



**Report of the
Legislative Council
Investigation Committee
established under Rule 49B(2A)
of the Rules of Procedure
in respect of the Motion to censure
Honourable KAM Nai-wai**

March 2012

LEGISLATIVE COUNCIL
OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION
OF THE PEOPLE'S REPUBLIC OF CHINA

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Executive Summary

Background

1. On 4 October 2009, a local newspaper reported that Hon KAM Nai-wai had dismissed a female assistant and the female assistant had lodged a complaint with the Democratic Party, the party to which Mr KAM belonged, that Mr KAM had dismissed her unreasonably after his advances were rejected by her. A large number of media reports and articles relating to the incident emerged on the following days and, in the week that followed, the Complaints Division of Legislative Council Secretariat received a lot of views submitted by the public on the matter. These views were generally on the need for an inquiry to investigate whether the allegation of sexual harassment was founded, whether there had been improper use of public money in the course of the dismissal, including whether the dismissal was reasonable, and whether the matter had a negative impact on the integrity of the Member. Duty Roster Members for that week decided that it would propose to the House Committee that the Committee on Members' Interests be specially authorized by resolution of the Council to inquire into the matter, and to submit a report to the Council.

2. The House Committee deliberated on this matter at its meetings on 9 and 16 October 2009. Members noted that the Rules of Procedure ("RoP") had already provided for a mechanism to implement Article 79(7) of the Basic Law ("BL 79(7)") for the purpose of dealing with allegations of misbehaviours of Members. BL 79(7) provides that the President of the Legislative Council ("LegCo") shall declare that a Member

is no longer qualified for the office when he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the Members present. After deliberations, Members agreed that although it was the House Committee's decision to request its Chairman Hon Miriam LAU to activate the mechanism mentioned above, it would be more appropriate for Ms LAU to move the censure motion under Rule 49B(1A) of RoP in her personal capacity as a Member, and that the mover of the motion and the three other Members jointly signing the notice of the motion should be responsible for drafting the wording of the censure motion.

The censure motion

3. Hon Miriam LAU moved a motion to censure Mr KAM at the Council meeting on 9 December 2009. The wording of the censure motion is as follows:

“That this Council, in accordance with Article 79(7) of the Basic Law, censures Hon KAM Nai-wai for misbehaviour (details as particularized in the Schedule to this motion).

Schedule

Details of misbehaviours of Hon KAM Nai-wai are set out below:

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

There were media reports on 4 October 2009 that Hon KAM Nai-wai dismissed his female assistant because of his unsuccessful advances to her. The female assistant was employed with public funds to assist him in performing his duties as a Legislative Council Member. At his press conference held on the same day, Mr KAM:

- (i) denied that he had made advances to his female assistant and did not disclose that he had expressed affection towards her; and
- (ii) denied that he had dismissed his female assistant because of his unsuccessful advances, and pointed out that the employment contract with his female assistant was terminated by giving one-month payment in lieu of notice which was in accordance with the employment contract, but did not mention that he had expressed affection towards her.

However, after the media subsequently reported that he had actually made advances to his female assistant, Mr KAM admitted on 6 October 2009 on a radio programme that he had expressed affection towards his female assistant when he was alone with her on one occasion in mid-June 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

In mid-June 2009, Hon KAM Nai-wai expressed affection towards his female assistant. Subsequently, he noticed some signs of his female assistant rejecting him. Between early September and mid-September 2009, Mr KAM invited his female assistant to dine out and was also refused by her. Subsequently on 24 September 2009, he terminated the employment contract with his female assistant with immediate effect without reason assigned, although her overall work performance was judged by him to be good.”

The Investigation Committee

4. In accordance with Rule 49B(2A) of RoP, the debate on the censure motion stood adjourned and the matter stated in the motion was referred to an investigation committee. The Investigation Committee was established on 8 January 2010. Under Rule 73A(2) of RoP, the Investigation Committee is responsible for establishing the facts stated in the censure motion and giving its views on whether or not the facts as established constitute grounds for the censure. Upon completion of its work, the Investigation Committee is required to submit to the Council a report for all Members’ reference when the debate on the censure motion resumes. It is then a question for the Council to decide whether the

Member under investigation should be censured, and thus disqualified from the office.

5. The Investigation Committee has held 57 meetings, including 11 hearings. Apart from Mr KAM who attended hearings as the Member under investigation, seven other LegCo Members of the Democratic Party, Hon Andrew CHENG who was a member of the Democratic Party at the relevant time, as well as Ms Anita LUI who worked in the same office of the female assistant dismissed by Mr KAM, also attended hearings as witnesses. Ms Kimmie WONG, the female assistant dismissed by Mr KAM on 24 September 2009, was also invited to be a witness, but she declined to take part in the investigation for reasons given in paragraph 1.66 of Chapter 1. After careful consideration, the Investigation Committee decided not to require the attendance of Ms WONG at its hearings. The Investigation Committee would seek to establish the facts stated in the censure motion based on evidence and give its views on whether or not the facts as established constitute grounds for the censure pursuant to Rule 73A(2) of RoP.

Findings and conclusions

Facts to be established

6. The Investigation Committee notes that there are two allegations in the censure motion:

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

- (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.

7. Each of these two allegations is supported by certain facts set out in the Schedule to the censure motion:

- (a) Mr KAM expressed good feelings towards a female assistant (i.e. Ms WONG) when he was alone with her on one occasion (i.e. afternoon tea meeting) in mid-June 2009 (the exact date was 15 June);
- (b) Subsequent to his expression of good feelings towards the female assistant in mid-June 2009, Mr KAM noticed signs of resistance from the female assistant; and between early September and mid-September (the exact date was 22 September), Mr KAM invited her to dine out and was refused by her;
- (c) Mr KAM dismissed the female assistant on 24 September 2009;
- (d) Mr KAM did not give any reasons for the dismissal when he dismissed the female assistant;
- (e) Mr KAM considered the overall work performance of the female assistant during the employment period to be good;

(f) Mr KAM denied at a press conference called by him on 4 October 2009 that he had made advances towards the female assistant, and he did not disclose that he had expressed good feelings towards her; and

(g) Mr KAM admitted on a radio programme (i.e. Tipping the Points) on 6 October 2009 that he had expressed good feelings towards the female assistant when he was alone with her on one occasion in mid-June 2009.

