

立法會  
*Legislative Council*

LC Paper No. CB(2) 16/09-10

Ref : CB2/H/5/08

**House Committee of the Legislative Council**

**Minutes of the 32nd meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 9 October 2009**

**Members present :**

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)  
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon LEE Cheuk-yan  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Dr Hon Margaret NG  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon CHAN Kam-lam, SBS, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Hon LEUNG Yiu-chung  
Hon WONG Yung-kan, SBS, JP  
Hon LAU Kong-wah, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Andrew CHENG Kar-foo  
Hon TAM Yiu-chung, GBS, JP  
Hon LI Fung-ying, BBS, JP  
Hon Tommy CHEUNG Yu-yan, SBS, JP  
Hon Albert CHAN Wai-yip  
Hon Frederick FUNG Kin-kee, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Vincent FANG Kang, SBS, JP  
Hon WONG Kwok-hing, MH  
Hon LEE Wing-tat  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon CHEUNG Hok-ming, GBS, JP  
Hon WONG Ting-kwong, BBS, JP

Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon KAM Nai-wai, MH  
Hon Cyd HO Sau-lan  
Dr Hon LAM Tai-fai, BBS, JP  
Hon CHAN Hak-kan  
Hon Paul CHAN Mo-po, MH, JP  
Hon CHAN Kin-por, JP  
Hon Tanya CHAN  
Dr Hon Priscilla LEUNG Mei-fun  
Dr Hon LEUNG Ka-lau  
Hon CHEUNG Kwok-che  
Hon WONG Sing-chi  
Hon WONG Kwok-kin, BBS  
Hon WONG Yuk-man  
Hon IP Wai-ming, MH  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-yea, GBS, JP  
Dr Hon PAN Pey-chyou

**Members absent :**

Dr Hon Philip WONG Yu-hong, GBS  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon LEUNG Kwok-hung  
Hon Starry LEE Wai-king  
Hon Paul TSE Wai-chun  
Dr Hon Samson TAM Wai-ho, JP

**Clerk in attendance :**

Mrs Vivian KAM Clerk to the House Committee

**Staff in attendance :**

Ms Pauline NG	Secretary General
Mr Arthur CHEUNG	Acting Legal Adviser
Mrs Constance LI	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General (Special Duty)
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Andy LAU	Acting Principal Council Secretary(Administration)

Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Arthur LEUNG	Chief Council Secretary (3)1
Mr Timothy TSO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Clara TAM	Assistant Legal Adviser 9
Ms Amy YU	Senior Council Secretary (2)3
Mr Ringo LEE	Senior Legislative Assistant (2)1
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

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**I. Confirmation of the minutes of the 31st meeting held on 10 July 2009**  
(LC Paper No. CB(2) 2596/08-09)

The minutes were confirmed.

**II. Matters arising**

**Report by the Chairman on her meeting with the Chief Secretary for Administration**

2. The Chairman said that there was nothing special to report.

**III. Legal Service Division report on subsidiary legislation gazetted between 10 July and 2 October 2009**  
(LC Paper No. LS 122/08-09)

3. The Chairman said that a total of 11 items of subsidiary legislation, including four Commencement Notices and three items which were not required to be tabled in the Legislative Council (LegCo), were gazetted between 10 July and 2 October 2009. Of these, eight items would be tabled in LegCo on 14 October 2009. As regards the three items of subsidiary legislation not required to be tabled in LegCo, i.e. the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Amendment of Schedule 1) Notice 2009, the Western Harbour Crossing Ordinance (Amendment of Schedule 1) Notice 2009 and the Volunteer and Naval Volunteer Pensions Ordinance (Amendment of Schedules) Order 2009, they were not subject to amendment by LegCo.

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4. Members did not raise any queries on these items of subsidiary legislation.

5. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation (except the subsidiary legislation not required to be tabled in LegCo) was 11 November 2009.

**IV. Business for the Council meeting on 14 October 2009**

**(a) The Chief Executive's Policy Address**

6. The Chairman said that the Chief Executive (CE) would deliver his Policy Address at the Council meeting on 14 October 2009.

7. The Chairman further said that she would request the Administration to provide by noon on Thursday, 15 October 2009, the proposed grouping of policy areas for the debate on the Motion of Thanks to be held at the Council meeting of 28, 29 and 30 October 2009. The House Committee would discuss the Administration's proposed grouping at its meeting on 16 October 2009.

**(b) Government motion**

**Proposed resolution to be moved by the Secretary for the Environment under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 17/09-10 dated 8 October 2009.)*

8. The Chairman said that the relevant Subcommittee would make a report under agenda item VII(b) below.

**V. The Chief Executive's Question and Answer Session on 15 October 2009**

9. The Chairman said that the CE's Question and Answer Session would be held from 3:00 pm to 4:30 pm, and CE would answer questions on his Policy Address.

**VI. Business for the Council meeting on 21 October 2009**

**(a) Questions**

*(LC Paper No. CB(3) 12/09-10)*

10. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the meeting.

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**(b) Bills - First Reading and moving of Second Reading**

**Telecommunications (Amendment) Bill 2009**

11. The Chairman said that the Administration had given notice to present the above Bill to the Council on 21 October 2009. The House Committee would consider the Bill at its meeting on 23 October 2009.

**(c) Government motions**

**(i) Proposed resolution to be moved by the Secretary for Food and Health under the Pharmacy and Poisons Ordinance relating to:**

- **the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2009; and**
- **the Poisons List (Amendment) (No. 3) Regulation 2009**  
*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 10/09-10 dated 6 October 2009.)*  
*(LC Paper No. LS 123/08-09)*

12. The Chairman said that the proposed resolution was for seeking LegCo's approval to amend the Pharmacy and Poisons Regulations (the principal Regulations) and Poison List Regulations to –

- (a) add two groups of substances to Part I of the Poisons List as contained in the Poison List Regulations and Division A of the First and Third Schedules to the principal Regulations; and
- (b) amend four existing entries in Part I of the Poisons List and in the First and Third Schedules to the principal Regulations by adding a chemical description after each entry describing the analogues of each relevant kind of poison.

13. Members did not raise objection to the Administration moving the proposed resolution at the Council meeting.

**(ii) Proposed resolution to be moved by the Secretary for the Environment under the Energy Efficiency (Labelling of Products) Ordinance**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 11/09-10 dated 6 October 2009.)*  
*(LC Paper No. LS 119/08-09)*

14. The Chairman said that the proposed resolution was for seeking LegCo's approval to introduce the second phase of the Mandatory Energy Efficiency Labelling Scheme (MEELS) by including two products, namely, washing

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machines and dehumidifiers, as prescribed products by adding them to Part 1 of Schedule 1 to the Ordinance.

