis. The HKSAR Government will definitely continue to protect these important rights.

Thank you Acting President.

LCQ10: Eligibility for receiving Old Age Allowance

Following is a question by the Hon Leung Che-cheung and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (June 13):

Question:

Regarding the eligibility for receiving the Old Age Allowance (OAA),

will the Government inform this Council:

(1) as the current eligibility criteria for OAA include the requirement that the applicant must have resided in Hong Kong continuously for at least one year immediately before the date of application, but those elderly people who have moved to reside in Guangdong or Fujian Provinces are not required to meet the requirement, whether it knows the number of Hong Kong elderly people residing in other provinces of the Mainland in each of the past three years who were ineligible for receiving OAA due to their failure to meet the requirement; and

(2) whether it will consider afresh lowering the age threshold for receiving OAA from 70 to 65, and whether it has assessed (i) the number of elderly people aged between 65 and 69 to be benefited and (ii) the implication on the public expenditure, as a result of the implementation of this measure?

Reply:

President,

The current social security system (including the Comprehensive Social Security Assistance Scheme and various allowances under the Social Security Allowance (SSA) Scheme) is non-contributory and entirely funded by the Government's general revenue, which involves substantial public funds. My reply to the Member's question is as follows:

(1) The non-means-tested Old Age Allowance (OAA; currently at \$1,345 per month) under the SSA Scheme provides cash allowance to eligible elderly persons aged 70 or above to meet their special needs arising from old age. There are pre-application residence requirements under the SSA Scheme, including the requirement that an applicant must have resided in Hong Kong for at least one year (with a grace period of 56 days in the year) immediately before the date of application (one-year continuous residence (OYCR) in Hong Kong requirement). Separately, there is also residence requirement during receipt of allowance. The above requirements ensure that the relevant payments are only granted to Hong Kong residents who have a long-term connection with Hong Kong, so as to ensure long-term sustainability of the social security system.

The Government appreciates that some Hong Kong elderly persons, especially those who came to Hong Kong from the Mainland at a younger age, may choose to reside on the Mainland after their retirement. To provide assistance to these elderly persons, the Government launched the Guangdong Scheme and Fujian Scheme in October 2013 and April 2018 respectively to enable eligible Hong Kong elderly persons who choose to reside in Guangdong or Fujian to receive OAA without having to return to Hong Kong every year (to fulfil the residence requirement during receipt of allowance). The above arrangement is only applicable to eligible elderly persons residing in Guangdong and Fujian mainly because there are more Hong Kong people residing in these two provinces. In terms of geographical proximity and community bonding, elderly persons residing in Guangdong and Fujian could maintain a

close connection with their relatives and friends in Hong Kong and more readily obtain support. Moreover, the two provinces are uniquely and closely connected with Hong Kong on the social, economic and transport fronts.

Under the above OYCR in Hong Kong requirement, elderly persons who have already resided in Guangdong or Fujian need to return to and stay in Hong Kong for one year in order to meet the eligibility criteria of the Guangdong Scheme/Fujian Scheme. To facilitate these elderly persons, the Government has implemented a special one-off arrangement under the Guangdong Scheme and Fujian Scheme to allow applicants who have resided in Guangdong/Fujian continuously for one year (with a grace period of 56 days in the year) immediately before the date of application to benefit from the Guangdong Scheme/Fujian Scheme without the need to comply with the OYCR in Hong Kong requirement, provided that they have met all other eligibility criteria. Under the Guangdong Scheme, the special one-off arrangement was introduced in the first year of implementation (i.e. from October 1, 2013 to September 30, 2014) and has been relaunched on July 1, 2017 (which will last until June 30, 2018). Under the Fujian Scheme, the special one-off arrangement is implemented in its first year (i.e. from April 1, 2018 to March 31, 2019).

Regarding Member's request for information, the Social Welfare Department does not maintain the number of Hong Kong elderly people residing in other provinces/municipalities of the Mainland who were ineligible for receiving OAA because of the OYCR in Hong Kong requirement.

(2) In view of an ageing population, the Government has to ensure prudent use of public funds in order to provide targeted support for needy elderly persons. According to the Census and Statistics Department's projection, excluding foreign domestic helpers, the number of elderly persons aged 70 or above would increase from about 0.77 million in 2016 by over a million to about 1.86 million in 2036. In 2066, the number of elderly persons aged 70 or above is projected to reach 2.18 million, which is about three times of that in 2016. In the face of a growing elderly population, the number of OAA beneficiaries and public funds involved would continue to increase. Having considered the sustainability of the social security system, the Government has no plan to lower the age requirement of OAA.

