

立法會  
*Legislative Council*

LC Paper No. CB(2) 76/09-10

Ref : CB2/H/5/09

**House Committee of the Legislative Council**

**Minutes of the 1st meeting  
held in the Legislative Council Chamber  
at 2:30 pm on Friday, 16 October 2009**

**Members present :**

Hon Miriam LAU Kin-ye, 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 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  
Dr Hon Philip WONG Yu-hong, GBS  
Hon WONG Yung-kan, SBS, JP  
Hon LAU Kong-wah, JP  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, 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 LEUNG Kwok-hung  
Hon CHEUNG Hok-ming, GBS, JP



Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Miss Erin TSANG	Acting 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 Kelvin LEE	Assistant Legal Adviser 1
Mr Timothy TSO	Assistant Legal Adviser 2
Miss Kitty CHENG	Assistant Legal Adviser 5
Ms Clara TAM	Assistant Legal Adviser 9
Ms Amy YU	Senior Council Secretary (2)3
Mr Arthur KAN	Legislative Assistant (2)8

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Action

**I. Confirmation of the minutes of the 32nd meeting held on 9 October 2009**  
(LC Paper No. CB(2) 16/09-10)

The minutes were confirmed.

**II. Matters arising**

**(a) Report by the Chairman on her meeting with the Chief Secretary for Administration (CS)**

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

Special House Committee meeting

3. Mrs Regina IP said that the Chief Executive (CE) had highlighted in the 2009-2010 Policy Address the importance of enhancing economic co-operation with Guangdong in the development of the four traditional pillar industries and the six industries. She suggested that CS be invited to attend a special meeting of the House Committee to exchange views with Members on the subject, including issues relating to the development of Qianhai such as its strategy and impact on Hong Kong. She added that the Constitutional and Mainland Affairs Bureau had turned down her request for information concerning the proposed development of Qianhai on the ground that such information was confidential.

4. Mr LEUNG Kwok-hung suggested that CS be invited to exchange views with Members on the issue of constitutional development. He considered that CS should brief Members on whether the Administration had consulted the Central People's Government on the issue and the outcome of any such consultation.

5. The Chairman said that CS normally attended two special meetings of the House Committee during each session to exchange views with Members. She

Action

would convey to CS the topics suggested by Members for the forthcoming special meeting.

**(b) Mechanism for the censure of a Member for misbehaviour under Article 79(7) of the Basic Law**

*(Paragraphs 55 to 110 of the minutes of the 32nd meeting held on 9 October 2009)*

*(LC Paper No. CB(3) 46/09-10)*

*[Previous papers:*

*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) issued vide LC Paper No. CB(2) 2616/08-09 dated 8 October 2009); and*

*LC Paper No. CP 1479/08-09 issued vide LC Paper Nos. CB(2) 2620/08-09 and CB(2) 26/09-10 dated 9 and 14 October 2009 respectively]*

6. The Chairman said that at the last House Committee meeting, Members agreed to invoke the mechanism for the censure of a Member for misbehaviour under Article 79(7) of the Basic Law (BL) to follow up the matter relating to the dismissal of an assistant by Mr KAM Nai-wai. In view of the enquiries from Members on the subject after the meeting, the Secretariat had prepared a paper on the details of the mechanism and the procedures involved.

7. At the invitation of the Chairman, Secretary General (SG) briefed Members on the mechanism for implementing BL 79(7) as well as the background on the principles and procedural steps underlying the new rules incorporated in the Rules of Procedure (RoP) by resolution of the Council, as set out in the paper.

