

Chapter 3 Establishing the facts

3.1 This Chapter sets out the analysis and findings of the Investigation Committee on establishing, in accordance with Rule 73A(2) of the Rules of Procedure, “the facts to be established” as set out in the Schedule to the motion to censure Hon KAM Nai-wai.

The scope of the “facts” in the Schedule to the censure motion to be established by the Investigation Committee

3.2 The particulars of the misbehaviour of Mr KAM as alleged¹ by Hon Ms Miriam LAU Kin-ye, the mover of the censure motion, and the three Members who jointly signed the notice of the motion (“Members initiating the censure motion”) are set out in the Schedule to the censure motion (Appendix 1.1). The particulars comprise two parts, each of which has a heading (“the headings”) in bold print, followed respectively by two paragraphs and one paragraph in normal print (“the main text”). The headings are reproduced as follows:

- (a) **Hon KAM Nai-wai made inconsistent remarks to the media and withheld key information, causing the public to have doubts about his integrity**

¹ In moving the censure motion at the Legislative Council meeting on 9 December 2009, Ms Miriam LAU remarked that the Members initiating the censure motion had made “two allegations” in the Schedule to the censure motion (second paragraph on page 2900, Official Record of Proceedings of the Legislative Council (Hansard) on 9 December 2009).

- (b) **Hon KAM Nai-wai was unfair in dismissing his female assistant, whose overall work performance was judged by him to be good, after his expression of affection was rejected by her**

3.3 The Investigation Committee considers that the main text in the Schedule to the censure motion is mainly a descriptive account of certain events which are obviously the “facts to be established”, whereas the two headings in the Schedule to the censure motion are the allegations of misbehaviour made against Mr KAM by the Members initiating the censure motion on the basis of the contents in the main text under the headings. The Investigation Committee sets out its analysis of the “facts to be established” in this Chapter and its views on the two allegations in Chapter 4.

Facts to be established by the Investigation Committee

3.4 After analysing the contents of the main text, the Investigation Committee considers that the “facts to be established” are:

First: Mr KAM expressed good feelings towards Ms Kimmie WONG Lai-chu when he was alone with her on one occasion in mid-June 2009;

Second: Mr KAM denied at a press conference called by him on 4 October 2009 that he had made advances towards a female assistant who was subsequently dismissed by him, and he did not disclose that he had expressed good feelings towards the female assistant;

Third: Mr KAM admitted on 6 October 2009 on a radio programme that he had expressed good feelings towards a female assistant, who was subsequently dismissed by him, when he was alone with her on one occasion in mid-June 2009;

Fourth: Mr KAM judged that the overall work performance of Ms WONG during the employment period to be good;

Fifth: Subsequent to his expression of good feelings towards a female assistant (i.e. Ms WONG) in mid-June 2009, Mr KAM noticed some signs of Ms WONG rejecting him, and between early September and mid-September, Mr KAM invited the female assistant to dine out and was refused by her; and

Sixth: When Mr KAM dismissed a female assistant (i.e. Ms WONG) on 24 September 2009, he did not give any reasons for the dismissal.

**The first fact to be established –
 (“the first fact”)**

Mr KAM expressed good feelings towards Ms WONG when he was alone with her on one occasion in mid-June 2009.

3.5 According to the findings of the investigation, Mr KAM told Ms WONG that he had good feelings towards her roughly between 4:00 pm

and 6:00 pm on 15 June 2009 in a restaurant called Café Costa at the International Finance Centre Mall in Central. In giving evidence, Mr KAM reiterated his saying in the written statement (Appendix 2.11) he submitted on 15 March 2010, i.e. when he told Ms WONG that he had good feelings towards her at the afternoon tea meeting, the term “good feelings” was just a general expression; in his mind he was approving of Ms WONG’s abilities and affirming her relationship with colleagues and her performance in work such as media liaison. Yet, Mr KAM also pointed out that he felt that Ms WONG at that moment was a bit taken by surprise. Ms WONG then said more than once that she wanted to resign. Mr KAM was also astonished, and he was somewhat flustered on hearing Ms WONG saying that she wanted to resign. On the other hand, Ms WONG said in her open statement issued on 3 December 2009 that “KAM Nai-wai confessed to me that he had good feelings towards me. I was astonished at that moment and rejected him right away. I indicated my wish to resign several times.” Since there is no contradiction between what Mr KAM and Ms WONG said with regard to Mr KAM’s telling Ms WONG that he had good feelings towards her at the afternoon tea meeting, the Investigation Committee has established the following fact: Mr KAM expressed good feelings towards Ms WONG when he was alone with her on one occasion (i.e. the afternoon tea meeting) in mid-June 2009 (the exact date was 15 June).

The second fact to be established – Mr KAM denied at a press conference called by him on 4 October 2009 that he had made advances towards a female assistant who was subsequently dismissed by him, and he did not disclose that he had expressed good feelings towards the female assistant.

3.6 The Investigation Committee has carefully examined the verbatim transcript of the press conference (Appendix 2.5) called by Mr KAM on 4 October 2009. According to the verbatim transcript, reporters repeatedly asked Mr KAM a number of times questions as to whether he had “committed any act or spoken any word tantamount to sexual harassment” or “made advances“ towards the female assistant who was subsequently dismissed by him, to which Mr KAM replied all with denials. Yet, the Investigation Committee notes that when Mr KAM attended the radio programme Tipping the Points broadcast on Channel 1 of Hong Kong Commercial Radio in the evening of 6 October 2009, he said, “... probably as I was at one moment sentimental, I did say to her that I had good feelings towards her.”²

3.7 In considering whether Mr KAM was in fact making advances to Ms WONG by telling Ms WONG that he had good feelings towards her, the Investigation Committee is of the view that its perspective should be

² Lines 85 to 105 of the Verbatim Transcript (Appendix 2.9) of the radio interview attended by Mr KAM on 6 October 2009 are reproduced in paragraph 3.17.

objective to enable it to arrive at a reasonable conclusion. To that end, the Investigation Committee has considered the following relevant questions:

- (a) Is the explanation given by Mr KAM for his expression of good feelings towards Ms WONG credible?
 - (b) How did Ms WONG understand Mr KAM's expression of good feelings towards her?
 - (c) How did other people understand Mr KAM's expression of good feelings towards Ms WONG?
- (a) Is the explanation given by Mr KAM for his expression of good feelings towards Ms WONG credible?