LCQ9: Specialised crowd management vehicles

Following is a question by the Hon Claudia Mo and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (June 13):

Question:

It has been reported that all of the three specialised crowd management vehicles (commonly known as "water cannon vehicles") purchased by the Police with a budget of \$27 million will be delivered to Hong Kong by the end of this month. In this connection, will the Government inform this Council:

(1) of the implications of the introduction of water cannon vehicles on the Police's staffing establishment and operational arrangements, and the details of the public money involved;

(2) whether the Police have completed the formulation of a code on the use of water cannon vehicles and guidelines for operating them; if so, of the details; if not, the reasons for that;

(3) as some members of the public are worried about the abusive use of the water cannon vehicles by the Police, whether the Police will make reference to the practices of foreign countries and make public the code on the use of water cannon vehicles and guidelines for operating them, in order to enable the public to monitor the use of water cannon vehicles by the Police; if not, of the reasons for that; and

(4) whether the Police, at present, have plans to acquire other new accoutrements for handling the various types of public events; if so, of the details?

Reply:

President,

Hong Kong residents enjoy the freedom of and the right to lawful assembly, procession and demonstration. The Police have been handling all public order events in a fair, just and impartial manner in accordance with the law of Hong Kong. It has been the established policy of the Police to endeavour to strike a balance between facilitating the smooth conduct of lawful and peaceful public meetings and processions on the one hand, while on the other, minimising the impact of such events on members of the public and road users, as well as ensuring public order and public safety. The Hong Kong Special Administrative Region (HKSAR) Government has been urging participants of public order events to remain law-abiding, peaceful and orderly when expressing their views and refrain from behaviour that is detrimental to public order or violent.

My reply to the various parts of the question is as follows:

(1) to (3) Having reviewed their past experience, the Police considered it necessary to enhance the equipment for effectively handling large-scale and prolonged public assemblies that are held simultaneously at various places and illegal behaviours that may occur on such occasions. The Police were granted funding in 2015-16 for procuring three specialised crowd management vehicles (SCMV) with water spray devices in order to handle riots or illegal

acts that may occur during large-scale and prolonged public assemblies more effectively.

The SCMV will be equipped with public address systems to effectively give advice, warnings or other messages to the protestors. The vehicles can also effectively disperse persons who stage violent charging acts, create a safe distance between these persons and police officers, reduce the chance of injury to them and police officers, and provide the Police with an additional operational option.

The first SCMV was delivered to Hong Kong in mid-May this year and the remaining two will be delivered within this month at the earliest. The vehicles will be first transferred to the manufacturer for assembly and the Electrical and Mechanical Services Department for examination to ensure that they are in compliance with the electrical and mechanical safety standards, and then delivered to the Police for testing and training. It is expected that the vehicles can be put into operation by the end of this year at the earliest.

Although overseas law enforcement agencies of such countries as France, Germany, Belgium and Korea have already used similar vehicles when handling large-scale public assemblies or riots, it is the first time SCMV are introduced to Hong Kong. As such, we understand that the public may have concerns about SCMV.

The HKSAR Government respects the public's rights and freedoms of peaceful assemblies, processions and expression of views, but participants of public order events, when expressing their opinions, must abide by the law, act in a peaceful and orderly manner, and refrain from any illegal or violent act. If there is any illegal act, violent act or act that is detrimental to public order and public safety, the Police have the responsibility to assess the circumstances at the scene and exercise professional judgement, and take appropriate actions to ensure that public order and public safety remain unaffected.

Same as the principle of the Police's guidelines on the use of force, SCMV shall only be used when it is absolutely necessary for the Police to achieve a lawful purpose. Police officers shall, before using such vehicles and when circumstances permit, give warning of their intention to use them, and the persons involved shall be given every opportunity, whenever practicable, to obey police orders. Police officers will definitely exercise restraint at all times when using such vehicles. The Police will cease using them once the purpose has been achieved.