8. After investigation, the Investigation Committee has established the facts set out in paragraph 7(a), (b), (c), (e), (f) and (g) but not (d).

Findings - First allegation

(on the basis of the facts under paragraph 7(a), (f) and (g) above)

9. The first allegation refers to Mr KAM's making inconsistent remarks to the media and withholding of key information, causing the public to have doubts about his integrity. In considering whether the remarks made by Mr KAM at the two media meetings were "inconsistent", the Investigation Committee focuses on whether Mr KAM's expression of good feelings towards Ms WONG could reasonably be understood as making advances to her, and whether Ms WONG and any ordinary person perceived it as such. The Investigation Committee also studied whether the key information which is alleged to have been withheld by Mr KAM, i.e. that Mr KAM "had expressed good feelings towards the female assistant", was crucial to the understanding of why the female assistant had complained that she was unreasonably dismissed, and whether Mr KAM's

failure to disclose that fact was due to forgetfulness or an oversight or a conscious decision of Mr KAM not to disclose it.

10. After considering the evidence put before it, the Investigation Committee finds that under the circumstances at the time, Mr KAM's expression of good feelings towards Ms WONG can reasonably be regarded as an expression of affection between a man and a woman, i.e. an act that carried the meaning of making advances. It therefore considers that there were "inconsistencies" in the remarks made by Mr KAM in the two media meetings.

11. On the withholding of information, the Investigation Committee does not accept Mr KAM's claim that he did not disclose "his expression of good feelings towards the female assistant" in order to protect the privacy of Ms WONG. The Investigation Committee considers that it was a conscious decision of Mr KAM not to disclose a piece of information which was crucial to the understanding of the circumstances of the relationship between Mr KAM and Ms WONG, and he had indeed "withheld key information".

12. The Investigation Committee concludes that the first allegation is established.

Findings - Second allegation

(on the basis of the facts set out under paragraph 7(b), (c) and (e) above)

13. This allegation refers to Mr KAM being alleged to have been unfair in dismissing his female assistant, whose overall performance was assessed to be good, after she rejected Mr KAM's expression of good

feelings towards her. In examining whether Mr KAM had acted unfairly, the Investigation Committee studied the evidence produced by Mr KAM to substantiate his claim that Ms WONG was dismissed because of Ms WONG's work attitude between June and September 2009, and her failure to show improvement during those three months without any reasonable explanation. The Investigation Committee however finds that Mr KAM had on record reaffirmed on quite a number of occasions that Ms WONG's overall work performance was good, but there was also no evidence to indicate that Mr KAM dismissed Ms WONG because of her refusal of his lunch invitation.

14. The Investigation Committee believes that although there is no information suggesting that Mr KAM had any intention to dismiss Ms WONG since he was rejected at the afternoon tea meeting, it was likely that Ms WONG's rejection of Mr KAM's advances to her had made it difficult, if not impossible, for them to work together subsequently. The Investigation Committee is unable to establish that Mr KAM had dismissed Ms WONG under the circumstances as described in the second allegation, and therefore cannot form a view that Mr KAM was "unfair" in dismissing his female assistant as alleged in the censure motion.

15. Nevertheless, the Investigation Committee considers that Mr KAM did not follow good personnel management practices by issuing warnings with disciplinary implications to Ms WONG so as to give the employee the opportunity to make improvements. As such, it was indeed improper for Mr KAM to have dismissed Ms WONG with immediate effect.

Conclusion

16. To sum up, the Investigation Committee finds that Mr KAM had made inconsistent remarks to the media and withheld key information from them, and concludes that as a result of this, the public was likely to have doubts about his integrity. The Investigation Committee also considers that to a certain extent, Mr KAM's misbehaviour has adversely impacted on the overall image of LegCo Members as well as that of LegCo.

17. The Investigation Committee also finds that Mr KAM's expression of good feelings towards Ms WONG was inappropriate, and in so doing, he had caused pain to his subordinate and made their employer-employee relationship complicated and tense. Mr KAM's failure to take appropriate remedial actions had also led to the continued deterioration of their relationship and loss of mutual trust and cooperation which should have existed between them. In the end, Mr KAM had resorted to dismissing Ms WONG with immediate effect even though she had not made any serious mistakes. The Investigation Committee expresses regrets at the behaviour of Mr KAM as a supervisor.

18. The Investigation Committee notes that the disqualification of a Member from the office is the most severe sanction that may be imposed on an individual LegCo Member, and has the effect of overturning the decision made by voters in an election. The Investigation Committee considers that Mr KAM's conduct was improper in that it failed to live up to the public's expectations on the integrity and ethical standards of a LegCo Member, but that his misconduct was not so grave as to warrant disqualification from the office as a LegCo Member. In other words, the

facts as established do not, in the Investigation Committee's view, constitute sufficient grounds for the censure of Mr KAM under BL 79(7).

Other observations and views

19. The Investigation Committee has also expressed the following views in the Report:

- (a) LegCo should consolidate the experience drawn from this investigation and conduct a review on the mechanism for the disqualification of a Member from the office, including the number of Members required to initiate a censure motion, what evidence and information Members have to put forward when initiating the censure motion, and whether a preliminary investigation should be conducted to establish whether there is a prima facie case; and
- (b) LegCo should consider afresh the need to review the current mechanism in order to ensure that there are appropriate mechanisms and proportionate sanctions for dealing with complaints against Members' misconduct of varying gravity, so as to safeguard the credibility of LegCo.

Chapter 1 Introduction and Background

Purpose of the Report

1.1 The Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai (“the Investigation Committee”) is the first investigation committee established in accordance with the procedure laid down in the Rules of Procedure (“RoP”) for the implementation of Article 79(7) of the Basic Law (“BL 79(7)”). BL 79(7) provides that the President of the Legislative Council (“LegCo”) of the Hong Kong Special Administrative Region shall declare that a member of the Council (“Member”) is no longer qualified for the office when he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the Members present.