15. The Chairman further said that the Panel on Environmental Affairs had been consulted on the legislative proposals at its meeting on 15 July 2009. While there was general support for the legislative proposals, some members expressed the view that the Administration should expedite the progress of MEELS.

16. Members did not raise objection to the Administration moving the proposed resolution at the Council meeting.

**(d) Members' motions**

**(i) Motion on "Facing up to the transport needs of people with disabilities"**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 19/09-10 dated 8 October 2009.)*

17. The Chairman said that the above motion would be moved by Mr LEUNG Yiu-chung and the wording of the motion had been issued to Members.

**(ii) Motion on "Defending freedom of the press"**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 20/09-10 dated 8 October 2009.)*

18. The Chairman said that the above motion would be moved by Ms Emily LAU and the wording of the motion had been issued to Members.

19. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 14 October 2009.

**VII. Report of Bills Committees and subcommittees**

**(a) Report of the Bills Committee on Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009**

*(LC Paper No. CB(2) 2597/08-09)*

20. Mr IP Kwok-him, Chairman of the Bills Committee, reported that the Bills Committee had held three meetings and received views of deputations and individuals. He referred Members to the Subcommittee's report for details of its deliberations.

21. Mr IP elaborated that the Bills Committee generally supported the proposed amendments in the Bill and the two Committee Stage amendments (CSAs) to be moved by the Administration. The two CSAs were to amend the

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commencement date of the Bill to tie in with the legislative timetable for the Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009, and to amend section 2(5) of the Village Representative Election (Registration of Electors) (Appeals) Regulation to spell out the process for lodging a notice of claim or notice of objection more clearly to avoid misunderstanding in interpreting the section.

22. Mr IP further reported that members generally took the view that any village which was proved to have existed in 1898 and had established a village representation system in or prior to 1999 should be included in the Schedules to the Village Representative Election Ordinance (VREO). Members urged the Administration to follow up the cases of Cheung Chau, Tsing Yi Hui and Fuk Yuen Wo Liu as well as requests from other villages for inclusion in the Schedules to VREO in the light of the spirit of these two principles. Members also expressed the view that as the existing Schedules to VREO might not be exhaustive, the Administration should work with Heung Yee Kuk and Rural Committees to review the relevant records to ascertain whether any indigenous villages should also be included in the Schedules to VREO.

23. Mr IP further said that the Administration had reassured members that it would keep an open mind on the issue and, based on the strength and reliability of the evidence provided by the residents concerned, endeavour to exercise flexibility to amend the Schedules to VREO to include those indigenous villages which were proved to have existed in 1898 and had established a village representation system in 1999 or before on a case-by-case basis. He added that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 21 October 2009.

24. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 12 October 2009.

**(b) Report of the Subcommittee on Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009**

*(LC Paper No. CB(1) 2691/08-09 issued vide LC Paper No. CB(2) 2576/08-09 dated 5 October 2009)*

25. Ms Audrey EU, Chairman of the Subcommittee, reported that the Subcommittee had held six meetings and received views from representatives of the relevant trades. The Subcommittee generally supported the Amendment Regulation to control emissions of volatile organic compounds (VOCs) with a view to achieving the target of reducing VOC emissions in the Pearl River Delta Region by 55% by 2010.

26. Ms EU elaborated that the Subcommittee noted the concern expressed by suppliers of vehicle refinishing paints about the adoption of the California Air Resources Board standards (the California standards), which were more stringent and might restrict the supply of paints for some paint categories. Paint suppliers had suggested adopting the standards under the European Paint

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and Products Directive (the EU standards) instead, since many vehicles in Hong Kong were manufactured in and imported from Europe. Having regard to the trade's concern, the Administration had agreed to relax the maximum VOC content limits for regulated vehicle refinishing paints on par with the EU standards. The implementation date would be deferred by one year to 1 October 2011. The Subcommittee noted from the Administration that the relevant amendments would lead to a shortfall of target VOC emission reduction by about 35 tonnes in 2010. Some members were of the view that the Administration should consider adopting a gradual phased approach in tightening the maximum VOC content limits for regulated refinishing paints to meet the California standards. The Secretary for the Environment had agreed to give an undertaking in his speech in moving the amendments to the Amendment Regulation to review the need to tighten such limits one year after the implementation of the control on vehicle refinishing paints.

27. Ms EU further said that in view of the Subcommittee's concern, the Administration had agreed to revise the definition of "importer" in section 2(2) of the Amendment Regulation to make it clear that the coverage of "importer" would not be extended to retailers or purchasers. She added that the Subcommittee supported the proposed amendments to be moved by the Administration.

28. The Chairman said that as the deadline for amending the subsidiary legislation was 14 October 2009, the deadline for giving notice of amendments had expired on Wednesday, 7 October 2009.

**(c) Report of the Subcommittee on Subsidiary Legislation Relating to Voting by Imprisoned Persons**

*(LC Paper No. CB(2) 2598/08-09)*

29. Mr IP Kwok-him, Chairman of the Subcommittee, reported that the Voting by Imprisoned Persons Bill was passed by LegCo on 24 June 2009. The Subcommittee had completed scrutiny of the Voting by Imprisoned Persons Ordinance (Commencement Notice) 2009, five Amendment Regulations on electoral procedure, and three Amendment Regulations relating to registration of voters. He referred Members to the Subcommittee's report for details of its deliberations.

30. Mr IP elaborated that the Amendment Regulations on electoral procedure were aimed at facilitating electors in custody to cast their votes in public elections, while the Amendment Regulations on registration of voters were aimed at tying in the Regulations concerned with the provisions of the Voting by Imprisoned Persons Ordinance and providing for related practical arrangements. Members in general were of the view that the new arrangements to facilitate the registration of prisoners as electors and the voting by electors in custody should be implemented as soon as possible. Mr IP added that the Subcommittee supported all the nine items of subsidiary legislation and the amendments to be moved by the Administration.



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31. In response to Ms Emily LAU, the Chairman said that as the Administration would move a motion to amend the subsidiary legislation at the Council meeting on 21 October 2009, Members would have the opportunity to speak on the subsidiary legislation during the debate on the motion.

32. The Chairman reminded Members that as the deadline for amending the subsidiary legislation was 21 October 2009, the deadline for giving notice of amendments, if any, was Wednesday, 14 October 2009.