3.8 Mr KAM put forward the following explanation in the written statement he submitted to the Investigation Committee on 15 March 2010: he expressed good feelings towards Ms WONG in order to approve of her abilities and affirm her work performance. Mr KAM also said at a hearing that he would occasionally tell his staff members that he “had good feelings” towards them to approve of their good work performance. Although Mr KAM said at a hearing that no one knew better than he did the actual meaning conveyed when he told Ms WONG he “had good feelings” towards her on 15 June 2009, the Investigation Committee finds it hard to accept that the explanation given by Mr KAM is true, for the following reasons:

- (i) before submitting his written statement, Mr KAM had mentioned on three occasions that he told Ms WONG he had

good feelings towards her: (1) the meeting with Hon Albert HO and Hon Emily LAU, Chairman and Deputy Chairman of the Democratic Party respectively, on 24 September 2009 (please refer to paragraphs 2.110, 2.112 and 2.113 of Chapter 2), (2) at the caucus meeting of the Democratic Party on 2 October (please refer to paragraphs 2.113 and 2.114 of Chapter 2), and (3) on the radio programme on 6 October. On the basis of the information at hand, Mr KAM had never said on these occasions that he expressed good feelings towards Ms WONG in order to approve of her abilities and affirm her work performance. Mr KAM even pointed out on the radio programme on 6 October 2009 that during the afternoon tea meeting, he had shared with Ms WONG his love life with his wife, and as he “was at one moment sentimental and touched” in this sharing process, he expressed good feelings towards Ms WONG. Although Mr KAM subsequently explained that on the radio programme, he was only disclosing limited details of the incident so as to protect the privacy of Ms WONG, the Investigation Committee does not accept this explanation;

- (ii) apart from the evidence given by Mr KAM, there is no information which shows that Mr KAM has ever said the expression “have good feelings” to “approve of” the work performance of other staff members. Regarding the remark of Ms Anita LUI Suet-ching, another staff member of Mr KAM, that Mr KAM had never used the expression “have good feelings” to affirm her work performance, Mr KAM explained that this was because unlike Ms WONG, Ms LUI

had not encountered any relationship problems. The Investigation Committee cannot accept Mr KAM's claim that he did occasionally say the words "have good feelings" to his staff members to "approve of" their work performance;

- (iii) Mr KAM failed to explain the reasons for the series of reactions (i.e. apologizing to Ms WONG and admitting to his wife that he had done wrong) after his expression of good feelings towards Ms WONG on 15 June 2009 was rejected, and his telling Ms WONG in an email sent on 22 June 2009 that he "did not have any other intentions"; and
- (iv) when Mr KAM was asked on the radio programme whether he felt he had been unfaithful to his wife in sending "a signal" to another lady, he did not deny it directly. Instead, he pointed out that he had already apologized to that lady and admitted to his wife that he had done wrong, and he felt that his wife "was feeling uncomfortable at heart". The Investigation Committee considers that if Mr KAM, in informing his wife of the incident, had explained to her that his expression of good feelings towards Ms WONG was merely for approving of her abilities and affirming her work performance, and had nothing to do with love relationship between a man and a woman, then as far as normal reasoning goes, there was no the need for him to admit to his wife that he had done wrong.

3.9 To sum up, other than the evidence given by Mr KAM himself, there is no information which shows that Mr KAM had explicitly stated that the expression of good feelings towards Ms WONG was for affirming her work performance prior to his submitting the written

statement to the Investigation Committee. The Investigation Committee also notes that other than Mr KAM's own evidence, there is no information which shows that Mr KAM had ever said the expression "have good feelings" on other occasions to "approve of" the work performance of other staff members. In addition, after his expression of good feelings towards Ms WONG was rejected by her, Mr KAM made a series of reactions inconsistent with his above explanation (including apologizing to Ms WONG and admitting to his wife that he had done wrong). The Investigation Committee therefore considers that the claim maintained by Mr KAM that "have good feelings" was for affirming staff's work performance is hardly convincing.

(b) How did Ms WONG understand Mr KAM's expression of good feelings towards her?

3.10 Mr KAM stated at the hearing on 21 May 2011 that the Investigation Committee should not consider Ms WONG's open statement because the statement was "irrelevant, useless ... without any evidential value". The Investigation Committee does not agree to this view. Regardless of Mr KAM's own intention in saying the expression "have good feelings", he nevertheless agrees that "different persons could comprehend the same expression differently". In order to find out how Ms WONG understood the expression, the Investigation Committee considers that Ms WONG's open statement should be regarded as background information to which the Investigation Committee may refer. Ms WONG said in her open statement, "Throughout the entire incident, I have only done one thing, that is I have rejected a politician who has a wife

and a daughter, and is occupying a position in the establishment — my boss, KAM Nai-wai ... KAM Nai-wai confessed to me that he had good feelings towards me. I was astonished at that moment and rejected him right away. I indicated my wish to resign several times. ... I had always regarded KAM Nai-wai as my supervisor and had never liked him; in addition, he had a wife, I would not accept him. ... After rejecting his advances to me ... I turned down all unnecessary and non-work-related invitations. Although I kept a distance from KAM Nai-wai on a personal level, I still did my best to discharge my duties at work.” Ms WONG’s open statement clearly indicates that she felt Mr KAM was making advances to her at that moment, and it is a fact that when Mr KAM attended the programme Tipping the Points broadcast on Channel 1 of Hong Kong Commercial Radio in the evening of 6 October 2009, he also admitted that he realized there and then that Ms WONG perceived that his expression of good feelings was making advances to her³.

3.11 The Investigation Committee notes that, as shown in the evidence given by Mr HO and Ms LAU, both of them knew that Ms WONG considered Mr KAM’s expression of good feelings towards her was making advances to her, and that her immediate reaction was very strong, which included expressing her intention to resign more than once, and afterwards even showing signs of rejecting Mr KAM and avoiding to be alone with him. Mr KAM also told Mr HO that since 15 June 2009, Ms WONG had all along been showing emotional reactions and rejecting him strongly, causing their working relationship to worsen. Even after Mr KAM had made his explanations to her in early July, the situation had not shown any improvement. Based on the above, the Investigation

³ Please refer to paragraph 2.16 of Chapter 2.

Committee considers that the objective effect of Mr KAM's expression of good feelings towards Ms WONG was that it made her feel that he was making advances to her.

(c) How did other people understand Mr KAM's expression of good feelings towards Ms WONG?