8. SG highlighted that in view of the serious and complicated nature of the subject, the Committee on Rules of Procedure ("CRoP") had made reference to the practices of overseas legislatures. CRoP concluded that it would be more appropriate for the Council of the day to make a decision on the kind of behaviours which warranted the taking of action under BL 79(7). The acts in question should be judged if they had brought the Council into disrepute. Referring to the flowchart showing the mechanism in Appendix III to the paper, SG explained that where a Member was of the view that another Member had committed a misbehaviour which he believed to have brought serious disrepute to the Council, he might move a motion to censure the Member for that misbehaviour. The notice of this censure motion had to be signed by the mover and also three other Members. Details of the reasons or circumstances to support the proposed censure had to be particularized in the schedule to the motion. Once a censure motion had been moved, the debate on the motion would stand adjourned upon the moving of the motion, and the matter would then be referred to an investigation committee. The investigation committee was responsible for establishing the facts stated in the censure motion and

Action

giving its views on whether or not the facts as established constituted grounds for the censure. Upon the completion of the investigation, the investigation committee should make a report to the Council. The debate on the censure motion would take place at the Council meeting next following the tabling of the report at which normal business was to be transacted. The passage of a censure motion required a two-thirds majority vote of the Members present, and if the motion was so passed, the President would forthwith declare that the Member was no longer qualified for his office.

9. SG drew Members' attention to RoP 73A(1) that the Member moving the motion and the Members jointly signing the motion should not be appointed to the investigation committee. Such a provision was to ensure fairness to the parties concerned and to avoid role conflict. At the last House Committee meeting, Members agreed that the Chairman of the House Committee should be the mover of the motion. Members also agreed to form a subcommittee to formulate the details of the alleged misbehaviour. SG added that should members of the subcommittee take part in the framing of the motion, Members had to consider whether these members should be nominated for appointment as members of the investigation committee.

10. The Chairman clarified her role in the moving of the motion. She said that she would not be moving the motion on behalf of Members in her capacity as the Chairman of the House Committee, but would do so in her own capacity as a Member in order to facilitate having a debate on the censure motion. As the onus rested with her and the three Members who would sign the motion to set out the details of the misbehaviour in the schedule to the motion, Members had to address the following issues as set out in paragraph 23 of the paper -

- (a) who would be the three other Members who would join her in signing the notice of the censure motion; whether these three Members should be decided by the House Committee or whether it would be for individual Members to volunteer themselves;
- (b) if the primary task of the subcommittee was to discuss and make recommendations on the wording of the motion, whether members of the subcommittee would be regarded as having taken part in the framing of the motion and therefore should not be nominated as a member of the investigation committee; and
- (c) given the complication in (b) above, whether the subcommittee should assist the House Committee in considering matters other than the drafting of the censure motion, which would be left to the mover and the three other Members to decide. These matters might include the formation and preliminary work of the investigation committee, such as proposal on the membership of the investigation committee etc.

Action

11. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considered that the three Members jointly signing the motion should not be decided by the House Committee. These three Members should be nominated by political groupings and affiliations in the Council through consultation, say from the pro-democratic camp, DAB, etc. Mr IP agreed that the subcommittee could take on duties other than the drafting of the censure motion as described in paragraph 23(c) of the paper.

12. SG said that if the subcommittee would not be involved in the drafting of the censure motion, its members could be members of the investigation committee as the question of role conflict would not arise.

13. Dr Margaret NG agreed that the issue in paragraph 23(b) of the paper would not arise if the subcommittee would not be involved in the drafting of the censure motion. In her view, there was no need for the appointment of a subcommittee to deal with the other matters mentioned in paragraph 23(c) of the paper. As in the case of select committees, members of the investigation committee could be nominated by the House Committee for appointment by the President through consultation among different political groupings and affiliations. This would be in line with the established mechanism and practices.

14. SG said that it was for the House Committee to decide on the need for a subcommittee. This would be the first time the procedure to disqualify a Member for misbehaviour was to be used. In view of the lack of precedent in this respect, the subcommittee, if formed, could take on work such as making a proposal on the election procedure for appointment to the investigation committee. If the House Committee decided otherwise, the Secretariat could draw up for the consideration of the House Committee proposals on the election procedure and other related matters with reference to the established mechanisms and rules concerning committees such as the Public Accounts Committee and the Committee on Members' Interests.