**VIII. Position on Bills Committees and subcommittees**

*(LC Paper No. CB(2) 2599/08-09)*

33. The Chairman said that there were 13 Bills Committees, four subcommittees under the House Committee (i.e. one subcommittee on subsidiary legislation and three subcommittees on policy issues) and seven subcommittees under Panels in action.

34. The Chairman invited Members to note that the following 10 Bills Committees would have to work beyond three months since commencement of their work –

- (a) Bills Committee on Copyright (Amendment) Bill 2009;
- (b) Bills Committee on Occupational Deafness (Compensation) (Amendment) Bill 2009;
- (c) Bills Committee on Genetically Modified Organisms (Control of Release) Bill;
- (d) Bills Committee on Domestic Violence (Amendment) Bill 2009;
- (e) Bills Committee on Legal Practitioners (Amendment) Bill 2009;
- (f) Bills Committee on Immigration (Amendment) Bill 2009;
- (g) Bills Committee on Bunker Oil Pollution (Liability and Compensation) Bill;
- (h) Bills Committee on Public Officers Pay Adjustment Bill;
- (i) Bills Committee on Employment (Amendment) Bill 2009; and
- (j) Bills Committee on Minimum Wage Bill.

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**IX. Election of members of The Legislative Council Commission**

*(LC Paper No. AS 338/08-09)*

35. Members agreed that the election of members of The Legislative Council Commission would be held at the House Committee meeting on 23 October 2009.

**X. Vacancy in the Public Accounts Committee**

*(LC Paper No. PAC 1/09-10)*

*(Letter dated 8 October 2009 from Hon Andrew CHENG Kar-foo to the President (LC Paper No. CB(2)2620/08-09(01))*

36. Mr Paul CHAN, Deputy Chairman of the Public Accounts Committee (PAC), said that Mr Andrew CHENG had written to the President in the evening before the day of the House Committee meeting informing that he wished to continue as a member of PAC. As such, there was no need for the House Committee to deal with the agenda item. He added that he very much welcomed Mr CHENG's decision.

37. Mr Andrew CHENG said that after careful consideration, he wished to continue as a member of PAC. He apologized for having caused any inconvenience to Members.

**XI. Visits conducted in the name of the Legislative Council**

*(Letter dated 24 September 2009 from Hon Albert CHAN Wai-yip to the Chairman of the House Committee (LC Paper No. CB(2) 2600/08-09(01))*

38. At the invitation of the Chairman, Mr Albert CHAN explained his dissatisfaction with the arrangements for the recent visit to the Sichuan Province by members of the Panel on Development (Dev Panel) and the Chairmen and Deputy Chairmen of some committees in connection with post-quake restoration and reconstruction. He elaborated that funding support for the reconstruction in Sichuan was approved by the Finance Committee (FC). Instead of inviting all Members of LegCo to visit Sichuan, the People's Government of Sichuan had selectively invited certain members to the visit and purposely excluded some other members. He regretted that the President, who led the delegation, had not upheld the dignity of LegCo and had accepted the selective and discriminatory invitation to the insult of LegCo. He pointed out that LegCo had established rules concerning the conduct of duty visits. Duty visits conducted by committees had to be endorsed by members of the relevant committees and by the House Committee. However, the visit in question had not been discussed or endorsed by any committee. The President had accepted the invitation to the visit, which was paid by public money, in the name of LegCo without consulting Members. Mr CHAN considered the President's handling of the invitation inappropriate and the arrangement was unfair to Members who had not been invited. He stressed the need for a mechanism for handling visits conducted in the name of LegCo.

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39. At the invitation of the Chairman, Secretary General (SG) clarified that the recent visit to Sichuan was not conducted in the name of LegCo. She explained that as in the case of the visit to the Guangdong Province in May this year, the visit was conducted by members of the Dev Panel and the Chairmen and Deputy Chairmen of the relevant Panels. The President had explained to Mr Albert CHAN in reply to his letter that since the visit was in response to invitation, the relevant House Rules governing duty visits conducted by Panels did not apply. SG pointed out that based on the experience in organizing the visit to the Guangdong Province, a mechanism had been worked out for handling invitations to visits, although it had not been laid down in the rules. Under the mechanism, an invitation to visit should be discussed by the committee(s) being invited, and should the committee(s) accept the invitation, the decision concerning the visit should be reported to the House Committee. As the invitation to visit Sichuan had not been foreseen, many senior staff in the Secretariat including herself who were familiar with the mechanism were on leave when the invitation was received in early September. It was at a late stage when it was noticed that a meeting had not been convened. A paper which invited views from Members was circulated on 14 September 2009 to members of the Dev Panel and other relevant committees, by the Clerk to the Dev Panel after obtaining the agreement of the Panel Chairman. The Chairman of the Panel had been prepared to convene a meeting to discuss the invitation should any members so request. As no members had made such a request, the visit was reported to the House Committee on 21 September 2009. SG tendered her apology and said that better arrangements should have been made by the Secretariat and the Dev Panel should have convened a meeting to discuss the invitation immediately after the invitation was received so that Members including non-Panel members would have an opportunity to express views on the invitation which could then be conveyed to the People's Government of Sichuan.

40. Mr Albert CHAN considered it important to clarify that the visit was not conducted in the name of LegCo. He said that as the visit was not conducted in the name of LegCo and had not been endorsed by committees, it followed that the expenses incurred should not be covered by public money.

41. SG reiterated that the visit was conducted by members of the Dev Panel and the Chairmen and Deputy Chairmen of other relevant committees. She pointed out that the papers to the relevant members and to the House Committee on the visit had stated that expenditure arising from the visit would be charged to individual Members' overseas duty visit account for the purpose of duty visits conducted outside Hong Kong organized by committees. No members had raised queries on the arrangement.

42. Mr Albert CHAN said that he had raised his objection to the visit conducted in the name of LegCo in his letter dated 9 September 2009 to the President.

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43. Ms Emily LAU also regretted the unsatisfactory handling of the invitation to the visit. She said that upon the receipt of the invitation letter, she had rung up the President immediately and expressed her dissatisfaction with the discriminatory invitation which had excluded certain Members; she had indicated to the President that she would not be able to join the visit. She recalled that in LegCo's last visit to Sichuan in 2008, only 20 members were invited and LegCo had come up with satisfactory arrangements. She opined that the authorities extending the invitation could state the number of LegCo Members to be invited, but it should be for LegCo to decide on the particular Members for joining the visit. She stressed the need to follow the due process in considering invitations to visits, and for the Secretariat to review the procedures in handling the latest invitation. She hoped that the Secretariat would follow the mechanism and the Mainland authorities would not make discriminatory invitation in future. She asked whether the Chairman had the opportunity to relay members' concern about the discriminatory invitation to the Sichuan authorities during the visit.