3.12 The Investigation Committee notes that when Mr KAM took the initiative to give an account for the first time on his dismissal of Ms WONG to Ms LAU and Mr HO in the evening of 24 September 2009, he mentioned what happened at the afternoon tea meeting on 15 June 2009. Ms LAU told the Investigation Committee both in her written statement and at a hearing that she recalled clearly that at that moment Mr KAM admitted he had told Ms WONG that he "had affection" for her. Yet Mr KAM denied to the Investigation Committee that he had ever said this. On the issue of whether Mr KAM actually said "had affection" or "had good feelings" to Mr HO and Ms LAU in the evening of 24 September 2009, Ms LAU said in her response to the Investigation Committee that she considered the meanings of both expressions to be the same; they both referred to matters between a man and a woman, and not friendliness based on a working relationship. Mr HO however told the Investigation Committee that throughout the incident, what he had heard was "had good feelings", not "had affection". In Mr HO's opinion, when an employer had a relatively close working relationship with an employee, they might of course have some private conversations. Mr HO considered that the expression "have good feelings" alone was insufficient to confirm objectively that Mr KAM's own intention was to make advances.

Nevertheless, in his opinion, if a person told a colleague of having “good feelings” towards him or her, particularly if it involved a man and a woman, it would easily cause misunderstanding, regardless of the speaker’s own wish. The Investigation Committee considers that although the information at hand does not show that the words used by Mr KAM when he spoke to Mr HO and Ms LAU at that time definitely included “had affection”, the message she got was really that what Mr KAM had said to Ms WONG at the afternoon tea meeting on 15 June 2009 was about private affairs and relationships, and was not based on friendliness in a working relationship.

3.13 The Investigation Committee has enquired with Mr HO and Ms LAU about the following: whether Mr KAM had stated that his saying “have good feelings” towards Ms WONG was for approving of her abilities and affirming her work performance, or out of friendliness in a working relationship etc. on the various occasions when he talked to them and other members of the Democratic Party about the dismissal and related matters.⁴ Their replies do not show that Mr KAM had said so.

3.14 The Investigation Committee notes that before the start of the caucus meeting on 2 October 2009, Hon James TO mentioned to Mr KAM what he had said to a female secretary more than a decade ago, “You are so beautiful. It is very easy for men to have good feelings towards you. So you don’t have to worry about the lack of admirers in the future. Just don’t give up on yourself.” Mr TO told the Investigation Committee that, “In saying such words, I was deliberately praising the secretary in order to boost her self-confidence. I then asked Mr KAM whether it was because

⁴ IC Paper Nos. WA18(C) and WE17(C).

Ms WONG was not bad looking and she was competent at work that he just hoped to make her regain self-confidence. At that moment, Mr KAM told me that it was exactly what he meant in saying those words to Ms WONG in the hope of boosting her self-confidence, but then he had been misunderstood.” The Investigation Committee considers that the expression “have good feelings” was referred to by Mr TO to indicate the situation where the appearance of the female secretary was attractive to the opposite sex, but not a way by which superiors commended the work performance of subordinates. The Investigation Committee considers that since Mr KAM had indicated that that was what he meant as well, he was not merely approving of Ms WONG’s abilities and affirming her work performance by telling Ms WONG that he had good feelings towards her. Moreover, the other LegCo Members who attended the caucus meeting of the Democratic Party on October 2009 (see paragraph 2.114 of Chapter 2) did not confirm that Mr KAM had put forward such a version as described above at that meeting.

3.15 To sum up, the Investigation Committee considers that Mr KAM’s saying that his expression of good feelings towards Ms WONG was to approve of her work performance is hardly convincing. On the contrary, under the circumstances at the time, Mr KAM’s expression of good feelings towards Ms WONG may reasonably be regarded as an expression of affection between a man and a woman; it was an act that carries the meaning of making advances.

3.16 The Investigation Committee considers that Mr KAM did deny at the press conference that he had made advances to the female assistant who was subsequently dismissed by him. After perusal of the

full verbatim transcript of the press conference (Appendix 2.5), the Investigation Committee has established the second fact: Mr KAM denied at the press conference that he had made advances towards a female assistant (i.e. Ms WONG) who was subsequently dismissed by him and he did not disclose that he had expressed good feelings towards the female assistant.

**The third fact to be established –
 (“the third fact”)**

Mr KAM admitted on 6 October 2009 on a radio programme that he had expressed good feelings towards a female assistant, who was subsequently dismissed by him, when he was alone with her on one occasion in mid-June 2009.

3.17 The Investigation Committee notes that when Mr KAM attended the radio programme in the evening of 6 October 2009, he had the following conversation with the hosts:

“Lady host: ...Well, according to media reports, it seemed to be June this year when you made advances to her for the first time.

Mr KAM: I think, in this incident, in fact, I’ve been working for more than two decades. In fact, very often, in work ... very often, (we) talked

about work issues. In fact, I'm a workaholic, and very few colleagues talk to me about subjects other than work issues. But this year a colleague told me she had some troubles outside work. So I sat down and had a chance to talk with her. I think, during our conversation, she and I had some sharing perhaps, and we had some sharing of feelings. I think, at that moment ... i.e., probably as I was at one moment sentimental, I did say I had good feelings towards her. But I think, after making such a remark under such circumstances, I want to stress that I was not thinking about making advances to her. In fact, in the entire process, I had never courted this female colleague, as I had never taken any action such as giving her flowers ... i.e., I had never taken such actions to court my colleague. But under the particular circumstances, I wanted both of us could have a ... maybe I out of some comfort, or out of ... i.e., at that moment in a relatively touching situation, (I) said such words ...

Male host: Were (you) in the office then?

Mr KAM: Not in the office, no, we were not. In fact ... as far as I can recall, I'm under the impression

that this was the only occasion on which I met
and chatted with her alone outside the office
about those troubles, which I mentioned a
moment ago ...”⁵

3.18 According to the extract of the verbatim transcript of the radio programme reproduced above, Mr KAM did admit on the radio programme on 6 October 2009 that he had expressed good feelings towards a female assistant when he was alone with her on one occasion in mid-June 2009 (the exact date was 15 June). The Investigation Committee is therefore of the view that the third fact has been established.

The fourth fact to be established – Mr KAM judged that the (“the fourth fact”) overall work performance of Ms WONG during the employment period to be good.