15. Dr Margaret NG considered that as a subcommittee had been formed and would convene a meeting after the House Committee meeting, the subcommittee could decide whether there was a need for it to exist.

16. The Chairman invited Members' view on paragraph 23(a) of the paper. Members agreed that the three other Members jointly signing the motion should volunteer themselves. The Chairman hoped that these three Members would belong to different political groupings and affiliations. She reminded Members that the three Members could not be nominated as members of the investigation committee.

Action

17. Mr IP Kwok-him, Mrs Regina IP and Dr Philip WONG indicated that they could volunteer to sign the notice for the censure motion. The Chairman said that she would undertake further consultation with Members.

*(Post meeting note: Mr IP Kwok-him, Mrs Regina IP and Dr Joseph LEE would sign the notice for the motion.)*

18. Mr Paul TSE enquired whether the assistant concerned was willing to assist in the investigation.

19. The Chairman informed Members of a verbal message from the lawyer representing the assistant which said that she "is willing to assist in the wording of the schedule to the censure motion".

20. Ms Cyd HO was also concerned about the readiness of the assistant to assist in the investigation, and suggested that the subcommittee could contact the assistant to seek her assistance in the investigation.

21. Mr Paul TSE said that he had not attended the last House Committee meeting. In his view, the verbal message from the lawyer representing the assistant was inadequate. Unless the assistant was willing to come forth to provide details of the allegation and to cooperate with the investigation, the investigation could not move forward and all efforts could be rendered fruitless, hence a waste of public resources. To contain the damage to the Legislature from a hasty decision made at the last meeting of the House Committee, he might consider moving a motion without notice of not referring the matter to an investigation committee under RoP 49B(2A).

22. Dr Margaret NG said that the moving of a censure motion was not a matter for the House Committee but for the mover and the three Members jointly signing the motion. The onus should rest with these Members to decide whether there was sufficient information to draft the schedule to the motion and proceed with the moving of the motion. Should the censure motion be moved and a Member considered that the allegations as contained in the schedule to the motion could not be established prima facie, a motion of not referring the matter to an investigation committee could then be moved.

23. Dr Priscilla LEUNG said that she had also expressed the view that invoking the mechanism under RoP 49B was drastic and there should be prima facie hearing before that. That was why she had proposed the appointment of a subcommittee under the House Committee to follow up the matter instead. The mover of the censure motion and the three Members jointly signing the motion might need to communicate with the assistant in the course of drafting the motion and its schedule, and the assistant's response would be indicative of whether she was willing to assist. Members could then decide whether there was a prima facie case to proceed with the motion.

Action

24. The Chairman said that it was premature to conclude whether there was a prima facie case to proceed with the motion and whether the assistant was willing to assist in the investigation. She would bring the matter up with Members should she encounter any genuine difficulties in proceeding with the motion.

25. The Chairman then invited Members' view on the need for the subcommittee.

26. Legal Adviser (LA) said that given the fundamental change to the agreed terms of reference (TOR) of the subcommittee as decided by the meeting, Members should consider the terms of the revised TOR which might include to make a recommendation to the House Committee on the need for its continued existence.

27. Dr Margaret NG said that the subcommittee would definitely consider the need for its continued operation including whether its membership should be reopened.

28. LA said that as the subcommittee was appointed under the House Committee, Members could decide at the meeting on the need for the subcommittee.

29. Mrs Sophie LEUNG shared the view that given the change to the TOR of the subcommittee as originally agreed by the House Committee, the House Committee should decide on the need for the subcommittee and if so, its revised TOR.

30. The Chairman said that as Members had agreed that the subcommittee should not assist in the drafting of the censure motion as originally intended for its appointment, Members had to decide whether the subcommittee should take on other functions as suggested in paragraph 23(c) of the paper.