44. The Chairman said that she was also not in Hong Kong at the time the invitation was received but when she was consulted on the issue of the paper, she immediately instructed the Clerk to circulate the paper to Members of the House Committee without delay. As she had not received any views from Members, it was then taken that Members considered the invitation acceptable. She added that she was not aware of Mr Albert CHAN's letter to the President before the visit.

45. Mr Albert CHAN said that since the visit was led by the President, he had written to the President to raise his objection.

46. In response to the Chairman, SG said that the Secretariat would prepare a paper on the mechanism for handling invitation to visits for submission to the House Committee or the Committee on Rules of Procedure (CRoP) for consideration.

47. Dr LAM Tai-fai said that some members invited to the visit had not joined the visit for various reasons. He asked whether any request had been made to the People's Government of Sichuan for other LegCo Members to take up the places of members who had been invited but indicated that they would not join the visit.

48. SG said that the Secretariat was given to understand that a group of Members had written to the People's Government of Sichuan to reflect their concern about the selective invitation, and the People's Government of Sichuan had responded to their letter and stated its stance. She further said that had a meeting been held to discuss the invitation, members would have the opportunity to raise their views and suggestions which could then be relayed to the People's Government of Sichuan. In considering the invitation to the Guangdong Province, members had made some suggestions which were accepted by the People's Government of Guangdong Province. SG added that

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during the recent visit to Sichuan and when meeting with the representatives of the People's Government of Sichuan, Mr James TO had relayed some members' concern about the selective invitation, and the representatives had noted the concern and had given a positive response.

49. Ms Audrey EU requested the Chairman and SG to relay to the President her views. She recalled that the People's Government of Sichuan had also given a quota on the number of LegCo Members to visit Sichuan shortly after the earthquake last year. The former President had stated clearly that it was for LegCo to decide how it would come up with the membership of the delegation. She said that the former President had upheld the dignity of LegCo. She opined that while the authorities extending the invitation could state the number of LegCo Members to be invited, the decision should rest with LegCo as to which Members should join the visit. She stressed the importance for LegCo to maintain its impartiality and independence and to be seen as such. LegCo should not accept selective invitations to the detriment of its dignity, and the mechanism in handling invitations to visits should reflect such important principles. Ms EU added that the President should have the responsibility for upholding the dignity of LegCo. She was concerned that he had not lived up to his election pledge of being neutral in his recent speeches.

50. Mr Albert HO also requested the Chairman to relay to the President his disagreement with his remarks that certain Members had not been invited to attend the ceremony to celebrate the 60<sup>th</sup> anniversary of the founding of the People's Republic of China in Beijing because they had boycotted the visit. Mr HO clarified that some members had other commitments and therefore could not join the visit. He echoed the view of Dr LAM Tai-fai that their places could have been taken up by other Members.

51. The Chairman said that she would relay Members' views concerning the mechanism to the President. She added that the mechanism should be able to address Members' concerns.

52. Mr Ronny TONG said that as the funding support for the reconstruction of Sichuan was approved by FC, it was for FC and not individual Panels to monitor the use of the funding approved. The invitation to the visit should have been extended to all LegCo Members. He added that the Mainland authorities should be reminded of such.

53. Mr CHIM Pui-chung said that he had not been invited to the visit, and he also expressed regret about the selective and discriminatory manner in which Members were invited. He opined that as the funding support for the reconstruction in Sichuan was approved by all LegCo Members, the membership of the visit should not be dictated by the Sichuan authorities. He stressed that LegCo represented the Hong Kong people and should endeavour to maintain its dignity; the political stance of individual LegCo Members should not come into play in the endeavour. He appealed to Members not to accept the selective invitation of LegCo Members to visit the Mainland and not

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to approve support funding for the reconstruction work if the dignity of LegCo was not respected.

54. In concluding the discussions, the Chairman said that there was no dispute on the need to uphold the dignity of LegCo. She believed that the handling of invitations to visits would be improved after the mechanism was established. She asked the Secretariat to submit the paper on the mechanism for the consideration of the House Committee as soon as practicable.

**XII. Dismissal of Hon KAM Nai-wai's assistant**

*(Letter dated 8 October 2009 from Hon Mrs Regina IP LAU Suk-ye, Convenor of the Duty Roster Members meeting, to the Chairman of the House Committee (LC Paper No. CB(2) 2616/08-09(01))  
(LC Paper No. CP 1479/08-09)*

55. At the invitation of the Chairman, Mr KAM Nai-wai expressed his apology for having caused the public concerns and raised queries over issues arising from his dismissal of an assistant. He was confident that Members would handle the matter in a fair and impartial manner. Should LegCo decide to inquire into the matter, he would co-operate fully with the investigation. He added that he would withdraw from the meeting.

*(Mr KAM Nai-wai withdrew from the meeting at this juncture.)*

56. Mrs Regina IP, convenor of the Duty Roster Members (DRMs) meeting, said that a DRM meeting was held on 8 October 2009 to discuss the views and requests received from the public in relation to the dismissal of an assistant by Mr KAM Nai-wai. She relayed the background to and reported on the proposal of DRMs on the following up of the matter.

57. Mrs IP elaborated that from 5 October 2009 to 12:00 noon on the day of the House Committee meeting, the Complaints Division of the LegCo Secretariat had received a total of 18 submissions and 19 telephone calls from members of the public expressing views on the matter. Among these, 17 were views on Mr KAM Nai-wai's integrity, six on allegations of sexual harassment and five on unreasonable dismissal. There were 18 requests for LegCo to conduct an inquiry into the matter.

58. Mrs IP further said that except Mrs Sophie LEUNG who was out of town, she and all other DRMs, namely Mr Fred LI, Mr LAU Kong-wah, Dr Joseph LEE and Mr CHEUNG Kwok-che, attended the meeting to discuss the matter. Having examined the views and requests from members of the public, DRMs noted the wide public concern and considered it appropriate for LegCo to follow up the matter in the following three aspects-

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- (a) an investigation should be conducted to ascertain whether the allegation of sexual harassment was founded;
- (b) given that the assistant concerned was employed with public money, whether there had been improper use of public money in the dismissal, including whether the dismissal was reasonable; and
- (c) whether the matter involved the integrity of Members.

