

立法會
Legislative Council

LC Paper No. CMI/142/04-05

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Committee on Members' Interests

**Minutes of the third meeting
held on Monday 27 June 2005 at 8:30 am
in Conference Room B of the Legislative Council Building**

Members present : Hon SIN Chung-kai, JP (Deputy Chairman)
Hon Emily LAU Wai-hing, JP
Hon Albert Jinghan CHENG

Members absent with apologies Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP (Chairman)
Hon Abraham SHEK Lai-him, JP
Hon LI Kwok-ying, MH
Hon Alan LEONG Kah-kit, SC

Clerk in attendance : Mrs Betty LEUNG
Chief Council Secretary (3)1

Staff in attendance : Mr Ricky FUNG, JP
Secretary General

Mr Ray CHAN
Assistant Secretary General 3

Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Watson CHAN
Head (Research and Library Services)

Mr Thomas WONG
Research Officer 4

Mr Arthur LEUNG
Senior Council Secretary (3)1

Action

I. Confirmation of the Minutes of the last meeting held on 19 April 2005
(LC Paper No. CMI/134/04-05)

In the absence of the Chairman of the Committee on Members' Interests (the Committee), the Deputy Chairman chaired the meeting. The minutes of the Committee's last meeting held on 19 April 2005 were confirmed.

II. Review of the “Advisory Guidelines on Matters of Ethics in relation to the conduct of Members of the Legislative Council of the Hong Kong Special Administrative Region in their capacity as such”

(LC Paper No. CMI/135/04-05)

2. The Deputy Chairman invited members' views on the amendments proposed by the Legislative Council (LegCo) Secretariat to the Advisory Guidelines on Matters of Ethics in relation to the conduct of Members of the Legislative Council of the Hong Kong Special Administrative Region in their capacity as such (Advisory Guidelines), as set out in LC Paper No. CMI/135/04-05, and reproduced below:

- (a) to add “be cautious and alert” to paragraph I(1)(a) so that it would read: a Member should be cautious and alert to ensure that his conduct must not be such as to bring discredit upon the Legislative Council;
- (b) to add “according to commonsense and the strictest rules” to the first sentence of paragraph I(1)(b) so that it would read: a Member should conduct himself according to commonsense and the strictest rules in such a way as not to place himself in a position which may be contrary to the generally assumed standard of conduct expected of a Member of the Council;
- (c) to add new paragraph II(8) which read: a Member should ensure that the personal information (e.g. qualifications) he provides to the Council is correct and true; and
- (d) to add new paragraph II(9) which read: a Member should not use the stationery on which his title as Member of the Legislative Council is printed to conduct non-Council business.

3. Ms Emily LAU said that she was agreeable to the proposed amendments. She also considered that any LegCo Member should not use stationery bearing his title as a LegCo Member in conducting non-Council business, as the recipients of such letters might feel that the Member concerned was trying to exert pressure on them by drawing their attention to his capacity as a Member.

4. Mr Albert CHENG said that Members' behaviours were already monitored by their voters and the media. He disagreed with the proposed additions to paragraphs I(1)(a) and (b) of the Advisory Guidelines. He stated that different people would have different views on whether a Member's conduct was "cautious" and "according to commonsense". He feared that some Members might, on the premise that a Member had breached the guidelines in the Advisory Guidelines, move a motion to censure that Member. He himself had been criticized by some Members as having brought discredit upon the LegCo for having taken steps to oppose the listing of The Link Real Estate Investment Trust. He enquired if a motion could be moved by some Members to censure him for such acts. Senior Assistant Legal Adviser 1 replied that the Advisory Guidelines were advisory in nature and no sanctions were laid down for breaches of the guidelines therein. However, in accordance with Article 79(7) of the Basic Law, a Member might be censured for misbehaviour by a vote of two-thirds of the Members present on a motion to that effect.