31. Mr Paul TSE reiterated his views in paragraph 21 above. He added that the moving of a censure motion to follow up the matter violated the principles of justice and protection of individuals' right. He considered such an act, which was driven by media reports, grossly inappropriate and dangerous and would waste public resources and the time of the Legislature. Referring to paragraph 8 of the paper, he enquired whether he could move a motion of not referring the matter to an investigation committee at the House Committee meeting.

32. At the invitation of the Chairman, SG answered in the negative. SG elaborated that the motion of not referring the matter in the censure motion to an investigation committee could only be moved without notice in the Council after the censure motion had been moved.

Action

33. LA supplemented that the provision for the moving without notice of a motion of not referring the matter in the censure motion to an investigation committee was included in RoP after thorough deliberation by CRoP to prevent abuse of the procedure of the censure motion and having regard to the practices of local professional bodies and the serious consequences of the censure motion of irreparable damage being caused. The making of the relevant provisions in RoP was empowered by the BL. The mechanism for the censure of a Member for misbehaviour as provided in RoP observed the principle of natural justice. It could not be invoked lightly, as could be seen from the requirements for the mover of the censure motion to provide the details of the misbehaviour as particularized in the schedule to the motion and for the signing of the motion by three other Members. The responsibilities on the mover of the motion and the Members signing the motion went beyond legal and procedural responsibilities.

34. Dr Margaret NG said that according to her recollection, Members had not decided to appoint a subcommittee at the last House Committee meeting. Members only considered that there might be a need to assist the Chairman of the House Committee to draft the motion. As it had been decided that the onus rested with the mover of the censure motion and the three Members signing the motion to draft the motion and its schedule, she did not consider it necessary for the subcommittee to consider those matters set out in paragraph 23(c) of the paper. In her view, the Secretariat could make proposals on these other matters for Members' consideration.

35. Mr IP Kwok-him said that since a subcommittee with members belonging to different political groupings and affiliations had been formed, he considered it agreeable for it to take on the other matters as suggested in paragraph 23(c) of the paper, such as the membership of the investigation committee, and make proposals for Members' consideration.

36. Mr LAU Kong-wah pointed out that the decision to invoke Rule 49B of RoP to follow up the matter was not made in haste. On the contrary, it had been made after lengthy discussion by Members and was unanimously agreed at the last House Committee meeting. He said that the due process would be followed as the mover of the censure motion and the Members signing the motion had to provide the details of the allegations in the motion and its schedule. He agreed that while Members should be prudent in invoking the mechanism for the first time, the matter had to be followed up by LegCo. He added that the Secretariat had called for membership of the subcommittee in accordance with the decision of Members.

37. Ms Emily LAU echoed the view that the Secretariat had acted in accordance with the decision of Members made at the last House Committee meeting. Should Members consider it necessary to make changes to their earlier decision concerning the subcommittee, the changes must be clear and be made by the House Committee.

Action

38. Mr Paul TSE considered it not necessary for the House Committee to further discuss the appointment or otherwise of a subcommittee as the mechanism for implementing BL79(7) had not been invoked. In his view, the moving of the censure motion should be left to the mover and the Members signing the motion.

39. The Chairman said that Members had already decided on the moving of the censure motion to follow up the matter. Mr Paul TSE's disagreement with such an approach would be put on record.

40. Dr LAM Tai-fai said that since it was decided that the subcommittee would not assist in the drafting of the censure motion, he would withdraw from it.

41. Mrs Sophie LEUNG said that according to her understanding, the appointment of the subcommittee was not solely for the drafting of the censure motion. Should Members consider a subcommittee necessary to consider other matters, it must be clear what these other matters were.

42. The Chairman referred Members to paragraph 23(c) of the paper for the matters, other than the drafting of the censure motion, to be taken up by the subcommittee. The Chairman said that Members could also opt for the Secretariat making proposals on these matters for their consideration.