3.19 Ms WONG was employed to work in Mr KAM’s LegCo Member’s Office from 15 December 2008 until 24 September 2009 when she was dismissed with immediate effect by Mr KAM. After the dismissal incident came to light on 4 October 2009, Mr KAM called a press conference on the same day. At the press conference, Mr KAM said that as he did not wish to hurt or affect anyone, he refused to comment on the work performance of the female assistant (i.e. Ms WONG) dismissed by him. According to the evidence given by Hon Emily LAU, Ms WONG called her after Mr KAM’s press conference to express dissatisfaction

⁵ Lines 85 to 105 of the Verbatim Transcript (Appendix 2.9) of the radio interview attended by Mr KAM on 6 October 2009.

about Mr KAM not affirming her work competence at the press conference. Ms LAU relayed her conversation with Ms WONG to Hon Albert HO. Mr HO called a press conference on the same day and, at the request of Mr KAM, told reporters on his behalf that Mr KAM considered the work performance of Ms WONG to be “satisfactory on the whole”, and that “she was a competent and dutiful staff member with good performance”. Two days later, Mr KAM said on the radio programme that Ms WONG’s “overall performance in the past was good”.

3.20 The Investigation Committee notes that when Hon Miriam LAU was about to move a motion to censure Mr KAM at the LegCo meeting on 9 December 2009, Mr KAM issued, for the first time, to all LegCo Members a Supervision Brief on Ms WONG’s work performance (Appendix 2.3) during the period from June to September 2009, which listed some examples considered by Mr KAM to be illustrative of her work performance and attitude being not so good. In his written statement (Appendix 2.11) subsequently submitted to the Investigation Committee on 15 March 2010, Mr KAM divided Ms WONG’s work performance into the following two stages:

Stage I: from 15 December 2008 (when Ms WONG assumed duty) to June 2009; and

Stage II: from June 2009 to 24 September 2009 (when Ms WONG was dismissed).

3.21 Mr KAM told the Investigation Committee that unlike the work of Ms Mandy TAM, who was a former LegCo Member from a functional constituency, his work often included holding district functions

and dealing with district affairs; hence Ms WONG needed a period of time to adapt herself before she could “get on top of her job”, even though she had worked as an assistant to Ms TAM. During the initial six months of employment, Ms WONG was only able to meet Mr KAM’s basic requirements and in meeting these basic requirements, her performance on the whole was “good”. As far as Mr KAM is concerned, in appraising the performance of his staff members, the standards that he used were: “excellent” for the best staff member, whose work attitude was positive and with initiative, followed by “good”, “ordinary” and then “poor”.

3.22 Mr KAM told the Investigation Committee that on the whole, he found himself getting along well with Ms WONG, and he considered Ms WONG’s work performance during the initial six months of her employment (i.e. from 15 December 2008 to June 2009) “acceptable and satisfactory” when the two of them were still “adapting to each other and seeking each other’s cooperation”. Yet, Mr KAM pointed out that as Ms WONG had emotional problems in June 2009, there were issues with her work attitude, including not attending a meeting organized by the financial regulatory body, not concentrating on work, refusing to write a press release, suddenly requesting to take leave on the eve of an event that she was responsible for organizing, and not implementing publicity initiatives on schedule, etc.. These types of tasks were within the duties of Ms WONG. The period between June and September 2009 was the three-month period prior to the dismissal of Ms WONG by Mr KAM. Given that the first example of Ms WONG showing problems in her work attitude as cited by Mr KAM (i.e. not attending a meeting organized by the financial regulatory body) occurred on 18 June 2009 (i.e. the third day after Mr KAM expressed good feelings towards her at the afternoon tea meeting), the Investigation Committee believes that the period during

which Ms WONG had problems with her work performance and attitude referred to by Mr KAM started after 15 June 2009 (i.e. the afternoon tea meeting).

3.23 Mr KAM stated openly on the radio programme that the “overall work performance” of the female assistant (i.e. Ms WONG) “was good”, but he did not make it clear that this assessment was not applicable to her work performance in Stage II. The reason given by Mr KAM for not disclosing this was that in his opinion, he should not as a former employer openly discuss the inadequacies of and his dissatisfaction about the work of a former employee. The Investigation Committee considers that if Ms WONG’s work performance and attitude in Stage II were indeed not so good, then Mr KAM’s explanation is acceptable. In order to find out whether the work performance and attitude of Ms WONG in Stage II were indeed not so good, the Investigation Committee has conducted an in-depth study, details of which are set out in paragraphs 3.24 to 3.43 below.

3.24 The Investigation Committee has reviewed the following examples as cited by Mr KAM and made reference to copies of various relevant emails submitted by him:

- (a) Not attending a meeting organized by the financial regulatory body;
- (b) Not concentrating on work;
- (c) Refusing to write a press release;
- (d) Suddenly requesting to take leave on the eve of an event that she was responsible for organizing;

- (e) Not implementing publicity initiatives on schedule; and
- (f) The occurrence of a lot of mistakes in the Work Report of KAM Nai-wai.

3.25 Mr KAM cited the first five examples above in his written statement when he pointed out that Ms WONG had shown problems in her work attitude in Stage II and he cited the sixth example above in the Supervision Brief. He alleged that as a result of such a change in work attitude, Ms WONG was unable to complete the tasks which he had assigned to her. Mr KAM also pointed out that he had on numerous occasions sent emails to Ms WONG to express his dissatisfaction and issued verbal warnings to her, but in the following three months she had persistently failed to show any improvement without any reasonable explanation. It was under such circumstances that he decided to dismiss Ms WONG. The Investigation Committee notes that in citing these examples at the hearings, Mr KAM did so in an overall and general way without distinguishing whether the problems lay in her “work performance” or “work attitude”. In studying the examples, the Investigation Committee also examined the work performance and attitude of Ms WONG from an overall perspective, as well as the circumstances at the time.

(a) Not attending a meeting organized by the financial regulatory body

3.26 Mr KAM alleged that Ms WONG was unwilling to attend a meeting on 18 June 2009 organized by the Hong Kong Monetary Authority for assisting the Octave Notes victims. Although Mr KAM told the Investigation Committee at the hearings that in his opinion, the

unwillingness of Ms WONG to attend the above meeting reflected that she had work attitude problems, the information that the Investigation Committee has at hand does not show that he had ever expressed to her, by email or in any other written form, any dissatisfaction about her absence from that meeting.

3.27 According to the evidence given by Mr KAM, after the afternoon tea meeting on 15 June 2009, Ms WONG had refused on more than one occasion to sit down to talk with him. It was not until early July that for the first time she sat down to talk with him alone. At that time, Mr KAM apologized to Ms WONG for having made inappropriate remarks at the afternoon tea meeting, while Ms WONG agreed that she needed to improve her work attitude, and she undertook to make improvements. The Investigation Committee notes that during the period between 15 June and early July 2009, Ms WONG avoided being alone with Mr KAM since she considered that he had made advances to her at the afternoon tea meeting, whereas Mr KAM was seeking an opportunity to explain and apologize to her as he knew he had said something inappropriate. Mr KAM told the Investigation Committee that during a meeting in early July, he told Ms WONG, “We need to work together. The way you behave does not work.” In retrospect, he now considers that although he had not used the word “warning”, he had given Ms WONG a warning by making those remarks. The Investigation Committee’s analysis of the above argument of Mr KAM is set out in paragraphs 4.31 and 4.32 of Chapter 4.