5. Mr Albert CHENG said that he agreed to the proposed new paragraph II(8) but not paragraph II(9). He said that if restriction was imposed on a Member's use of stationery bearing his title as a LegCo Member for fear that doing so would exert undue pressure on the recipients, then, for the same reasoning, the use of name cards bearing such title should also be restricted. He considered the imposition of such restrictions unreasonable. In any case, recipients of Members' letters would be aware of their capacity as Members, irrespective of whether or not such stationery had been used.

6. The Deputy Chairman said that his views were broadly similar to Mr Albert CHENG's. He considered that the proposed additions to paragraphs I(1)(a) and (b) were unnecessary, and that not all the political acts done by Members were "according to commonsense". He agreed to the addition of proposed paragraph II(8), which would enhance the transparency of Members' work. As regards paragraph II(9), he considered that it was not always easy to tell if a Member was conducting Council business.

7. Ms Emily LAU proposed that all Members be consulted on the proposed amendments to the Advisory Guidelines. Mr Albert CHENG considered that the Committee could decide on its own. As four of the seven members of the Committee were not present at the meeting, the Deputy Chairman proposed that all Committee members be consulted, by circulation, on the proposed amendments, and if the majority of members favoured them, the Committee could then proceed with consultation with all LegCo Members. While agreeing that the views of all Committee members be sought, Mr Albert CHENG considered it unnecessary to consult all Members thereafter. Ms Emily LAU sought the views of the Secretariat on this. The clerk replied that, as set out in Rule 73(1)(d) of the Rules of Procedure, one of the terms of reference of the Committee was to issue to Members guidelines on matters of ethics in relation to the conduct of Members in their capacity as such. After reaching a consensus on the guidelines, the Committee might decide if Members should be consulted before their issue. Assistant Secretary General 3 (ASG3)

added that members of the Committee were nominated on the basis that the composition of Committee would be broadly representative of the political groupings of all LegCo Members. As such, members of the Committee could consult Members of their respective political parties before taking their stance at the Committee's meetings. Ms Emily LAU then agreed that the views of members should be sought by circulation. She also suggested that members be reminded that they should consult Members of their respective political parties before filing their returns, and that the Committee would decide how to amend the Advisory Guidelines without further consultations with all LegCo Members. The Deputy Chairman said that for business conducted at open meetings of the Committee, members of the Committee were expected to have consulted Members of their respective political parties before attending the Committee's meetings, and if they had done so, it would be unnecessary to further consult all Members. The meeting then decided that the views of all Committee members be sought by circulation.

clerk

III. Review of the registration requirements for remunerated directorships

(Information Note: IN36/04-05)

8. The Deputy Chairman sought members' views on whether the registration requirements for remunerated directorships should be tightened, having regard to the need to maintain a balance between the transparency of registration of interests and the privacy of Members.

9. As invited by the Deputy Chairman, Head (Research and Library Services) briefed members of the registration requirements for remunerated directorships in respect of the legislatures in the United Kingdom, United States (US) and Canada, as set out in Information Note IN36/04-05. In US, Members were not allowed to serve as a paid board member of any organization, including a non-profit organization. In UK, Members were only required to register the name of any public or private company in which they held remunerated directorship and the nature of the company's business. However, they were not required to register the amount of remuneration received for directorships. In Canada, Members were required to file a disclosure statement indicating not only the source and nature but also the value of income or benefits arising from a business or profession. However, the amounts of such income or benefits were not made available to the public. In response to the Deputy Chairman's question on the reasons for not making such information accessible to the public, Research Officer 4 said that he had raised the question with the Secretariat of the Canadian Parliament but a reply was still being awaited.

10. Mr Albert CHENG said that after perusing the Information Note prepared by the Research and Library Services Division, he considered that Members should be required to register not only the amount of benefits received from directorships but also other income from any part-time work, so as to reveal any benefits which business consortia provided to Members by appointing them as directors or hiring them for non-professional consultancy services. Members

should also be required to register the names of the parent companies of the companies in which they held remunerated directorships. The Deputy Chairman said that none of the three selected legislatures set out in the Information Note had stipulated requirements for public disclosure of the amount of income derived from remunerated directorships. Mr Albert CHENG responded that he considered the rules of the US Congress most stringent, as they prohibited the taking up of any remunerated directorships. Hence, if the Hong Kong LegCo adopted a registration requirement for the income derived from directorships, it should not be regarded as too harsh.