43. Ms Emily LAU and Mr LAU Kong-wah expressed support for the consideration of the related matters by a subcommittee.

44. SG said that should Members consider it necessary for the appointment of a new subcommittee or for the subcommittee already formed to operate, its TOR must be clear. This might include, for example, consideration of the election procedure for the appointment of members of the investigation committee and its practice and procedure. If the subcommittee was to consider such matters, the mover of the censure motion and the three Members signing the motion should not join the subcommittee in order to avoid role conflict.

45. LA stressed the importance of following the due process in considering the TOR of the subcommittee appointed under the House Committee. He drew Members' attention to RoP 73A(1) which provided that the procedure for the election of members of the investigation committee should be determined by the House Committee. He added that whether the subcommittee should be tasked with other duties warranted prudent consideration by the House Committee.

46. Dr Margaret NG said that under RoP 73A(1), members of the investigation committee were appointed by the President in accordance with an election procedure determined by the House Committee. Such a procedure was the same as that for the appointment of members of a select committee. She did not consider it necessary to appoint a subcommittee to draw up the procedure for the nomination of members of the investigation committee. She added that

Action

once a censure motion was moved and the matter stated in the motion was referred to an investigation committee, it would be for the investigation committee itself, and not the House Committee or its subcommittee, to decide on its practice and procedure.

47. At the invitation of the Chairman, SG said that where the House Committee supported a proposal for the appointment of a select committee to inquire into certain matters, it was the established practice for the House Committee to appoint a subcommittee to assist in the making of recommendations on the membership of the select committee for appointment by the President. Having regard to such a practice and RoP 73A(1), the Secretariat had suggested in the paper that the subcommittee could assist the House Committee in formulating a proposal on the membership of the investigation committee. She stressed that ultimately it was for the House Committee to decide on the election procedure for members of the investigation committee.

48. Dr Margaret NG pointed out that a select committee was appointed by resolution of the Council pursuant to the decision of the House Committee. A censure motion was different in that it was moved by an individual Member and signed by three other Members and did not involve any resolution of the House Committee. Hence, it was not for the House Committee to consider matters relating to the membership of the investigation committee.

49. At the invitation of the Chairman, SG reiterated that the House Committee had a role to play in the membership of the investigation committee. Pursuant to RoP 73A(1), the members of the investigation committee should be appointed by the President in accordance with an election procedure determined by the House Committee.

50. Mr Paul TSE reiterated his view that it was not necessary for the House Committee to further discuss matters relating to the appointment of a subcommittee as the mechanism for implementing BL79(7) had not been invoked.

51. The Chairman reiterated that at the last House Committee meeting, Members had already decided on the moving of a censure motion to follow up the matter. She stressed that it was the decision of the House Committee that she would be the mover of the motion.

52. Mr IP Kwok-him said that the House Committee had already made a decision on the matter, and it should not be reopened for discussion. He expressed support for the proposal in paragraph 23(c) of the paper for the subcommittee to assist the House Committee in considering matters other than the drafting of the censure motion. These matters included the formation and preliminary work of the investigation committee, such as drawing up a proposal on the membership of the investigation committee, drafting the practice and procedure of the investigation committee, etc.

Action

53. Mr Paul CHAN said that there was a basis for the House Committee to have arrived at the decision to follow up the matter. He elaborated that the Complaints Division of the Secretariat had received views and requests from the public in relation to the dismissal of Mr KAM Nai-wai's assistant. Having considered such views and requests at a meeting, the Duty Roster Members concerned had decided to refer the matter to the House Committee for consideration. After thorough discussions, the House Committee had decided to follow up the matter by the moving of a censure motion. He stressed that the purpose of the discussion at the meeting was to address the technical difficulties arising from the decision; it would be unjust to overturn the decision altogether and not to follow up the matter. In his view, the subcommittee could perform certain functions. For instance, it could contact the assistant concerned to gather more information about the matter and ascertain whether she would come forth to assist in the investigation, and make recommendations to the House Committee accordingly.