1.2 At the Council meeting of 9 December 2009, Hon Miriam LAU moved a motion to censure Hon KAM Nai-wai under Rule 49B(1A) of RoP (“the censure motion”). The wording of the censure motion, which is in **Appendix 1.1**, is reproduced as follows:

“That this Council, in accordance with Article 79(7) of the Basic Law, censures Hon KAM Nai-wai for misbehaviour (details as particularized in the Schedule to this motion).

Schedule

Details of misbehaviours of Hon KAM Nai-wai are set out below:

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There were media reports on 4 October 2009 that Hon KAM Nai-wai dismissed his female assistant because of his unsuccessful advances to her. The female assistant was employed with public funds to assist him in performing his duties as a Legislative Council Member. At his press conference held on the same day, Mr KAM:

- (i) denied that he had made advances to his female assistant and did not disclose that he had expressed affection¹ towards her; and
- (ii) denied that he had dismissed his female assistant because of his unsuccessful advances, and pointed out that the employment contract with his female assistant was terminated by giving one-month payment in lieu of notice which was in accordance with the employment contract, but did not mention that he had expressed affection towards her.

¹ In this Report, the expression “有好感” is translated as “having good feelings”. Mr KAM told the Investigation Committee that he did not subscribe to the rendition of “表示好感” into “expressed affection” in the English text of the Schedule to the censure motion on the basis that it carried the meaning of “adoration”, which he had not meant to convey when he said the expression to Ms Kimmie WONG on 15 June 2009.

However, after the media subsequently reported that he had actually made advances to his female assistant, Mr KAM admitted on 6 October 2009 on a radio programme that he had expressed affection towards his female assistant when he was alone with her on one occasion in mid-June 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

In mid-June 2009, Hon KAM Nai-wai expressed affection towards his female assistant. Subsequently, he noticed some signs of his female assistant rejecting him. Between early September and mid-September 2009, Mr KAM invited his female assistant to dine out and was also refused by her. Subsequently on 24 September 2009, he terminated the employment contract with his female assistant with immediate effect without reason assigned, although her overall work performance was judged by him to be good.”

1.3 In accordance with Rule 49B(2A) of RoP, the debate on the censure motion has been adjourned and the matter stated in the motion has been referred to the Investigation Committee. Under Rule 73A(2) of RoP, the Investigation Committee is responsible for establishing the facts stated in the motion and giving its views on whether or not the facts as established constitute grounds for the proposed censure.

1.4 It was the first time a censure motion was moved by Members under Rule 49B(1A) of RoP, and it was also the first time an investigation committee was established under Rule 49B(2A) of RoP by LegCo. Without any precedents to follow, the Investigation Committee formulated a set of practice and procedure on the basis of the framework of procedural provisions of RoP before it began its substantive work. During the process, the Investigation Committee made reference to some generally applicable principles of natural justice as well as the procedures adopted by other committees of LegCo in conducting investigations; in addition, the views expressed by Mr KAM (the Member under investigation) personally and through his lawyers were also taken into consideration. The Investigation Committee stated clearly at the time of promulgating the Practice and Procedure that while the relevant practices and procedures had been made as exhaustive as possible, they might be amended by way of addition or variation where necessary in the light of experience or change in circumstances as the Investigation Committee progressed with its work.

1.5 In order to enable the Council and the public to better understand the procedure of the Investigation Committee, this Report sets out with explanations the principles that the Investigation Committee has followed in determining its Practice and Procedure, and how it has dealt with the procedural issues which are not covered by the Practice and Procedure.

1.6 This Report also provides the relevant background against which Hon Miriam LAU moved the motion to censure Hon KAM Nai-wai, the manner in which the investigation was conducted to establish the facts stated in the censure motion, the details of the Investigation Committee's

obtaining evidence which is relevant to such facts, an analysis of the available evidence for the purpose of establishing such facts and the views given by the Investigation Committee on whether or not the facts as established constitute grounds for the proposed censure, so as to enable the public to better understand the work of the Investigation Committee and how it has discharged its functions conferred by RoP.

1.7 The Investigation Committee hereby presents this Report to the Council under Rule 73A(12) of RoP.

Background of the Procedure

Mechanism for implementing BL 79(7)

1.8 In 1999, to cater for the characteristics of censure motions in BL 79(7), the First LegCo introduced, on top of the procedural provisions applicable to ordinary motions, some specially-made provisions to RoP to establish a mechanism for processing censure motions. The mechanism is summarized as follows:

- (a) a Member who will move the censure motion in a Council meeting shall give notice of the censure motion no less than 12 clear days before the day on which the motion is moved, and the notice shall be signed by the Member and three other Members (Rules 29(1) and 30(1A));
- (b) upon the moving of the censure motion in a Council meeting, unless the Council orders otherwise, the matter stated in the motion shall be referred to an investigation committee (Rule 49B(1A) and (2A));

- (c) once Members are appointed to it by the President, the investigation committee shall proceed to establish the facts stated in the censure motion and upon completion of the investigation, report to the Council with its findings and views on whether or not the facts as established constitute grounds for the censure (Rule 73A);
- (d) after the Report of the investigation committee has been laid on the Table of the Council, the debate on the censure motion will be resumed at the earliest Council meeting thereafter, and the motion shall be voted on (Rules 40(6A)); and
- (e) if the censure motion is passed with a two-thirds majority vote of the Members present, the President shall declare forthwith that the Member who is the subject of the censure motion is no longer qualified for the office (Rules 49B(3) and (4)).

A full text of the relevant rules is in **Appendix 1.2**. A flow chart illustrating the mechanism for the disqualification of a Member from the office under BL 79(7) is in **Appendix 1.3**.

Functions and responsibilities of an investigation committee

1.9 Under Rule 73A of RoP, an investigation committee consists of seven Members, comprising a chairman, a deputy chairman and five other members who shall be appointed by the President in accordance with an election procedure determined by the House Committee. The mover of

the censure motion, the three other Members jointly signing the notice of the motion and the Member who is the subject of the motion may not be appointed to the investigation committee. Just as other non-standing committees, an investigation committee may, in the performance of its duties, be specially authorized by resolution of the Council to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) (“LCPPPO”) to order attendance of witnesses to give evidence or to produce papers, books, records or documents.

1.10 Upon completion of its work, an investigation committee is required to submit a report to the Council. The investigation committee’s report serves as a reference for all Members during the debate on the censure motion. As to whether the Member under investigation should be censured, and thus disqualified from the office, it is a question for the Council to decide.