11. Ms Emily LAU said that she generally favoured any proposals which would increase the transparency of Members' interests. However, the Administration took the view that the office of a LegCo Member should be regarded as public service, rather than paid work. The prohibition on taking up any remunerated directorships could be implemented only when all Members had become full-time. As this was a complex issue, she considered that this could not be resolved in the near future.

12. Mr Albert CHENG proposed that the views of all Committee members be sought on whether they would, after consulting Members of their respective political parties, agree that Members be required to register:

- (a) the amount of income derived from remunerated directorships; and
- (b) the names of the parent companies of the companies in which they held remunerated directorships.

clerk

Members agreed.

IV. Consideration of the recommendations of the Subcommittee to Consider a Mechanism for Handling Complaints and Allegations Concerning Members' Operating Expenses Reimbursement Claims

(LC Paper No: AS335/04-05)

13. The Deputy Chairman invited Ms Emily LAU, Chairman of the Subcommittee to Consider a Mechanism for Handling Complaints and Allegations Concerning Members' Operating Expenses Reimbursement Claims (Sub-committee), to brief members on the Sub-committee's recommendations, as set out in LC Paper No. AS335/04-05. Ms Emily LAU said that the Sub-committee recommended that:

- (a) a mechanism for handling complaints and allegations concerning Members' Operating Expenses Reimbursement (OER) claims should be established;

- (b) the scope of the mechanism should be confined to Members' OER claims; and
- (c) the existing terms of reference of the Committee should be expanded so that it may also handle complaints and allegations concerning Members' OER claims.

The Sub-committee had considered the option of forming select committees to handle such complaints as and when they were received. The conclusion was that efforts in setting up select committees would be wasted, if the complaints were subsequently found to be frivolous or unfounded. The Sub-committee considered that the Committee, which was a standing committee and composed of Members from various political groupings, was most suitable in handling complaints relating to OER claims.

14. Ms Emily LAU informed members that three other members of the Committee, namely, Hon Abraham SHEK, Hon LI Kwok-ying and Hon Alan LEONG, who were not present at the meeting and who were also members of the Sub-committee, had agreed that the Committee's terms of reference be expanded. Mr Albert CHENG said that he also agreed. The Deputy Chairman concluded that the meeting agreed in principle that the Committee should take up the additional duties of handling complaints concerning OER claims. Ms Emily LAU proposed that, on behalf of the Committee, the Deputy Chairman report its decision to House Committee at its meeting on 8 July. Members agreed and asked the clerk to inform the clerk to the House Committee accordingly.

15. Secretary General said that it would be straightforward to propose amendments to expand the Committee's terms of reference under the Rules of Procedure. The Deputy Chairman requested the LegCo Secretariat to draft amendments to the Rules of Procedure for the Committee's consideration at its next meeting. The Committee would also consider the basis on which such complaints and allegations might be dealt with, as well as the appropriate sanctions for substantiated complaints. Depending on the work of the Committee, he hoped that proposed resolution to amend the Rules of Procedure could be submitted to the Council for approval in late October 2005. ASG3 said that the LegCo Secretariat would start work on the procedure for handling complaints relating to OER claims during the Summer recess. Ms Emily LAU said that experience might be drawn from the handling of Hon James TO's case and the Secretariat should set out various options, including possible sanctions, for members to consider. Mr Albert CHENG suggested that the imposition of fines could be one of the sanctions.

V Date of next meeting

16. Members agreed that the next meeting should be held in late September 2005, and the exact date would be scheduled later.

Deputy
Chairman,
clerk

17. The meeting ended at 9:30 am.

Council Business Division 3
Legislative Council Secretariat
29 June 2005