59. Mrs IP added that after detailed discussions and having taken into account the Legal Adviser's views, DRMs came up with the following proposals -

- (a) given the serious nature of the issues raised, which had direct impact on the reputation of LegCo, LegCo should follow up on the matter;
- (b) as the terms of reference of the Committee on Members' Interests (CMI) included issuing guidelines on matters of ethics in relation to the conduct of Members, it was appropriate to refer the matter to CMI for follow-up given their proven experience in this area; and
- (c) as the investigation power of CMI was not applicable to complaints about Members' conduct, a resolution should be moved and passed by LegCo to authorize CMI to investigate into the matter and submit a report to LegCo.

60. Dr Joseph LEE said that he was one of the DRMs who had attended the meeting. His understanding of the proposals of DRMs was at variance with those stated in paragraph 11 of the paper (LC Paper No. CP1479/08-09). In respect of paragraph 11(a), his understanding was that DRMs had come to the view that the matter should be referred to the House Committee for discussion on how it should be followed up. Regarding paragraph 11(b), DRMs considered that referring the matter to CMI was one of the options for follow-up. As for paragraph 11(c), his recollection was that the idea for a resolution to be passed by LegCo for authorizing CMI to conduct the investigation had been discussed at the meeting but DRMs had not made a proposal in this respect.

61. Mrs Regina IP agreed that Dr Joseph LEE's understanding was correct. She said that DRMs agreed unanimously that the matter should be referred to the House Committee for consideration. The House Committee could consider options other than those proposed by DRMs.

62. The Chairman said that it would be for the House Committee to decide the appropriate way for handling the matter. The matter could be referred to

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CMI or other committees such as a subcommittee under the House Committee or a select committee appointed for the purpose.

63. Dr Margaret NG agreed that LegCo should follow up the matter in view of the serious nature of the issues raised in paragraph 7 of the paper. She, however, had serious reservations about the proposals in paragraph 11(b) and (c) of the paper for following up the matter. In her view, allegations of misconduct on the part of a Member were serious and should be dealt with in a serious manner under the established mechanism. She pointed out that while CMI could consider matters of ethics in relation to the conduct of Members and give advice and issue guidelines on such matters under Rule 73(1)(d) of the Rules of Procedures (RoP), it did not have the power to investigate complaints about the conduct of Members. She considered it grossly inappropriate to change the terms of reference of CMI on a one-off basis to empower it to investigate an incident concerning an individual Member.

64. Dr NG further said that there was an established mechanism under RoP 49B to handle allegations of Members' misbehaviour. Where a Member considered that the conduct of another Member constituted misbehaviour and should be censured, he might move a motion under RoP 49B(1A), with details of the allegations particularized in the Schedule to the motion. The matter would then be referred to an investigation committee unless the Council ordered otherwise. Upon the completion of the investigation by the investigation committee, the Council would then decide whether the allegations were substantiated and whether the Member concerned should be censured. Passage of the motion on the disqualification of a Member from office would require a two-thirds majority vote of the Members present. She considered it more appropriate to use the existing mechanism under RoP 49B to handle the matter. She stressed that given the serious nature of allegations of misbehaviour of Members, it was important to spell out the allegations clearly before launching any investigation. In her view, the mechanism provided under RoP 49B would ensure a fair resolution of the matter. She further pointed out that the proposal to empower CMI to investigate complaints about Members' conduct had been voted down by LegCo before as Members were concerned about possible abuse of the power for political purposes. She considered it grossly inappropriate to grant such a power to CMI without in-depth discussions by Members. She reiterated her objection to the proposals in paragraph 11(b) and (c) of the paper.

65. The Chairman drew Members' attention to RoP 49B which was concerned with the disqualification of a Member from office. She added that the composition and procedure of an investigation committee referred to in RoP 49B were provided in RoP 73A.

66. Dr Margaret NG stressed that under the existing system, the procedure under RoP 49B was the only mechanism for initiating an investigation into complaints relating to the conduct of a Member. She added that RoP 49B set out the procedure for implementing Article 79(7) of the Basic Law, and the



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power of LegCo to summon witnesses was separately provided for under Article 73(10) of the Basic Law.

67. At the invitation of the Chairman, SG said that where a Member considered that another Member should be censured for misconduct, he might move a motion under RoP 49B(1A), the notice of which had to be signed by three other Members. Upon the moving of the motion, the debate on the motion should be adjourned and the matter stated in the motion should be referred to an investigation committee the procedure of which was stipulated in RoP 73A.

68. At the invitation of the Chairman, Acting Legal Adviser said that the moving of a motion to censure a Member under RoP 49B(1A) would trigger off the investigation of the matter stated in the motion by an investigation committee. Under Article 79(7) of the Basic Law, where a Member was censured for misbehaviour by a vote of two-thirds of the Members of LegCo, he would no longer be qualified for the office.

69. Dr Margaret NG reiterated that given the serious nature of allegations of misbehaviour of Members, the details of the allegations should be spelt out clearly before any investigation was initiated. RoP 49B(1A) provided that details of the misbehaviour should be set out in the Schedule to the motion. Upon the completion of the investigation by the investigation committee, the Council would then decide whether the Member should be censured. She stressed that RoP 49B provided a fair and clear mechanism for resolving the matter.

70. Mr Frederick FUNG said that when Members were previously consulted on the proposal to expand the terms of reference of CMI to investigate into complaints about Members' conduct, he had indicated his objection. He considered it inappropriate for Members to decide whether a Member's conduct constituted misbehaviour, as Members invariably had different ethical standards and the decision might be affected by political considerations. Moreover, given that Members from the pro-establishment camp outnumbered those from the pro-democratic camp, it would be unfair to decide on such matters by way of simple majority voting. Mr FUNG indicated that he would not agree to the approach of empowering CMI to investigate into a matter on a one-off basis either, as the types of Members' conduct which warranted such investigation were in themselves controversial. He reiterated that it was inappropriate for Members to decide whether a Member's conduct was ethical, except in cases where the Member concerned had been convicted of a criminal offence.

71. Mr LAU Kong-wah said that the issue at stake concerned questions of principle and had nothing to do with Members' political affiliations. He was one of the DRMs who attended the meeting. There was consensus among DRMs that LegCo should follow up the matter not because of the morality of the Member's act per se, but because the matter related to Members' conduct in

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their capacity as such and there was concern as to whether there was improper use of public money in the course of the dismissal. Moreover, the matter might involve the Member's integrity. In the light of the above considerations and having regard to the public call for investigation, DRMs therefore agreed unanimously that LegCo should follow up.