Background of the moving of the censure motion against Mr KAM

Views of the public received by Duty Roster Members

1.11 On 4 October 2009, a local newspaper reported that a female assistant in the Legislative Council Member’s Office of Hon KAM Nai-wai had lodged a complaint with the senior office bearers of the Democratic Party, the party to which Mr KAM belonged, that Mr KAM had dismissed her unreasonably after his advances had been rejected by her.

1.12 A large number of media reports and articles relating to the incident emerged on the following days and, in the week that followed,

letters, emails and phone calls from members of the public expressing views on the matter were received by the Complaints Division of LegCo Secretariat. These views were generally on the need for an inquiry to investigate whether the allegation of sexual harassment was founded, whether there had been improper use of public money in the course of the dismissal, including whether the dismissal was reasonable, and whether the matter had a negative impact on the integrity of the Member. In accordance with the general practice under the Redress System, these views of the public about the conduct of Mr KAM were forwarded to the Duty Roster Members² (“DRMs”) for that week for them to consider whether and how follow-up actions should be taken. The DRMs concerned held a meeting on 8 October 2009³ to discuss whether and how the matter should be followed up.

1.13 The DRMs considered that the reports in the press should be followed up as they involved serious ethical issues of LegCo Members and, if substantiated, they might have an impact on the reputation of LegCo as a whole. As the Committee on Members’ Interests (“CMI”) issued from time to time guidelines on matters of ethics in relation to the conduct of LegCo Members in their capacity as such and had handled certain complaints about the conduct of Members, the DRMs considered it

² The Council operates a Duty Roster Members System under its Redress System to receive and handle complaints from members of the public who are aggrieved by Government actions or policies. In groups of six, Members take turns to be on duty each week to oversee the system, meet with deputations and members of the public who wish to lodge complaints, and peruse the public views raised with the Complaints Division.

³ The DRMs for the week were: Hon Fred LI, Hon Mrs Sophie LEUNG, Hon LAU Kong-wah, Dr Hon Joseph LEE, Hon CHEUNG Kwok-che and Hon Mrs Regina IP. All, except Mrs LEUNG who was out of town, attended the meeting. Hon Mrs Regina IP was elected as the convenor of that meeting.

appropriate to refer the matter to CMI for follow-up actions. However, CMI is not empowered to investigate complaints about the conduct of Members other than those in relation to the registration or declaration of Members' interests, claims for reimbursement of operating expenses or applications for advance of operating funds. The DRMs therefore decided to propose to the House Committee that CMI be specially authorized by resolution of the Council to inquire into the incident, and to submit a report to the Council.

Deliberations of the House Committee

1.14 The above proposals of the DRMs were discussed at the meeting of the House Committee on 9 October 2009. Most Members at the meeting considered that the matter should be followed up, whereas some Members objected to the special authorization of CMI by resolution of the Council to conduct the inquiry. Dr Hon Margaret NG also drew Members' attention to the fact that the RoP had already provided for a mechanism to implement BL 79(7) for the purpose of dealing with allegations of misbehaviours of Members. In her view, invoking the mechanism which was already in place would ensure that the matter could be handled fairly.

1.15 After deliberations, Hon LEUNG Yiu-chung proposed and Members present unanimously agreed⁴ that the matter be followed up by invoking the mechanism in RoP for implementing BL 79(7). Dr Hon Margaret NG proposed that a subcommittee be formed under the House

⁴ A total of 37 Members voted in favour of the proposal. No member voted against it.

Committee to consider and recommend on the wording of the censure motion and particulars of the alleged misbehaviour to be set out in the Schedule to the motion. She further proposed that the censure motion be moved by the Chairman of the House Committee so as to stress the neutrality of the motion, and uphold the dignity of the Council and show that the motion was not moved for any political purpose. These two proposals were agreed to by the House Committee.

1.16 On 16 October 2009, LegCo Secretariat provided the House Committee with further information on the procedure for processing a censure motion. Members' attention was drawn to the fact that when the mechanism for implementing BL 79(7) was devised, it was not envisaged that a censure motion would be moved by a Member in the capacity of the Chairman of the House Committee, nor that the responsibility of drafting particulars of the misbehaviour alleged of a Member in the censure motion would be passed to a committee of LegCo. According to the current mechanism under RoP, the mover of the censure motion and the three other Members jointly signing the notice of the motion are responsible for listing the particulars of misbehaviour in the Schedule to the motion and, due to their role in this regard, they are not eligible for appointment to the investigation committee.

1.17 After deliberations, the House Committee agreed at its meeting on 16 October 2009 that the subcommittee formed at the preceding meeting should consider matters other than the drafting of the censure motion and those Members who would sign the notice of the motion would not be members of the subcommittee. The drafting of the wording of the censure motion should be left to the mover of the motion and the three

other Members to decide. Hon Miriam LAU, in the circumstances, would move the motion in her personal capacity as a Member and not as the Chairman of the House Committee.

1.18 The subcommittee was renamed⁵ as “Subcommittee on Preparatory Work in relation to the Establishment of an Investigation Committee under Rule 49B(2A) (Disqualification of Member from Office) of the Rules of Procedure” (“the Subcommittee”). The membership of the Subcommittee was also re-opened in view of the change in its terms of reference.

1.19 The verbatim transcripts of the House Committee meetings on 9 and 16 October 2009 are in **Appendices 1.4** and **1.5** respectively.

Work of the Subcommittee

1.20 The Subcommittee⁶, chaired by Hon Mrs Sophie LEUNG, held one meeting and reported on its work to the House Committee on 6 November 2009. The Subcommittee proposed a procedure for the election of Members for appointment to the Investigation Committee. It proposed that in deciding the procedure for nominating Members for election to the Investigation Committee, reference should be made to the practices adopted by the Public Accounts Committee, CMI, the Committee on Rules of Procedure and select committees. With regard to the

⁵ The original name of the Subcommittee was “Subcommittee on Preparatory Work for the Moving of a Motion Under Rule 49B(1A) (Disqualification of Member from Office) of the Rules of Procedure on Hon KAM Nai-wai”.