3.28 Mr KAM informed the Investigation Committee that he had on more than one occasion requested Ms WONG to sit down to talk about why she had not attended the meeting on 18 June 2009 and whether she

had any problem at work. As she was unwilling, he sent her an email on 22 June 2009 to make it clear that he would only concentrate on his own work and to ask her “not to think in a wrong direction”. Mr KAM told the Investigation Committee that given his temperament, if a subordinate refused to sit down to discuss official business with him, it was possible that he would dismiss the subordinate. Yet, he did not dismiss Ms WONG because he “understood that she was depressed, sometimes in an unstable mood, and under such circumstances, and possibly coupled with some misunderstanding on her part, she did not want to attend the meeting.” In addition, Mr KAM told the Investigation Committee that after his meeting with Ms WONG in early July, as far as he was concerned, the problems in the past were over. Against the above background, the Investigation Committee considers that as Mr KAM thought that the problems were over, it was unreasonable of him to regard, more than two months later, the incident as an example of her work performance or attitude being not so good, and cite this as one of the reasons for her immediate dismissal.

(b) Not concentrating on work

3.29 Mr KAM said in the Supervision Brief which he issued on 9 December 2009 that he sent an email on 22 June 2009 to “request WONG Lai-chu to concentrate on her work”.

3.30 In view of the fact that Mr KAM said in the above email the following, “... I will only concentrate⁶ on my work in future ... I also hope that you can become more devoted to your work” (the full text of the email

⁶ A typo in the email (in Chinese) of Mr KAM: “尊注” (concentrate) should be written as “專注”.

is in paragraph 2.23 of Chapter 2), the Investigation Committee considers that what Mr KAM really said was that he himself would concentrate on his work, instead of requesting Ms WONG to concentrate on her work. Besides, the Investigation Committee had asked Mr KAM at the hearings whether there were examples that could show that Ms WONG did not concentrate on her work. The examples cited by Mr KAM were: not attending a meeting organized by the financial regulatory body, refusing to write a press release and suddenly requesting to take leave on the eve of an event that she was responsible for organizing. The Investigation Committee notes however that, among these examples, only the first one took place before 22 June 2009, the day on which Mr KAM sent the above email, and that Mr KAM had indicated that the problems in the past were over by early July. The Investigation Committee considers that Mr KAM failed to put forward any concrete example to illustrate that Ms WONG did not concentrate on her work or she was not dedicated enough to her work. On the other hand, Mr KAM requested Ms WONG in the above email to give him assistance in an assignment of a university programme⁷ he was pursuing then (i.e. work that fell outside her duties), which shows that their working relationship was not bad at that time.

(c) Refusing to write a press release

3.31 The Investigation Committee notes that shortly after 5:00 pm on 12 August 2009 (Hong Kong time), Mr KAM called Hong Kong from

⁷ Mr KAM explained to the Investigation Committee that he just meant to request Ms WONG to search for information and textbooks on mass media for him.

Europe to ask Ms WONG to write and issue on his behalf a press release on shoeshiners in Central, but she did not do so as instructed.

3.32 Mr KAM sent an email (full text in paragraph 2.29 of Chapter 2) in the morning of the following day (i.e. 13 August 2009) to say that he regarded writing press releases was Ms WONG's most fundamental duty, and that if she thought this was not within her scope of work, he considered it would be necessary for them to discuss seriously how this should be handled. The Investigation Committee considers that the email shows that some arguments over the writing of the press release in question might have taken place in the telephone conversation between Mr KAM and Ms WONG on the preceding day, and for that reason Mr KAM thought that Ms WONG refused to write the press release on the ground that that was outside her scope of work. About half an hour after receiving Mr KAM's email, Ms WONG replied to him, "... At that juncture, you had been talking for two minutes without coming to the point. I really could not take it. I subsequently sent an SMS to ask you to send me an SMS to allow me to follow up. Please note that my workload has not become lighter while you are on leave. Hope you will understand." (Full text of the email is in paragraph 2.30 of Chapter 2.)

3.33 The Investigation Committee considers that in examining whether Ms WONG's not writing the press release reflected that her work performance or attitude was not so good, consideration should be given to the explanation given by Ms WONG, whether Mr KAM accepted her explanation, as well as the working environment with which she faced. The Investigation Committee notes that Ms WONG explained in the email (full text in paragraph 2.30 of Chapter 2) why she could not write the press

release the preceding day. According to the reply email sent by Ms WONG to Mr KAM, the Investigation Committee comes to the understanding that Ms WONG could not write the press release because she was busy the whole day revising afresh the contents of the Work Report of KAM Nai-wai as well as making preparations for the tree forum, and then later she had to rush to attend class. In addition, as the instructions given by Mr KAM over the telephone were not clear, she sent an SMS to ask him to send her an SMS to allow her to follow up.

3.34 The Investigation Committee notes that, when Mr KAM replied again to Ms WONG (see paragraph 2.31 of Chapter 2) in the afternoon of 13 August 2009, he did not mention the writing of the press release anymore. Instead, he told Ms WONG that she should not put too much effort on the tree issue. He also indicated that as he understood that the planning of events was not Ms WONG's specialty, he intended to reassign the work on planning of events to other staff members upon his return to Hong Kong. Given that Mr KAM said at a hearing that he was under the impression that Ms WONG did not ultimately write the press release on shoeshiners, the Investigation Committee believes that Mr KAM did not ask Ms WONG to write the press release again after sending her the above email. Given that (i) Mr KAM's email reply indicated that at that time he understood the work stress and difficulties of Ms WONG, (ii) he did not insist on Ms WONG writing the press release, and (iii) he said at the hearing on 29 May 2010 that he realized that Ms WONG found organizing forums a tough task, the Investigation Committee considers that the dissatisfaction of Mr KAM, expressed in the email sent in the morning of 13 August 2009 in relation to Ms WONG refusing to write the press release on grounds that it was outside her scope of work, appeared to have

been appeased after Ms WONG gave explanations. As such, it is difficult for one to regard this incident as evidence of Ms WONG's work performance or attitude being not so good. On the contrary, through this communication, Mr KAM seemed to understand better the difficulties encountered by Ms WONG in her work, whereas Ms WONG also had a better understanding of the area of work in which Mr KAM would expect her to put more effort. The Investigation Committee therefore considers it unreasonable for Mr KAM to cite "refusing to write a press release" as an example to show that Ms WONG had not concentrated on work (see paragraph 3.30).