72. Mr LAU further said that in making the proposals for follow-up, DRMs had considered different options. Some DRMs considered that the matter might not warrant the appointment of a select committee. DRMs were aware that the proposal to expand CMI's investigation powers had been voted down by LegCo before. Nonetheless, as the terms of reference of CMI included giving advice and issuing guidelines on matters in relation to the conduct of Members, and in the light of CMI's proven experience in this respect, DRMs considered it appropriate for CMI to follow up the matter. He added that DRMs had not discussed the procedure under RoP 49B relating to disqualification of a Member from office, as no such views and requests had been received from the public. In his view, it was not appropriate to take such a drastic step before an investigation had been conducted into the matter. He considered it agreeable to the investigation of the matter by CMI or a select committee.

73. Mr Ronny TONG said that the issue under discussion was the mechanism appropriate for following up the matter, and not the merits of the matter. He shared Dr Margaret NG's serious reservations about the proposals in paragraph 11(b) and (c) of the paper, and pointed out that the proposal to expand the terms of reference of CMI to investigate complaints relating to Members' conduct had been voted down by LegCo more than once in the previous LegCo terms. The reasons were understandable as it was unfair for Members to decide whether the conduct of a Member constituted misbehaviour by way of simple majority voting, given the possible abuse of the procedure for political suppression and having regard to the serious consequences of the decision on the Member concerned. He did not agree with the view that it was too drastic a move to invoke the mechanism under RoP 49B(1A) to follow up the matter. On the contrary, he considered it a fair mechanism which safeguarded the rights of the Member under allegation. He elaborated that it would only be fair to require a Member who considered that another Member's conduct should be censured to move a motion under RoP 49B(1A), setting out the details of the Member's misbehaviour in the motion. After the investigation committee had submitted its report to LegCo, LegCo would then decide whether or not the Member concerned should be censured by a two-thirds majority vote of the Members present. Such a way of handling allegations of misbehaviour of a Member followed the established mechanism and complied with the Basic Law. He did not accept the proposal for empowering CMI to investigate into the matter on a one-off basis as this would set a dangerous precedent.

74. Ms Cyd HO noted from RoP 73(1) that CMI's investigation powers were applicable only to matters involving Members' interests and their

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declarations as well as claims for reimbursement of operating expenses. She considered that CMI should work in accordance with its terms of reference, and it could convene a meeting to discuss whether the matter fell within its purview. She objected to the proposed one-off expansion of its power to investigate the matter. Ms HO pointed out that the Member's assistant concerned had so far been silent. Members had previously discussed whether anonymous complaints should be handled, and she was of the view that they should not be followed up. If a Member wished to take up an anonymous complaint involving another Member's conduct, he could do so by invoking the established mechanism provided under RoP 49B(1A), under which the mover of the motion to censure was required to set out the details of the Member's misbehaviour. She shared the view that the established mechanism under RoP 49B(1A) should be used for handling the matter.

75. Ms Emily LAU said that the Democratic Party (DP) had decided to appoint an outside body to conduct an independent investigation into the matter. Should LegCo decide to investigate the matter, DP would co-operate fully provided that the investigation process was fair, impartial and open. She pointed out that she was the Deputy Chairman of CMI while Mr WONG Shing-chi, another DP member, was a member of CMI. Should LegCo decide to empower CMI to investigate the matter, she and Mr WONG would not participate in the investigation to avoid conflict of interest. She noted that some Members had raised concerns about the proposal of referring the matter to CMI and a DRM had indicated a different understanding of the proposal. Members belonging to DP would consider carefully the views expressed by Members on the matter. To her understanding, it was the first time that complaints made by the public against individual Members were discussed at a DRM meeting. She sought clarification on whether the handling of the matter was in line with the past practice. She stressed the importance of handling the matter in a fair, impartial and open manner.

76. At the invitation of the Chairman, SG said that while complaints lodged by members of the public against individual Members were outside the scope of the LegCo Redress System, they would be circulated to DRMs of the week for information. It would be up to the DRMs to advise whether any matters ought to be followed up, such as their referral to any particular committee, etc. On occasions, DRMs might request the Secretariat to analyse the complaints received and provide statistics for Members' reference. Such analysis would also be forwarded to all Members for information if so instructed by DRMs. She added that where needed, a meeting could be conducted if so requested by the DRMs to consider the way forward. For the case under discussion, a meeting was convened upon the request of two DRMs. To facilitate discussion at the meeting, the Secretariat had prepared for the DRMs' reference a paper setting out the possible ways for following up the matter, including referring the matter to CMI, CRoP or a subcommittee appointed under the House Committee and invoking the procedure under RoP 49B.

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77. In response to Ms Emily LAU, SG confirmed that it was the first time that complaints made by the public against the conduct of individual Members were discussed at a DRM meeting. It was also the first time that DRMs had made proposals to the House Committee on the following up of such complaints. SG added that the question of whether DRMs could investigate the matter had been raised at the DRM meeting. DRMs were advised that as the DRM System under the LegCo Redress System operated on an informal basis, DRMs did not have any investigation powers and it was not appropriate for DRMs to handle the matter.

78. Mr WONG Yuk-man said that based on his experience, the Complaints Division would not handle complaints from members of the public against individual Members in the same manner as the case under discussion. He sought clarification of his understanding.

79. SG said that complaints from the public against individual Members would be followed up upon the instruction of DRMs.

80. Mr WONG Yuk-man expressed grave concern that expanding CMI's terms of reference on a one-off basis would set a dangerous precedent. He expressed support for Dr Margaret NG's proposal of using the established mechanism under RoP 49B(1A) to follow up the matter. He pointed out that the complaints lodged by the public on the matter were based solely on media reports, and Members should handle the matter prudently. In his view, to ensure fairness and impartiality, the allegations against the Member should be specific with details before any investigation could or should be conducted. On the basis of the findings of the investigation, LegCo could then decide whether the allegations were substantiated and whether the Member concerned should be censured.

81. Dr Priscilla LEUNG said that issues concerning political affiliations were not relevant to the discussion on how the matter should be followed up. In her view, all allegations of misbehaviour on the part of a Member should be handled seriously, irrespective of whether the Member concerned was directly elected or returned by functional constituencies. She had received several calls from members of the public the day before the House Committee meeting urging LegCo to follow up the matter and not to let it die down. On the basis of the information available in the media reports, she considered that there was a basis for following up the matter as the Member's assistant concerned felt aggrieved, employer-employee relationship was involved and compensation was reported to have been paid. In view of the wide public concern on the matter, she considered it incumbent upon LegCo to investigate the matter in an impartial manner. She sought clarification on whether it was viable to appoint a subcommittee under the House Committee to investigate the matter, apart from resorting to the procedure under RoP 49B(1A) or referring it to CMI.