⁶ The other members of the subcommittee were Dr Hon Margaret NG, Hon LAU Kong-wah and Dr Hon Priscilla LEUNG.

nomination notice period and seconding arrangements, the Subcommittee proposed that the practice of The Legislative Council Commission should be adopted. The election procedure (**Appendix 1.6**) was subsequently endorsed by the House Committee at its meeting on 11 December 2009.

Moving of the censure motion by Hon Miriam LAU

1.21 On 24 November 2009, Hon Miriam LAU gave notice to move a censure motion under Rule 49B(1A) of RoP at the Council meeting of 9 December 2009. Dr Hon Joseph LEE, Hon IP Kwok-him and Hon Mrs Regina IP jointly signed the notice of the censure motion. On the same day, the President directed that the censure motion be printed, in the terms in which it was handed in, on the Agenda of the Council meeting of 9 December 2009.

1.22 At the Council meeting of 9 December 2009, upon the moving of the censure motion by Hon Miriam LAU, Hon Paul TSE moved without notice, under Rule 49B(2A) of RoP, the following motion (“non-referral motion”):

“That no further action shall be taken on the censure motion moved by Hon Miriam LAU.”

1.23 Twenty-one Members spoke in the ensuing debate on the non-referral motion, which was then voted on and negatived⁷ as a result.

⁷ The voting result was that among the Members returned by functional constituencies, 28 were present, four were in favour of the motion, 15 against it and nine abstained; and among the Members returned by geographical constituencies, 28 were present, 10 were in favour of the motion, seven against it, 10 abstained and the President did not cast any vote.

In accordance with Rule 49B(2A) of RoP, the debate on Hon Miriam LAU's motion then stood adjourned and the matter stated in the motion was referred to an investigation committee.

Formation and membership of the Investigation Committee

1.24 At its meeting on 8 January 2010, the House Committee elected, pursuant to the election procedure previously agreed by it, seven Members for appointment to the Investigation Committee. Four nominations were received by the deadline of 4 January 2010 and three more nominations were made on the spot at the House Committee meeting, thus making a total of seven nominations. As the number of nominations was equal to the number of places, all the nominated Members were elected as candidates for recommendation to the President of LegCo. The elected Members then elected among themselves the Chairman and Deputy Chairman of the Investigation Committee.

1.25 Pursuant to Rule 73A(1) of RoP, the President appointed the Chairman, Deputy Chairman and members of the Investigation Committee on 8 January 2010. The membership of the Investigation Committee is as follows:

Hon Mrs Sophie LEUNG, GBS, JP (Chairman)

Hon CHAN Kin-por, JP (Deputy Chairman)

Hon LAU Kong-wah, JP

Hon Vincent FANG, SBS, JP

Dr Hon LAM Tai-fai, BBS, JP

Dr Hon Priscilla LEUNG, JP

Dr Hon PAN Pey-chyou

1.26 Regarding the formation of the Investigation Committee, the Investigation Committee is of the view that, since the current composition reflects the wishes of Members as well as the decisions of individual political parties and groupings on whether they should have members taking part in the investigation, their aspirations and decisions should be respected as such. It is the duty of the Investigation Committee, regardless of its composition, to conduct its investigation in accordance with RoP and in a fair, impartial and reasonable manner.

Practice and Procedure of the Investigation Committee

1.27 At its first meeting held on 18 January 2010, the Investigation Committee immediately started deliberations on its practice and procedure and the principles it should follow. In the course of its deliberations, the Investigation Committee made reference to a Progress Report, tabled at the meeting of the First LegCo on 28 April 1999 by the former Committee on Rules of Procedure, which set out the deliberations of that Committee on the mechanism currently provided in Rule 73A of RoP (the relevant part of the Report is reproduced in **Appendix 1.7**). The Investigation Committee also made reference to the practices and procedures of select committees and other committees of the Council as well as the experience of other legislatures in the investigation of alleged misbehaviours of their members. The Investigation Committee also took into account the major procedural issues and concerns raised by Members at the debate on the non-referral motion at the Council meeting of 9 December 2009 as well as the views expressed by the solicitors for Mr KAM in their letter dated 21 January 2010 to the Investigation Committee (**Appendix 1.8**). Mr KAM also expressed his views on the procedural aspect to the Investigation

Committee at hearings⁸. Views collected and heard by the Investigation Committee are summarized as follows:

- (a) the investigation must be conducted in a fair and impartial manner, and that the investigation procedure must be clear and stringent and comply with procedural justice;
- (b) the Investigation Committee must first establish whether or not there is a prima facie case before deciding whether it should proceed further to meet witnesses;
- (c) the Investigation Committee should be fair and impartial when deciding on the persons to be invited to be witnesses;
- (d) in view of the serious impact of the allegation on the Member concerned, the Investigation Committee should adopt a stringent standard of proof for establishing the facts, though not necessarily the standard adopted for criminal investigations;
- (e) the Members under investigation should have the right to attend and observe the entire proceedings of hearings and be accompanied or represented by lawyers and has the opportunity to respond to the tentative findings of the Investigation Committee before the completion of the investigation;

⁸ For easy reference, meetings of the Investigation Committee at which the Member under investigation or a witness or witnesses appear are referred to as “hearings” in this Report. In RoP, the term “hearings” is not used, and thus hearings are not distinguished from other meetings of the Investigation Committee.

- (f) the investigation should be free from political, party or personal influences; and
- (g) the Member under investigation may appoint solicitors and/or barristers to act for him during hearings, have access to all materials held by the Investigation Committee as well as subpoena and cross-examine witnesses, and be informed of the procedures promptly.

1.28 On 10 February 2010, the Investigation Committee adopted its Practice and Procedure (**Appendix 1.9**), which was forthwith published on the website of LegCo for the information of other Members and the public. A copy of the Practice and Procedure has been provided to the Member under investigation and all witnesses to enable them to understand how the Investigation Committee operates and what their rights and obligations are.