The Police are now drafting the guidelines and training programmes for the use of SCMV in a thorough and prudent manner so as to ensure that instructors and operators can have a firm grasp of the performance and operation of the vehicles and manoeuvre them effectively and safely to support operational deployments. The Police will require all operators to have received the relevant driving, operation and safety training before they operate the vehicles and strictly follow the code and guidelines concerned.

Besides, the Police will arrange for the vehicle manufacturer to provide training and demonstration for the relevant officers and consider sending officers to some overseas countries to exchange experiences on the use of SCMV's with law enforcement agencies there.

The Police Tactical Unit will be responsible for staff training and arrangements in relation to the SCMV's. Since the guidelines for the use of the vehicles involve operational details and the Police's tactical deployments, it is not appropriate for disclosure or else it may undermine the capability and efficacy of Police operations.

(4) According to the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, law enforcement agencies should develop a range of means and instruments as broad as possible for handling different situations. The Police will from time to time review, procure and replace the accoutrements of police officers to ensure that various kinds of actual operational needs can be met.

Red flag hoisted at Shek O Beach

Attention TV/radio announcers:

Please broadcast the following as soon as possible:

Here is an item of interest to swimmers.

The Leisure and Cultural Services Department announced today (June 13) that the Environmental Protection Department has classified the water quality at Shek O Beach in Southern District, Hong Kong Island as Grade 4, which means the beach is not suitable for swimming. The red flag has been hoisted. Beach-goers are advised not to swim at the beach until further notice.

The red flag was hoisted at the beach earlier due to big waves.

LCQ11: Statistics on organ or tissue transplant operations

Following is a question by the Dr Hon Pierre Chan and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (June 13):

Question:

Regarding the statistics on organ/tissue transplant operations, will the Government inform this Council whether it knows:

- (1) the respective numbers of donors and recipients in respect of the transplant operations, performed in public hospitals in each of the past 10 years on each kind of organs/tissues, including the transplants of liver (living, cadaveric), kidney (living, cadaveric), heart, cornea, skin, bone, bone marrow and lung;
- (2) the respective numbers of children and adults receiving various kinds of organ/tissue transplants, as well as the medical expenses incurred for each kind of organ/tissue transplant operations, in each of the past 10 years; and
- (3) the details of funding received, in each of the past 10 years, by the specialties/centres responsible for performing organ/tissue transplant operations at the Queen Mary Hospital, Prince of Wales Hospital, Pamela Youde Nethersole Eastern Hospital, Tuen Mun Hospital, Kwong Wah Hospital, Queen Elizabeth Hospital, Hong Kong Eye Hospital and Grantham Hospital?

Reply:

President,

My reply to the various parts of the Dr Hon Pierre Chan's question is as follows:

(1) The numbers of human organ/tissue donations for transplant handled by the Hospital Authority (HA) from 2008 to 2017 are tabulated below:

Organ/Tissue Donation (Case)	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Kidney										
Cadaveric	65	87	74	59	84	70	63	66	60	61
Living	12	8	7	8	15	12	16	15	18	17
Kidney (total)	77	95	81	67	99	82	79	81	78	78
Liver										
Cadaveric	26	43	42	30	45	38	36	36	37	40
Living	42	41	53	44	33	34	27	23	36	34
Liver (total)	68	84	95	74	78	72	63	59	73	74
Other organs (Cadaveric)										
Heart	6	10	13	9	17	11	9	14	12	13
Double Lung	1	2	2	1	3	2	4	13	8	12
Single Lung	0	0	0	0	0	2	0	0	1	1

Cornea (piece)	211	203	250	238	259	248	337	262	276	367
Skin	19	17	23	21	6	4	9	10	10	11
Bone	1	0	6	0	3	3	1	4	1	3
Total	383	411	470	410	465	424	502	443	459	559

Note: Cases of skin and bone transplant are spontaneous and urgent in nature. Substitutes will be used if suitable skin or bone is not available for transplant.

(2) and (3) The HA does not keep a statistical breakdown of organ/tissue recipients by age group.

The HA's organ transplant service is provided in a team approach. Members of the team include Organ Donation Coordinators and multi-disciplinary professionals from specialties such as Medicine, Intensive Care Unit, Surgery, Anaesthesia and laboratories. The scope of service covers care for organ recipients, identification of organ donors, life support for brain-dead patients, counselling for donors' families, organ transplant operations and post-operative care. Hence, separate breakdowns of expenditure on or funding for organ/tissue transplant operations for individual hospitals are not available.