- (d) Suddenly requesting to take leave on the eve of an event she was responsible for organizing

3.35 Ms WONG sent an email to Mr KAM on 26 August 2009 requesting to take a day's leave on 28 August (Friday). In the reply email sent to her in the evening of 27 August, Mr KAM expressed his dissatisfaction because he had planned to discuss with Ms WONG on 28 August the arrangements for the tree forum, which was scheduled to be held on 30 August 2009 (Sunday)⁸. In the same email, Mr KAM said that he usually discussed with staff members the final arrangements for an event on the day before it was held. Yet, Mr KAM told the Investigation Committee that this was just his work practice, and he had not issued any work guideline to his staff stipulating that no one could take leave on the

⁸ According to the email, which was Annex 5 to the written statement of Mr KAM (Appendix 2.11), the tree forum would be held on Sunday and the Sunday immediate following fell on 30 August 2009. As 29 August 2009 was a Saturday, the Supervision Brief (Appendix 2.3) issued by Mr KAM seems to have mis-stated this date as the date on which the tree forum was held.

eve of an event. Also, Mr KAM had not informed Ms WONG of such a practice either verbally or in writing. As such, the Investigation Committee believes that at the time of applying for leave, Ms WONG did not know that Mr KAM had planned to discuss work arrangements with her on 28 August 2009, and that she did not deliberately take leave at the critical moment, hence her taking leave did not reflect that there were problems with her work attitude.

(e) Not implementing publicity initiatives on schedule

3.36 According to the email (full text in paragraph 2.35 of Chapter 2) sent by Mr KAM to Ms WONG on 28 August 2009, Mr KAM was dissatisfied with the publicity initiatives implemented by Ms WONG for the tree forum to be held on 30 August 2009 because (i) the publicity initiatives were implemented too late (he received the SMS only in the afternoon of 28 August 2009); (ii) the email did not have an English version and had not gone through final vetting; and there were errors in its contents; and (iii) members of the Democratic Party had not been notified earlier.

3.37 The Investigation Committee notes that while the tree forum was organized in the name of the Democratic Party, all preparatory work for the forum was actually undertaken solely by Ms WONG. In making preparations for the forum, she was in a “one-man operation” to prepare the budget, find topics, contact speakers, identify and decorate venues, get things ready for guests, liaise with the press on the day, write press releases, etc.. Apart from organizing events, Ms WONG also had to follow up all LegCo business of Mr KAM, including publicity and liaison

(in particular with the press). She was also in charge of handling of cases, study of incidents as well as information gathering.

3.38 The Investigation Committee notes that the tree forum was the first forum organized by Ms WONG in Mr KAM's Member's Office, and after Ms WONG told Mr KAM in the email dated 13 August 2009 that she was very busy with her work, Mr KAM told her that she should not put too much effort on the tree issue and given that the planning of events was not Ms WONG's specialty, he intended to reassign the work on planning of events to other staff members upon his return to Hong Kong.

3.39 The Investigation Committee notes that during the period from July to September 2009, Mr KAM did not spend too much time in the Member's Office because one of his family members had contracted human swine influenza in July, and he was on leave overseas from 4 to 20 August 2009. Consequently, it would not have been easy for Ms WONG to seek instructions or guidance during this period. The information that the Investigation Committee has in hand does not show that Mr KAM clearly spelt out his requirements for the publicity of the event and gave clear instructions when he assigned to Ms WONG the task of organizing the tree forum, nor was she given appropriate guidance and support. In addition, the email sent by Mr KAM to Ms WONG on 13 August 2009 might probably make her believe that there was no need to accord priority to the work on organizing the tree forum. The Investigation Committee considers that in view of the abovementioned factors that were beyond Ms WONG's control, it is understandable that her performance in this task could not completely meet Mr KAM's requirements.

(f) The occurrence of a lot of mistakes in the Work Report of KAM Nai-wai

3.40 Mr KAM stated in the Supervision Brief that on 10 August 2009, “KAM Nai-wai sent an email to WONG Lai-chu from Europe to say that there were a lot of mistakes in the ‘Work Report of KAM Nai-wai’, and requested WONG Lai-chu to check it carefully. These errors had already been pointed out by KAM Nai-wai previously, but they were not corrected in the latest version.” Given that Mr KAM stated in the email he submitted in support of this allegation that, “There are lot of mistake in the C&W report”, the Investigation Committee believes that the C&W report (Central and Western District Report) is the “Work Report of KAM Nai-wai” mentioned by him in the Supervision Brief.

3.41 The Investigation Committee notes that while revising the Work Report of KAM Nai-wai, Ms WONG had to handle other duties at the same time. In Ms WONG’s email to Mr KAM dated 13 August 2009 in reply to his email, she explained that one of the reasons for her not writing the press release on shoeshiners as instructed was that she had to undertake all the preparatory work for the tree forum and she had to revise afresh the Work Report. The Investigation Committee also notes that as shown in the emails exchanged between Mr KAM and Ms WONG on 13 August 2009 (please refer to paragraphs 2.29 to 2.31 of Chapter 2), after Ms WONG had expressed her difficulties, Mr KAM indicated in an email that he planned to have other colleagues share out some of her work.

3.42 Mr KAM said in his written statement that he had sent emails on numerous occasions to Ms WONG to express his dissatisfaction and ask

her to make improvements. Copies of the relevant emails were attached to the written statement. The Investigation Committee notes that among the examples Mr KAM considers as illustrative of Ms WONG's work performance or attitude, the first two occurred on or before 22 June 2009, and the remaining four occurred between 10 August 2009 and 28 August 2009, and that there were 91 and 94 emails exchanged between Mr KAM and Ms WONG in July and August 2009 respectively. The Investigation Committee is of the view that in order to consider the evidence given by Mr KAM on this issue in a more comprehensive manner, it would be ideal for the Investigation Committee to peruse all the emails exchanged between Mr KAM and Ms WONG from April to September 2009 before drawing any conclusions. Regrettably, as Mr KAM refused (reasons set out in paragraph 2.26 of Chapter 2) to submit copies of the other emails to the Investigation Committee, the Investigation Committee could only examine this issue on the basis of the copies of emails and relevant information he provided to the Investigation Committee.