Guiding principles for determining the Investigation Committee's procedures

1.29 The Investigation Committee notes that in view of the ad hoc nature of the membership of an investigation committee, the former Committee on Rules of Procedure considered it necessary to stipulate in RoP the manner in which the investigation committee is formed and the way it conducts its business. In this connection, important ground rules governing the way the investigation committee conducts its investigation such as the quorum, chairmanship, and mode of meetings have been prescribed in Rule 73A of RoP. However, these rules are meant to provide

merely a framework, upon which detailed practice and procedure are to be determined, subject to RoP, by the investigation committee itself pursuant to Rule 73A(13) of RoP. The Investigation Committee considers that in drawing up its practice and procedure, there is a need to ensure that the investigation process is fair and also seen to be fair, especially to those parties whose interests or reputation may be affected by the investigation process.

1.30 Having regard to the practice and procedure adopted by the select committees of the Council and the experience of overseas legislatures, the Investigation Committee decided to adhere to the following guiding principles in determining its practice and procedure:

- (a) the Investigation Committee should be fair, and seen to be fair, to the Member under investigation, to the Members making the allegations, and to the other parties involved in the investigation, and it should observe the principle of following due process in its investigation;
- (b) the Investigation Committee should adopt a fair and impartial attitude and act independently in obtaining, examining and analysing evidence and information and it should not have any regard to political, party or personal considerations;
- (c) the Investigation Committee is accountable not only to the Council but also to the public. Subject to Rule 73A(4) of RoP which provides that all meetings are to be held in private (except in circumstances specified in Rule 73A(5)), the

Investigation Committee should be as transparent as possible in its operation; and

- (d) the Investigation Committee should work in a conscientious and efficient manner as public resources are involved.

1.31 The Investigation Committee is conscious of the serious nature of an investigation conducted under Rule 73A of RoP and considers it important to observe the principle of following due process in seeking to establish the facts stated in the censure motion.

Legal representation

1.32 The Investigation Committee notes that Rule 73A of RoP is silent on whether the Member under investigation has the right to legal representation. It has therefore made reference to the usual practice in select committees and CMI, as well as the practices in overseas legislatures. In select committees and CMI, both witnesses and the Member under complaint may be accompanied by persons who may include legal adviser(s), but such persons are not allowed to address the committee. In the case of CMI, the number of accompanying persons is limited to three.

1.33 In overseas legislatures, the practices in legal representation vary. While the counsel for a Member under investigation is permitted to address the committee concerned in both the House of Commons in Canada and the House of Representatives in the United States, his counterpart is not allowed to do so in the House of Commons of the United Kingdom and the House of Representatives of Australia, but the Member under investigation may be accompanied by and confer with counsel.

1.34 As there is no judicial precedent which is directly applicable, the Investigation Committee has drawn reference from principles referred to in cases concerning the right to legal representation in disciplinary proceedings in Hong Kong. According to a case on disciplinary proceedings against a police officer⁹, the Court of Final Appeal held that at common law, there is no absolute right to legal representation at a disciplinary hearing, and that it is a matter to be dealt with in the relevant disciplinary tribunal's discretion in accordance with the principle of fairness.

1.35 On the basis of the above considerations, the Investigation Committee has decided that the Member under investigation should be permitted to be accompanied by up to three persons including a legal adviser, with whom the Member may, with the permission of the Chairman, consult or confer during the proceedings¹⁰. However, the Member is required to respond personally, and not through the accompanying persons, to questions raised by the Investigation Committee. The same should apply to witnesses appearing before the Investigation Committee to give evidence.

Cross-examination of witnesses

1.36 On the issue of cross-examination of witnesses by the Member under investigation or by his counsel, the Investigation Committee

⁹ *Lam Siu Po v Commissioner of Police* (2009) 12 HKCFAR 237.

¹⁰ Each time when he attended a hearing, Mr KAM was accompanied by a legal adviser who was a practising barrister and by a friend. At the hearing on 14 July 2010, the Investigation Committee gave permission, under paragraph 14 of the Practice and Procedure, for Mr KAM to withdraw briefly for seeking the advice of the legal adviser accompanying him.

considers that while there are arguments in support of the claim that cross-examination could be a fairer practice for the Member under investigation, it may be inappropriate for the Member or his counsel to conduct cross-examination, especially when the witnesses are members of the public who may feel intimidated when being cross-examined and therefore will be less forthcoming in providing the Investigation Committee with information useful to the investigation.

1.37 The Investigation Committee notes that cross-examination is not a common practice in similar parliamentary bodies in overseas jurisdictions, and other committees of LegCo (such as the Public Accounts Committee, CMI and select committees) to allow witnesses or their counsel to conduct cross-examination even though these committees often conduct inquiries into and form views on the actions of individuals whose interests or reputation may be affected by the proceedings of these committees.

1.38 The Investigation Committee also notes that in the House of Representatives of Australia, hearings of the relevant committee are usually conducted in public, and the Member under complaint must be present during the hearing of evidence against him, and when proceedings are held in private, he may be excluded, subject to the discretion of the committee. In the House of Commons of Canada, the hearings are held in private, but the Member under complaint is given a reasonable opportunity to be present throughout the inquiry of the complaint against him.

1.39 The proceedings of the Investigation Committee should be regarded as investigatory and not adversarial in nature. Accordingly, the Investigation Committee considers it inappropriate to adopt the normal

court procedures under which a party may cross-examine witnesses called by another party. However, in view of the seriousness of the allegations in the censure motion against Mr KAM and the potential consequences of the censure motion, the Investigation Committee agrees that the following procedural arrangements should be made to ensure that the Member under investigation has the opportunity to examine and respond to the evidence given to the Investigation Committee by witnesses:

- (a) the Member under investigation will be informed of the witnesses whom the Investigation Committee has decided to call;
- (b) the written statement and relevant information submitted by the Member under investigation may be forwarded to the relevant witnesses for them to respond, and such responses may be passed to the Member for him to respond;
- (c) the Investigation Committee may forward the written statement and relevant information submitted by a witness to the Member under investigation for him to respond; and
- (d) the Member under investigation may be provided with a copy of the verbatim transcripts of the hearings containing the evidence of a witness, unless the transcripts are in respect of hearings held in private and the Member's request for a copy of them has been rejected by the Investigation Committee on sufficient reason.