82. At the invitation of the Chairman, SG replied in the affirmative. She elaborated that apart from CMI, DRMs had considered other possible ways to

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follow up the matter, including the appointment of a select committee or a subcommittee under the House Committee. When considering the various options, DRMs noted that while CMI did not have the power to investigate complaints about Members' conduct, it had issued from time to time guidelines on matters in ethics in relation to the conduct of Members in their capacity as such. CMI had also discussed certain complaints about the conduct of Members and updated the guidelines. Empowering CMI to investigate the matter would assist its work in updating the relevant guidelines. In view of these considerations, DRMs came to the view that it would be appropriate to invite the House Committee to consider whether the matter should be referred to CMI for follow-up. In making the proposal, DRMs were aware that as the investigation powers of CMI were not applicable to complaints about the conduct of Members, a resolution authorizing CMI to investigate the matter on a one-off basis would have to be passed by LegCo.

83. Mr CHEUNG Kwok-che said that he was one of the DRMs concerned. In making the proposal for referring the matter to CMI for follow-up, DRMs were aware of the concern about expansion of its terms of reference but had not considered the means under RoP 49B(1A). He considered that Dr Margaret NG had brought up a very important point in that allegations of misconduct on the part of a Member were serious in nature and should be dealt with in a serious manner under the established mechanism. To allay concern about the expansion of CMI's powers and address the need to consider further follow-up action after the investigation of CMI or a subcommittee under the House Committee into the matter, he supported resorting to the means under RoP 49B(1A) to follow up the matter.

84. Mr LEUNG Yiu-chung said that it was not because of personal consideration that some Members did not support the expansion of CMI's power to investigate into complaints about the conduct of Members. The issue at stake was to identify an appropriate mechanism for following up matters concerning complaints about the conduct of Members and which would not be used as an instrument to achieve political suppression. As LegCo Members, their conduct was subject to public scrutiny. In his view, an investigation into a complaint about the conduct of a Member, if established, would logically and inevitably lead to the censure of the Member concerned and even his disqualification from office. From that perspective, invoking RoP 49B(1A) was the appropriate way in following up the matter as it would entail an investigation by a committee to establish the truth followed by a course of action based on the findings of the investigation. Should Members' concern be solely about allegations of sexual harassment, it could be dealt with by the Equal Opportunities Commission.

85. Mr Albert CHAN said that as one of the DRMs had indicated that his understanding of their proposals was at variance with those set out in the paper, he considered that DRMs should discuss the matter again and come up with proposals for the further consideration of the House Committee. He considered it inappropriate to decide on the matter on the basis of misleading

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information. In his view, any proposal to expand the power of an institution should be dealt with cautiously. If any proposal was made to expand the terms of reference of CMI to investigate into matters relating to Members' conduct, the nature of conduct must be clearly defined and a mechanism established in deciding whether and how such complaints should be followed up. He was concerned that the proposal to refer the matter to CMI for investigation would set a dangerous precedent.

86. Mrs Sophie LEUNG said that DRMs had made proposals to follow up the matter in response to the public call on the need to investigate into the matter impartially. Members should not be strict to others but lenient with themselves. She disagreed with the view that empowering CMI to investigate into complaints about Members' conduct might amount to political suppression. She stressed that if entrusted with the task to investigate into the matter, CMI would conduct the investigation in a prudent manner. While agreeing to the option of invoking RoP 49B(1A) and (2A) to follow up the matter, she was concerned who would move the motion of censure as the mover had to give the details of the misbehaviour of the Member concerned.

87. Mr WONG Kwok-kin said that Members should not factor in issues about political affiliation in the discussion on how the matter should be followed up. While noting public concern on the matter and respecting the views of DRMs, Members belonging to the Hong Kong Federation of Trade Unions (HKFTU) did not support the DRM's proposals or other proposals made by some Members at this stage. So far, the Member's assistant concerned had not come forward to clarify the matter probably because she had accepted the reported compensation for the dismissal or because she did not want to recall the unhappy experience. Members belonging to HKFTU considered it inappropriate for LegCo to conduct an investigation into the matter against her will. Unless she came forth and requested LegCo to investigate the matter, these Members would abstain in the vote on the proposals.

88. The Chairman said that Members should first decide whether the matter should be followed up, and if so, how.

89. Ms Audrey EU said that Members should not be requested to decide whether LegCo should follow up the matter per se. The way as to how the matter would be followed up had a bearing on Members' decision. Referring to paragraph 11 of the paper, she pointed out that Members belonging to the Civic Party considered it necessary for LegCo to follow up the matter and in order for CMI to consider whether the matter fell within its purview and to issue guidelines on how such matters should be handled. However, they would object to authorizing CMI to investigate the matter as proposed in paragraph 11(c) of the paper. Members belonging to the Civic Party considered it necessary for LegCo to follow the established mechanism in conducting any investigation into the matter.

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90. Dr Joseph LEE reiterated his understanding of DRMs' proposals in paragraph 60 above. He considered it important to be clear about DRMs' proposals before they were put to vote.

91. Dr Margaret NG said that should Dr Joseph LEE's understanding be correct, the proposal referred by DRMs to the House Committee for consideration was how the matter should be followed up. The House Committee had to decide how the matter should be followed up.

92. Ms Emily LAU said that while Members belonging to DP did not object to the conduct of an investigation into the matter by LegCo, the decision should not be made in haste without sufficient information. For example, Members had to be apprised of the operation of RoP 49B(1A) before the proposal for invoking the Rule be put to vote.

93. Dr Margaret NG pointed out that RoP 49B had been enacted for some time after thorough discussion by the CRoP and thorough consultation with Members. An allegation of misbehaviour of a LegCo Member was serious as this would impact on the credibility of LegCo, and its serious nature warranted the investigation by LegCo. RoP 49B(1A) provided the mechanism for dealing with such allegations. The moving of a motion to censure the Member concerned would trigger an investigation of the alleged Member's misbehaviour by an investigation committee. Following the investigation by the investigation committee, LegCo would then decide on the motion and conclude the matter. In her view, the mechanism provided in RoP 49B was thorough and complete in that the course of actions to be taken by LegCo in respect of an allegation of a Member's misbehaviour was clear and certain. Given the serious nature of the allegation of sexual harassment, she considered that any Member could take on the task of moving the motion to censure under RoP 49B(1A). Such a way to resolve the matter would be fair to the Member under allegation and to LegCo. She considered it inappropriate for LegCo to adopt a one-off measure instead of resorting to the established mechanism to deal with the matter.