54. The Chairman clarified that up to this point, the assistant concerned had only indicated her willingness to assist in the drafting of the schedule to the motion. As the censure motion and its schedule would be drafted by the mover and the three Members signing the motion, and not the subcommittee, there was no need for the subcommittee to contact the assistant concerned.

55. Mr Paul CHAN hoped that the assistant would come forth to assist in the investigation to enable the achievement of its intended function.

56. In concluding the discussions, the Chairman said that Members agreed on the need for the subcommittee and that the subcommittee should consider the matters, other than the drafting of the censure motion, as set out in paragraph 23(c) of the paper. She added that as she would be the mover of the motion, she would withdraw from the subcommittee. She also reminded Members who would sign the motion not to join the subcommittee.

57. Mr Paul TSE reiterated his objection to the invocation of the mechanism under RoP 49B(1A) to follow up the matter.

58. In response to Dr Priscilla LEUNG, the Chairman confirmed that members of the subcommittee could be nominated as members of the investigation committee as the subcommittee would not be involved in the drafting of the censure motion.

### **III. Business arising from previous Council meetings**

**Legal Service Division report on subsidiary legislation gazetted on 9 October 2009 and tabled in Council on 14 October 2009**  
(*LC Paper No. LS 1/09-10*)

59. The Chairman said that a total of 10 items of subsidiary legislation and a Technical Memorandum for Supervision Plans 2009 issued under the Buildings

Action

Ordinance were gazetted on 9 October 2009 and tabled in the Council on 14 October 2009.

60. Regarding the Building (Minor Works) (Fees) Regulation, the Chairman said that it was to prescribe fees payable for various applications and registrations relating to minor works made under the principal Ordinance.

61. Ms LI Fung-ying considered it necessary to form a subcommittee to study the Regulation in view of the concerns expressed by the trade.

62. The Chairman proposed that a subcommittee be formed to study the Regulation in detail. Members agreed. The following Members agreed to join: Ms LI Fung-ying, Prof Patrick LAU and Mr IP Wai-ming.

63. On the Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2009, the Chairman said that it amended Schedule 1 to the Prevention of Bribery Ordinance by adding the Minor Works Contractors Registration Committee (the Committee) with the effect that the Ordinance was applicable to the Committee.

64. Mr James TO was concerned whether other bodies with functions similar to those of the Committee were included in the Schedule. He sought information in this regard, and enquired about the feasibility of deferring a decision on the Order to the next House Committee meeting.

65. The Chairman said that the deadline for amending the Order, which was yet to come into operation, was 11 November 2009.

66. Members agreed to defer the decision on the Order to the next House Committee meeting pending the provision of the requisite information by the Legal Service Division.

67. Regarding the Estate Agents (Licensing) (Amendment) (No. 2) Regulation 2009, the Chairman said that it was to take forward a mutual recognition of estate agent qualifications scheme between Hong Kong and the Mainland.

68. Mr James TO said that he was concerned about the details of the mutual recognition scheme such as the training required and the number of estate agent licences involved, and needed more time to study the legislative proposals. He suggested that a decision on the Amendment Regulation be deferred to the next House Committee meeting. Members agreed.

69. In respect of the Rules of the High Court (Amendment) Rules 2009, the Chairman said that they sought, inter alia, to set out the procedures for applications to the Court of First Instance relating to the search and seizure of terrorist property and detention of seized property. The Chairman further said that the Panel on Security had been briefed on the legislative proposals at its

Action

meeting on 2 December 2008, and members had raised various concerns about the proposals and the United Nations (Anti-Terrorism) Measures Ordinance.