1.40 As regards whether the Member under investigation is allowed to call witnesses, the Investigation Committee considers that, for the sake

of fairness, the Member under investigation may propose for its consideration witnesses who may help his or her case, in addition to those called by the committee. The Investigation Committee also considers that the Member under investigation should be informed of the witnesses whom the Investigation Committee has decided to call. During the hearings, Mr KAM was informed for four times of the names of witnesses whom the Investigation Committee had decided to call as well as the latest developments.

Whether meetings are to be held in private or public

1.41 The RoP has built in a mechanism for determining whether meetings of an investigation committee are to be held in private or public, essential features of which are:

- (a) all hearings for obtaining evidence from witnesses must be held in private unless the Member under investigation elects for public hearings and makes such an election before the first hearing. Such an election, once made, applies to all hearings throughout the entire investigation. Only the Member under investigation may make an election for public hearings, and no member of an investigation committee or any witness may make such an election (Rule 73A(4) and (5)(a));
- (b) even if the Member under investigation has elected for public hearings, an investigation committee may decide on sufficient

reason, upon a request made by a member of the committee or an application made by a witness, to hold any hearing or any part thereof in private (Rule 73A(5)(b)); and

- (c) meetings of an investigation committee other than hearings, i.e. meetings held to discuss procedural matters, progress of its work, logistical arrangements for hearings, the evidence obtained, the Report of the investigation committee and any other matters relevant to or arising from the investigation committee's work, shall be held in private (Rule 73A(4)).

1.42 The Investigation Committee is aware that some witnesses may be concerned about reporting by the media and may be reluctant to provide evidence in public. The Investigation Committee notes that the current Rule 73A(5) of RoP has already provided it with the flexibility to hold a hearing (or a part thereof) in private upon an application made by a witness.

Whether it should be ascertained if there was a prima facie case before an investigation is conducted

1.43 The Investigation Committee has also examined the proposal of ascertaining if there was a prima facie case before proceeding to invite witnesses to give evidence. The Investigation Committee notes that the former Committee on Rules of Procedure has considered this matter. In its progress report (see Appendix 1.7) published on 28 April 1999, the former Committee provided the rationale:

“2.60 The Committee is aware that in other jurisdictions as well as local professional bodies, preliminary investigation is usually conducted to establish whether there is a prima facie case before undertaking a full investigation. As the process of and the publicity attracted by preliminary investigations are no different from that of a full investigation, the Committee considers that once the motion is referred to an investigation committee, full investigation should be undertaken immediately.”

1.44 For practical purposes, the Investigation Committee has decided to take the following steps before inviting witnesses to give evidence:

- (a) to first invite the Members initiating the censure motion (i.e. the mover of the motion and the three Members who jointly signed the notice of the motion) to provide in writing information in support of the misbehaviour as particularized in the Schedule to the censure motion and any information which may assist the Investigation Committee in carrying out its work;
- (b) to invite the Member under investigation to respond in writing to such information and provide any information which may assist in its work;
- (c) to instruct the Clerk to the Investigation Committee to gather information relevant to the censure motion; and

- (d) on the basis of such information and responses, to determine whether it is necessary to conduct hearings for witnesses to give evidence for the purpose of establishing the facts stated in the censure motion.

Summoning of witnesses

1.45 The Investigation Committee has considered the circumstances under which it will be necessary to seek the Council's special authorization to exercise the powers conferred by section 9(1) of LCPPO to order attendance of witnesses before the Investigation Committee to give evidence or to produce documents. The Investigation Committee notes that a witness who is lawfully ordered to attend before the Investigation Committee to give evidence or to produce documents is entitled, in respect of such evidence or documents, to the same right or privilege as before a court of law by virtue of section 14 of LCPPO. The Investigation Committee understands that the exercise of the powers under section 9(1) of LCPPO will facilitate the work of the Investigation Committee but it is also mindful that such powers should be sought only when it is necessary to do so. The Investigation Committee considers it more appropriate to first invite those persons who are considered to be able to assist in its investigation to be witnesses, and should any of these persons decline to give evidence, it would then consider whether the information believed to be held by such person is so essential to the completeness of the investigation that it has to order his attendance by summons, having regard to factors including the views of the person concerned, whether the relevant hearings will be held in private or public, and whether sufficient protection is accorded to the person concerned.

1.46 The Investigation Committee has also decided that witnesses should be invited to choose to be examined under oath pursuant to section 11 of LCPPO¹¹. The Investigation Committee notes that it is the practice of select committees to examine witnesses under oath. The Investigation Committee considers that if a witness is willing to give evidence under oath, this will be a relevant factor which it may take into account when assessing the credibility of the witness and the weight to be accorded to the evidence given by the witness.

Engagement of outside counsel

1.47 The Investigation Committee has also examined whether outside counsel should be engaged to ensure impartiality of its work. Members of the Investigation Committee notes that outside counsel was engaged in the past on a case-by-case basis to give advice on the handling of judicial review applications against Members or other contentious legal matters. In the case of select committees, the general practice is that independent legal advice is provided by legal advisers of LegCo Secretariat. Yet, there have been occasions on which outside counsel was engaged by select committees to give them legal advice on contentious legal issues, even though this had not been provided for in their Practice and Procedure. Members also note that where the Parliamentary Commissioner for Standards in the House of Commons of the United Kingdom appoints an Investigatory Panel to investigate the most difficult complaints against

¹¹ Under section 11(1) of LCPPO, the Council or a committee may require that any facts, matters and things relating to the subject of inquiry before the Council or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath.

Members, he may appoint counsel to assist the panel¹², but so far the Commissioner has not appointed any Investigatory Panel.

1.48 Members of the Investigation Committee considers that the legal adviser to the Investigation Committee is Legal Adviser of the LegCo Secretariat himself who, together with the legal team led by him, will provide independent and impartial legal advice to the Investigation Committee to ensure that its work is carried out in a fair and impartial manner. The Investigation Committee has therefore decided that the practice of select committees in this regard may be followed, and to seek advice from outside bodies (including legal experts) as and when such a need arises.