3.43 Based on the copies of emails submitted by Mr KAM, and the foregoing analysis of the examples mentioned by him, the Investigation Committee considers that only two of the examples (i.e. "publicity over the tree forum" and "Work Report of KAM Nai-wai") are indeed related to the work performance of Ms WONG. Among the various tasks (see paragraph 3.37) for organizing the tree forum, publicity work was the only one about which Mr KAM had expressed dissatisfaction. Mr KAM had also pointed out that he often felt dissatisfied with the work of his colleagues since he, "having worked his way up from elementary positions", had thorough knowledge and understanding of the overall operation of an office and he knew how to proceed with each and every

step. As such, the Investigation Committee does not believe that Mr KAM at that time found Ms WONG's inadequacies in these two tasks serious enough to constitute grounds for her immediate dismissal, even though her performance in these two tasks did not fully meet his requirements.

3.44 The Investigation Committee notes that Mr KAM's contention that there were problems with Ms WONG's work performance and attitude in Stage II is open to question for the following reasons:

- (a) as Mr KAM had indicated that the extent of his dissatisfaction with the work performance and attitude of Ms WONG from mid-June to September 2009 had almost reached the level of dismissing her, yet he still telephoned to invite her to have lunch with him alone with a view to easing the tense working relationship between them, such an action defies normal reasoning; and
- (b) after Ms WONG had lodged a complaint with the Democratic Party about being unreasonably dismissed by Mr KAM, he acceded to her requests without raising any objection, and on 3 October 2009 (one day before the dismissal came to light) he issued to her a personal letter of apology, a reference letter (letter of recommendation) and a cheque for \$150,000 as compensation which was equivalent to her salary for six months. The Investigation Committee is of the view that as a matter of common reasoning, the way in which Mr KAM handled Ms WONG's complaint was inconsistent with his

claim that there were problems with Ms WONG's work performance and attitude in Stage II. The details are as follows:

- (i) if the dismissal of Ms WONG by Mr KAM had indeed been attributable to problems with her work performance and attitude in Stage II, he should have had justified grounds to rebut her complaint to the Democratic Party that she had been unreasonably dismissed. Yet, he acceded to Ms WONG's requests without raising objection;
- (ii) Mr KAM said in the letter of apology that Ms WONG "had all along performed well in her work" during the employment period ... "If you still have other complaints, I am willing to face the impartial handling of such complaints by the Democratic Party." As Mr KAM had separately provided a letter of recommendation to Ms WONG, the letter of apology is private in nature and its purpose was not to help her find another job, the Investigation Committee considers that there was no need for Mr KAM to state in the letter of apology that Ms WONG had all along performed well in her work. The Investigation Committee cannot accept Mr KAM's claim that Ms WONG had work performance or attitude problems in Stage II, which was completely opposite to what he stated in the letter of apology; and

- (iii) Mr KAM explained to the Investigation Committee that he was willing to give Ms WONG \$150,000 cash compensation out of the consideration that he failed to properly manage his temper, thus making her feel disturbed and unhappy in the course of the dismissal, and that she might have difficulty in finding another employer within a short period of time and would face financial difficulties as a result. The Investigation Committee considers that Mr KAM was under no legal obligation to assist a departed staff member in solving her financial difficulties after making payment in lieu of notice in accordance with the employment contract. Even if he wished to assist Ms WONG out of sympathy, he should have first considered other alternatives. The Investigation Committee therefore finds it hard to believe that Mr KAM would pay a huge sum of compensation to Ms WONG, whose work performance and attitude being considered by him to be not so good, merely for the two reasons that Ms WONG felt disturbed and unhappy and he wanted to help her solve financial difficulties.

3.45 According to the evidence given by Mr KAM and the foregoing analysis, the Investigation Committee is not satisfied that the work performance or attitude of Ms WONG in Stage II (from June to September 2009) had been judged by him to be not so good. The information that the Investigation Committee has at hand does not show that her work performance or attitude in Stage II differed substantially from Stage I (before June 2009) or deteriorated evidently. Moreover, Mr KAM

stated openly through Mr HO's press conference on 4 October 2009 that he considered the work performance of Ms WONG to be "satisfactory on the whole" and when he said on the radio programme that he considered that Ms WONG's "overall work performance in the past was good", he had not made it clear that these assessments were valid only for Stage I of her employment in his office. Instead, Mr KAM made positive comments about her work performance both in the letter of apology and letter of recommendation. Based on the foregoing analysis, the Investigation Committee is of the view that Mr KAM judged the overall⁹ work performance of Ms WONG to be good during the employment period, hence the fourth fact is established.

**The fifth fact to be established –
("the fifth fact")**

Subsequent to his expression of good feelings towards a female assistant (i.e. Ms WONG) in mid-June 2009, Mr KAM noticed some signs of Ms WONG rejecting him, and between early September and mid-September, Mr KAM invited the female assistant to dine out and was refused by her.

⁹ With regard to establishing the fourth fact, the Investigation Committee's focus of attention is on the "overall" work performance of Ms WONG, instead of her performance in individual tasks, even though the latter provides useful reference. The Investigation Committee is of the opinion that her not meeting Mr KAM's requirements fully in respect of individual tasks (please refer to paragraph 3.43) does not have a decisive effect on the conclusion to be made as to whether her "overall" work performance was good or not.

3.46 With regard to this fact, the Investigation Committee notes that Mr KAM said on 6 October 2009 on a radio programme, “I think she did not make any complaint about it, but then she ... I could see that she sometimes did show some signs of rejecting me in the way she spoke and acted, but I don’t want to go into details. I just knew how this feeling was like, and that was why, as I have mentioned, I had apologized to her afterwards.”¹⁰

3.47 Further, Hon Albert HO confirmed at a hearing that Mr KAM had noticed some signs of Ms WONG rejecting him after he had expressed good feelings towards her. Mr HO said that Mr KAM had told him that after he said the expression “have good feelings” towards Ms WONG, she “all along had a reaction, i.e. this incident lingered in her mind and she reacted by strongly rejecting him ... i.e. their working relationship worsened.” Mr HO also stated that “he [Mr KAM] had said it was not like that in the past. He said that previously she would act upon his instructions. For example, in the past when he asked her to go on field trips with him, she would do so; in the past, when the two of them were supposed to attend a meeting together, she would attend it. But there was a certain kind of rejection on her part after the incident. He said that maybe it was the sentence he said on the last occasion that caused such a reaction from her. However, he said at that moment that it was just a sentence and he did not intend to convey such a meaning, for which he had also apologized to her afterwards. There was no reason why she should have such a strong reaction, and he therefore felt very perplexed. But this is the truth.”¹¹

¹⁰ Please refer to lines 193 to 196 of the Verbatim Transcript of the radio interview attended by Mr KAM on 6 October 2009 (Appendix 2.9).