70. Dr Margaret NG considered it necessary to form a subcommittee to study the Amendment Rules.

71. The Chairman proposed that a subcommittee be formed to study the Amendment Rules in detail. Members agreed. The following Members agreed to join: Dr Margaret NG, Mr James TO, Mr Ronny TONG, Ms Cyd HO and Mr Paul TSE.

72. Members did not raise any queries on the other six items of subsidiary legislation and the Technical Memorandum.

**IV. Further business for the Council meeting on 21 October 2009**

**(a) Bills – resumption of debate on Second Reading, Committee Stage and Third Reading**

**Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009**

73. The Chairman said that the Bills Committee on the above Bill had presented its report to the House Committee at the last meeting, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

**(b) Government motion**

**Proposed resolution to be moved by the Secretary for Constitutional and Mainland Affairs under the Interpretation and General Clauses Ordinance relating to:**

- (i) the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009;**
- (ii) the Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2009;**
- (iii) the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2009;**
- (iv) the Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2009; and**
- (v) the Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009**

Action

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 47/09-10 dated 15 October 2009.)*

74. The Chairman said that the relevant Subcommittee had presented its report at the last House Committee meeting, and Members did not raise objection to the proposed amendments to be moved by the Administration.

**V. Business for the Council meeting of 28, 29 and 30 October 2009**

**(a) Questions**

*(LC Paper No. CB(3) 32/09-10)*

75. The Chairman said that 20 written questions had been scheduled for the meeting.

**(b) Members' motion**

**Motion of Thanks**

**Members will be invited to discuss the proposed grouping of policy areas for the Debate on the Motion of Thanks**

*(Director of Administration's letter dated 15 October 2009 on "The Debate on the Motion of Thanks on the 2009-2010 Policy Address - Proposed Grouping of Policy Areas" (LC Paper No. CB(2) 39/09-10(01))*

76. The Chairman referred Members to the letter of the Director of Administration dated 15 October 2009 on the proposed grouping of policy areas for the five debate sessions. Members agreed with the proposed grouping.

77. Members further agreed to adopt the same arrangements for the debate on the 2009-2010 Policy Address as those for the debates on the Policy Addresses in the past four years.

78. In response to Ms Emily LAU, the Chairman said that a Member might speak once in one or more sessions of the five debate sessions, subject to the total speaking time limit of 30 minutes.

79. The Chairman further said that should there be any change in the final arrangements in response to Members' speeches, the Administration would advise the President before the public officers spoke at the relevant sessions.

80. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motion was Tuesday, 20 October 2009.

Action

Behaviour of Members during Council meetings

81. Mr TAM Yiu-chung said that during the Council meeting on 14 October 2009 and CE's Question and Answer Session on 15 October 2009, some Members had not observed the relevant provisions in RoP concerning Members' behaviour during meetings and had been ordered by the President to withdraw from the Council meetings. He was concerned that a Security Assistant was injured while escorting one of the Members concerned to leave the Chamber. He noted that Members would send a card to the Security Assistant concerned to express their sympathy and concern. He considered it necessary to work out measures as soon as practicable to prevent recurrence of similar incidents and to protect the security staff from injury in their discharge of duties.

82. Ms Emily LAU said that she had rung up SG earlier on to express sympathy for the security staff on behalf of Members belonging to the Democratic Party. She had also requested SG to meet with the security staff of the Secretariat to listen to their views and requests, and work out a proposal to address their concerns for the consideration of the House Committee or The Legislative Council Commission as appropriate.

83. At the invitation of the Chairman, SG said that the Security Assistant was injured while assisting her to escort Mr LEUNG Kwok-hung to withdraw from the Chamber during the CE's Question and Answer Session held on the day before the House Committee meeting. A scuffle occurred at the scene, during which the Security Assistant had bumped into the corner of a Members' bench, causing fairly severe injuries to his waist and ligaments and abrasions to his arm. He was initially given five days of sick leave and would consult the doctor again the following Monday. He might possibly require a prolonged period of sick leave to recover from his injuries.