94. Mr LAU Kong-wah expressed worry that some Members had changed the focus of discussions to the expansion of CMI's power, political suppression and technical consideration. He was concerned that these were excuses to let the matter die down, and some Members had adopted double standards in respect of their own conduct and that of Government officials. In his view, moving a motion to disqualify a Member from office was a drastic step. Invoking RoP 49B to deal with the matter was tantamount to having a conclusion on the matter before investigation. He had all along disapproved of such an approach. He considered that CMI was the appropriate committee to investigate the matter under the established mechanism. He stressed that should LegCo vote down a proposal for investigating into the matter, it would fall short of public expectation and LegCo would be held accountable for it.

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95. Dr Margaret NG said categorically that she did not have the slightest intention of letting the matter die down. She had only stressed the importance of adhering to the established procedures in following up the matter. There was no question of having a conclusion before investigation. RoP 49B required the giving of specific details of the misbehaviour of the Member, and this was similar to the hearing by the Court of a case with a charge on a person.

96. Mr LEUNG Yiu-chung also clarified that he had no intention of letting the matter die down. On the contrary, he considered it necessary for LegCo to take action after investigation into the matter. He pointed out that invoking RoP 49B to follow up the matter did not mean making a forgone conclusion before investigation. The Rule provided a clear course of action to deal with and conclude the matter on the basis of the investigation. He stressed that LegCo should adhere to the established mechanism in following up the matter.

97. Mr Ronny TONG pointed out that there would be debate on the motion to censure after the investigation by the investigation committee and before the motion was put to vote under RoP 49B. This would provide an opportunity for Members to state their reasons for supporting or not supporting the motion.

98. In response to Dr Priscilla LEUNG, the Chairman said that the investigation of CMI into the complaint against Mr James TO about the registration and declaration of his shares in a certain company and the reimbursement of operating expenses did not involve the expansion of CMI's powers.

99. Mrs Regina IP said that DRMs considered the allegations serious and LegCo should follow up in view of public concern. In the course of considering the way forward, DRMs had considered the various options including recommending the follow up of the matter by a subcommittee appointed under the House Committee, a select committee or CMI. There was no discussion on the moving of a motion to censure Mr KAM Nai-wai under RoP 49B(1A). Since CMI was a standing committee, had the power to summon witnesses and had experience in handling complaints about Members' conduct, DRMs had recommended referring the matter to CMI for follow-up. This was the consensus reached by DRMs. Mrs IP added that except the Deputy Chairman, being a member belonging to the DP and who had abstained from voting, the other DRMs had agreed with such a recommendation.

100. The Chairman considered it not necessary to examine whether referring the matter to CMI for follow-up was the only option recommended by DRMs as it was for the House Committee to decide on the action to be taken.

101. In response to Ms Emily LAU, the Chairman explained the provisions under RoP 49B and RoP 73A. Dr Margaret NG stressed that moving a motion under RoP 49B(1A) was only a means to investigate an allegation of the misbehaviour of a Member, and this was the only way provided in RoP for LegCo to investigate such matters.



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102. Mr LEUNG Yiu-chung proposed the following up of the matter by invoking RoP 49B(1A). Should any Member consider that he had details of the matter, he could move a motion under that Rule.

103. Mr LAU Kong-wah said that he was concerned that no Member would move the motion after the House Committee had decided to take such a course of action, or the motion to censure would be voted down before the investigation process was triggered. That was why he had proposed referring the matter to a committee for investigation first before moving a motion to censure.

104. Dr Priscilla LEUNG proposed that a subcommittee be appointed under the House Committee to investigate the allegations made against Mr KAM Nai-wai as set out in paragraph 7 of the paper.

105. The Chairman drew to Members' attention that under RoP 49B(2A), upon the moving of a motion to censure, the debate would be adjourned immediately, and the matter stated in the motion would automatically be referred to an investigation committee. She clarified that the motion would not be put to vote at that juncture. After the investigation committee had completed its investigation and submitted its report to the Council, Members would then debate on whether the allegations were substantiated and whether the Member concerned should be censured.

106. Dr Margaret NG said that should Members decide to invoke the procedure under RoP 49B(1A) to follow up the matter, paragraph 7(a) to (c) of the paper could be used as the basis of the allegations to be set out in the Schedule to the motion.

107. The Chairman put to vote the proposal that the matter be followed up through the moving of a motion in LegCo under RoP 49B(1A). The result was: 37 Members voted in favour of the proposal, no Member voted against the proposal, and no Member abstained. The Chairman declared that the proposal was supported.

108. Dr Margaret NG proposed that a subcommittee be formed under the House Committee to discuss and make recommendations on the wording of the motion and the details to be set out in the Schedule to the motion to be moved under RoP 49B(1A). Members agreed. Members further agreed that different political parties and groupings in the Council should be represented in the subcommittee.

109. Dr Margaret NG further proposed that the motion under RoP 49B(1A) should be moved by the Chairman of the House Committee to stress the neutrality of the motion. This arrangement would uphold the dignity of LegCo and show that the motion would not be for serving any political purpose. Members agreed.

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110. The Chairman said that the LegCo Secretariat would issue a circular to invite Members to join the subcommittee.

**XIII. Election of the Chairman and Deputy Chairman of the House Committee for the 2009-2010 session**

Election of Chairman

111. The Chairman called for nominations for the chairmanship of the House Committee for the 2009-2010 session. Mr IP Kwok-him nominated Ms Miriam LAU and the nomination was seconded by Dr Margaret NG. Ms Miriam LAU accepted the nomination.

112. The Deputy Chairman, Mr Fred LI, took over from Ms Miriam LAU to preside over the election. As there was no other nomination, Mr Fred LI declared Ms Miriam LAU elected as the Chairman of the House Committee for the 2009-2010 session.

Election of Deputy Chairman

113. The Chairman called for nominations for the deputy chairmanship of the House Committee for the 2009-2010 session. Dr Margaret NG nominated Mr Fred LI and the nomination was seconded by Mr WONG Ting-kwong. Mr Fred LI accepted the nomination.

114. As there was no other nomination, the Chairman declared Mr Fred LI elected as the Deputy Chairman of the House Committee for the 2009-2010 session.

**XIV. Any other business**

**Up-to-date position on the re-signification of membership of Panels**

115. The Chairman reminded Members that the deadline for signification of new membership of Panels was 12:00 noon, Saturday, 10 October 2009.

116. There being no other business, the meeting ended at 5:10 pm.