¹¹ Please refer to lines 1402 to 1415 of the Verbatim Transcript of the hearing on 21 June 2010 (IC Paper No. V4(C)).

3.48 Ms LUI, who worked with Ms WONG in the same Member's Office, also said, "... during the summer recess (the exact period forgotten), Mr KAM imposed harsher work requirements on Ms WONG than before, whereas Ms WONG took stronger offence towards Mr KAM's dissatisfaction than before. Since then, Ms WONG told me she would mainly communicate with Mr KAM by email so as to avoid misunderstanding, which might in turn affect her performance." Ms LUI also said, "... during the summer recess, when Mr KAM was dissatisfied with Ms WONG's work performance, his attitude became harsh, thus making the atmosphere rather tense."¹²

3.49 The Investigation Committee notes that it has been highlighted in the censure motion that between early September and mid-September 2009, Mr KAM invited Ms WONG to go out for lunch but she refused.

3.50 According to the evidence given by Mr KAM and Ms LUI, who was present at the scene, Mr KAM first invited both Ms WONG and Ms LUI to go out to have lunch with him in his LegCo Member's Office. According to the evidence given by Mr KAM, the date on which he extended the invitation was 22 September 2009. Ms LUI said that when Mr KAM extended the invitation, he did not state that he intended to discuss work arrangements with her and Ms WONG during the lunch. As Ms LUI had already made arrangements to go out to have lunch with friends, she immediately told Mr KAM this as the reason for turning down his invitation. With regard to why he invited Ms WONG to go out for

¹² Please refer to lines 50 to 55 in Ms LUI's written statement dated 22 June 2010 (IC Paper No. WL12(C)), and question 4 in her written reply dated 10 August 2010 to further questions raised by the Investigation Committee (IC Paper No. WL15(C)).

lunch with him once again after leaving the Member's Office, Mr KAM explained to the Investigation Committee that as Ms WONG did not give him an immediate reply in the Member's Office, he called her as a matter of courtesy while he was waiting for his turn to see the doctor, asking her whether she would go out for lunch with him, but he was refused by Ms WONG.

3.51 Based on the foregoing evidence, the Investigation Committee is of the view that Mr KAM had actually noticed some signs of his female assistants (i.e. Ms WONG) rejecting him after he had expressed good feelings towards her in mid-June 2009; and between early September and mid-September 2009 (the exact date was 22 September), Mr KAM did invite Ms WONG to dine out and was refused by her. Therefore, the fifth fact has been established.

The sixth fact to be established – (“the sixth fact”)

When Mr KAM dismissed a female assistant (i.e. Ms WONG) on 24 September 2009, he did not give any reasons for the dismissal.

3.52 In explaining to the Investigation Committee why he invited Ms LUI and Ms WONG to go out for lunch on 22 September 2009, Mr KAM said he felt the working relationship in the office was tense, so he hoped to ease the tension a bit. The Investigation Committee is of the view that this shows that up to 22 September, Mr KAM had no intention of dismissing Ms WONG. However, on the following day (i.e. 23 September), after Mr KAM scolded Ms WONG during a meeting

because she kept head down to write a press release and did not focus on the meeting, he made the decision of dismissing her that evening, and he asked Ms LUI to retrieve Ms WONG's employment agreement in the morning of 24 September. This is consistent with what Mr KAM said on the radio programme on 6 October 2009. He said, "In fact I planned to dismiss her on 23 September. However, when I returned to the office on 24 September, I told her, 'I could not accept your work attitude, I would like to ... I would like to give you one month's salary as payment in lieu of notice, and then you may leave.' In fact, at that time, she did mention whether there was ... Of course, (she) was very unhappy. She also asked whether there were other solutions. Then I said ... in fact ... I said you, '... the only solution lies in the effort you make to change your work attitude.' Then I did not say anything else, and then she left."¹³

3.53 According to the written statement submitted by Mr KAM (Appendix 2.11), Mr KAM told Ms WONG in the course of the dismissal that if she could change her work attitude, it should be possible for them to continue working together. However, she did not indicate her stance at all¹⁴. Mr KAM said at a hearing that when he dismissed Ms WONG on 24 September 2009, he told her, "As we cannot work together anymore, I wish to dismiss you with immediate effect by paying you one month's salary in lieu of notice." At that juncture, Ms WONG asked Mr KAM whether there was any chance of his decision being reversed, to which he responded, "You need to change your work attitude because we need to

¹³ Please refer to lines 284 to 291 of the Verbatim Transcript of the radio interview attended by Mr KAM on 6 October 2009 (Appendix 2.9).

¹⁴ Please refer to paragraph 25 of the written statement submitted by Mr KAM on 15 March 2010 (Appendix 2.11).

continue working together. In future, if we need to work, you must change your work attitude before we can go on working together.” It seems that the dialogue did not lead to any conclusion. At that moment, neither side signed any paper. Ms WONG said in her open statement (Appendix 2.2), “KAM Nai-wai said he could not work with me, so he dismissed me with immediate effect”¹⁵.

3.54 The Investigation Committee is of the view that, as shown by the foregoing evidence, Mr KAM did explain to Ms WONG the reasons when he dismissed her, i.e. he considered it impossible for them to work together and there were problems with the work attitude of Ms WONG. Ms WONG also mentioned in her open statement that when Mr KAM dismissed her with immediate effect, he did say he considered that they could not work together. The Investigation Committee notes, however, that when Ms WONG lodged a complaint with Mr HO and Ms LAU, she also told them that she felt her dismissal might be related to her rejection of Mr KAM (please refer to paragraph 2.69). Although the foregoing situation may show that Ms WONG disagreed with Mr KAM in relation to the reasons for her dismissal, the Investigation Committee cannot probe any further into the relevant circumstances as Ms WONG decided not to be a witness of the investigation. Based on the evidence secured by the Investigation Committee, with regard to the sixth fact, the part that has been established is **“Mr KAM dismissed a female assistant on 24 September 2009”**, whereas **“he did not give any reasons for her dismissal”** is not established.

¹⁵ Please refer to line 37 of the open statement issued by Ms WONG to LegCo Members on 3 December 2009 (Appendix 2.2).

3.55 The Investigation Committee notes that there seem to be certain causal relationship between the various facts set out in the main text under the second allegation in the Schedule to the censure motion, and the dismissal of Ms WONG, and the Members initiating the censure motion consider that such causal relationship constitutes the allegation of “unfair” behaviour. The Investigation Committee sets out its detailed analysis and views in that regard in Chapter 4.