84. SG further expressed regret at the way security staff were treated when performing their official duties in the Chamber. She stressed that the security staff had endeavoured to assist Members in their work. She had arranged to meet with the security staff the following week to listen to their views and ascertain the difficulties they encountered in carrying out their duties. She assured Members that the Secretariat would formulate concrete proposals for the consideration of The Legislative Council Commission.

85. Mr WONG Kwok-hing agreed on the need to work out measures expeditiously to ensure the personal safety of security staff in carrying out their duties. He enquired whether the injuries had been reported to the Labour Department and matters concerning employee compensation had been dealt with. He noted with concern that the behaviour of some Members during Council meetings was getting increasing out of control, and considered it unfair that the disorderly behaviour of a few Members had wasted the meeting time and deprived other Members of their rights to express their views. He requested the Secretariat to provide for Members' reference information on the total amount of time taken up by certain Members for disorderly behaviour during the CE's

Action

Question and Answer Session held on the day before the House Committee meeting. In his view, the President should have suspended the meeting immediately, so that the Police could have been called in to assist if the security staff were unable to handle the situation. He expressed regret over the President's handling of the matter.

86. Members agreed that the Secretariat should provide the information sought by Mr WONG Kwok-hing.

87. Dr Margaret NG considered it important at the present stage to apprise the Security Assistant of his rights relating to claim for compensation for work injuries. She was confident that the Secretariat would work out measures to prevent recurrence of similar incidents for the consideration of The Legislative Council Commission.

88. The Chairman reminded Members not to engage in lengthy discussions on issues relating to maintenance of order at Council meeting, as it was not on the agenda of the House Committee meeting.

89. Ms Audrey EU expressed regret about the incident, and wished the Security Assistant concerned a speedy recovery. She considered it totally unacceptable to seek Police assistance in the handling of order during Council or committee meetings. She stressed that such matters should only be handled by the security staff of the Secretariat, and even CE's security guards were not allowed access to the Legislative Council Building when CE attended Council meetings.

90. Mr CHEUNG Man-kwong expressed disapproval of any physical scuffle and the throwing of objects in the Chamber which might cause injuries. He echoed the concern about the safety of security staff in performing their duties. He said that when a Member was ordered to withdraw from a Council meeting, he should co-operate and refrain from causing any injuries to the Secretariat staff in the process. On behalf of Members belonging to the Democratic Party, he expressed sympathy and concern for the Security Assistant and stressed his entitlement to compensation for work injuries.

91. Mr IP Kwok-him said that it was the first time that an incident involving personal injuries had occurred in the Chamber. He considered the incident totally unacceptable and should be handled seriously. He shared the view that Police assistance should not be sought in handling matters relating to order at Council meetings, and the incident should be followed up by The Legislative Council Commission.

92. Mr WONG Kwok-hing requested the Chairman to convey to the President his views and dissatisfaction with the President's handling of the unruly behaviour of some Members.

Action

93. The Chairman suggested that Mr WONG Kwok-hing should convey his views to the President direct.

94. In concluding the discussions, the Chairman said that the incident would be followed up by The Legislative Council Commission. She clarified that it was not the first time that Security Assistants had sustained injuries in the course of discharge of duties. Some Security Assistants had been hurt by a member of the public in the public gallery during a committee meeting not too long ago. She stressed the importance of formulating comprehensive measures to prevent the recurrence of similar incidents and ensure the safety of Secretariat staff in carrying out their duties.

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

*(LC Paper No. CB(2) 17/09-10)*

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

96. The Chairman invited Members to note that the following two Bills Committees would have to work beyond three months since commencement of their work -

- (a) Bills Committee on Inland Revenue (Amendment) (No. 2) Bill 2009; and
- (b) Bills Committee on Inland Revenue (Amendment) (No. 3) Bill 2009.

**VII. Any other business**

97. There being no other business, the meeting ended at 3:59 pm.