Confidentiality requirements

1.49 The Investigation Committee attaches great importance to the need to ensure the confidentiality of its proceedings, which it considers to be extremely crucial to the integrity and credibility of its investigation and for the protection of the interests and privacy of the parties concerned in the course of conducting the investigation. To prevent unauthorized disclosure of information on its proceedings, the Investigation Committee has taken measures in relation to the following matters right from the start of its investigation:

- (a) classifying evidence obtained in hearings held in private, written statements, other documents and related correspondence as well as information relating to the internal

¹² Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament (2011), page 88.

deliberations of the Investigation Committee as confidential information;

- (b) limiting the circumstances under which confidential information may be used;
- (c) allowing witnesses to apply for not including confidential information in the Report of the Investigation Committee;
- (d) prohibiting communications between Members and members of the Investigation Committee regarding any matter relating to the work of the Investigation Committee;
- (e) prohibiting unauthorized communications with the media or response to media enquiries on matters relating to the work of the Investigation Committee; and
- (f) requiring all parties concerned to sign a confidentiality undertaking.

1.50 The Investigation Committee notes that after the investigation had started, there have been several occasions where there were press articles which purported to report on the work of the Investigation Committee. The Investigation Committee expresses grave dismay at the occurrence of such incidents, and takes a very serious view of them. Shortly after the publication of an article on 24 April 2010, the Investigation Committee held a special meeting to discuss the matter and all members were reminded of the confidentiality requirements provided in Rule 81 of RoP, the Practice and Procedure of the Investigation Committee

as well as the confidentiality undertaking that each of them had signed. Despite the provision in paragraph 29 of the Practice and Procedure that the Chairman or the Deputy Chairman might, with the consent of the Investigation Committee, respond in general terms to enquiries from the media on the progress of the investigation, the Investigation Committee agreed that the Chairman and Deputy Chairman would no longer respond to enquiries on the progress of the investigation. Separately, the Clerk to the Investigation Committee also adopted additional measures¹³ to prevent the unauthorized disclosure of confidential information on the work of the Investigation Committee.

1.51 Following the publication of the press articles on 4 and 18 November 2010, the Investigation Committee held a special meeting to discuss the matter and members were again reminded of the confidentiality requirements of the Investigation Committee and the damage that might be done to parties concerned as well as to the investigation. Members were also reminded that individual Members may be subject to personal liabilities for disclosing confidential information on the work of the Investigation Committee. The Clerk to the Investigation Committee, in her capacity as the Secretary General of LegCo Secretariat, personally

¹³ The Clerk to the Investigation Committee, in her capacity as the Secretary General of LegCo Secretariat, personally briefed those staff members of the Secretariat servicing the Investigation Committee and those of PCCW Limited who provided technical support services to meetings of the Investigation Committee held in LegCo Building on the confidentiality requirements of the Investigation Committee. In addition, each of these staff members of the Secretariat and PCCW Limited had signed a confidentiality acknowledgement and confidentiality undertaking respectively. To minimize the number of persons having access to confidential information of the Investigation Committee, PCCW Limited has designated three technicians who have a long service with the company to service meetings of the committee.

interviewed those staff members of the Secretariat servicing the Investigation Committee and those of PCCW Limited; and such staff members confirmed that they had not produced, disclosed or confirmed the contents of any document or deliberations that had been handled or taken place at the closed meetings or hearings held by the Investigation Committee to any person who did not have lawful authority for receiving such contents.

Preparation of the Report of the Investigation Committee

1.52 In order to ensure that the drafting of the Report is free from any influence by political, party or personal factors, the Investigation Committee has decided that detailed records are to be kept on the deliberations of the Investigation Committee when it discusses the draft Report paragraph by paragraph and the records of its deliberations should be attached to the Report to be tabled in the Council.

1.53 The Investigation Committee has also decided that the draft Report, with the exception of the parts on the background facts, the conclusion and the recommendations, will be forwarded to the Member under investigation for comment. As for other relevant witnesses, each of them will be provided with the parts of the Report that contain evidence provided by them for comment, so as to ensure the accuracy of the facts stated in the Report. Such comments will be taken into account by the Investigation Committee in finalizing its Report and will be recorded in the Investigation Committee's Report to the Council.

1.54 According to paragraph 27 of the Practice and Procedure, the minutes of evidence, which form part of the Report to be submitted to the

Council upon completion of investigation under Rule 73A(12) of RoP, shall contain all evidence taken by the Investigation Committee at hearings. However, the Investigation Committee may, upon a request made by a witness, decide to exclude confidential information from the Report on grounds that such exclusion is necessary to protect privacy without jeopardizing the public interest in knowing the material facts on which the Investigation Committee has based its views. Mr KAM had requested the Investigation Committee not to include the following in its Report: written statements submitted by witnesses, verbatim transcripts that contain evidence provided by witnesses as well as copies of emails between Ms Kimmie WONG (the female assistant dismissed by Mr KAM) and him produced to the Investigation Committee by him. The justifications he held for making the request are as follows:

- (a) such documents contain information not supported by facts, and hence they should not be disclosed to the public;
- (b) if the allegation of misbehaviour in the censure motion is not substantiated, the relevant information should not be disclosed to the public; and
- (c) the publication of such documents may lead to public discussion on matters unrelated to the censure motion, thereby subjecting Ms Kimmie WONG to enormous pressure and anxiety which is contrary to her aspiration – that the incident be brought to a full stop and she could enjoy greater room for making a new start in her life.

1.55 The Investigation Committee considers that its primary duty is to conduct the investigation and report on its findings in a fair and impartial manner, and in discharging that duty it is accountable to the public. To that end, the Report should set out all the material facts on which the Investigation Committee has based its views. Also, it is in the public interest that Members who are not members of the Investigation Committee and members of the public can form their own judgments based on the relevant documents and oral evidence which the Investigation Committee has considered. The Investigation Committee should exclude relevant information from the Report only if such exclusion is necessary to protect privacy¹⁴. The inclusion of the testimony of witnesses in the Report should not be interpreted as the Investigation Committee's acceptance of their truthfulness. Besides, Mr KAM has been given many opportunities to respond to the witnesses' testimony both in writing and at hearings. As regards the concern that the Report will lead to public discussions and such discussions might impact on Ms Kimmie WONG, the Investigation Committee considers that Ms Kimmie WONG, who is not a witness, has not given the Investigation Committee any views on the preparation of the Report, nor has she asked for any material to be excluded from the Report. Therefore, the Investigation Committee decided not to accede to the request of Hon KAM Nai-wai for excluding from the Report the documents mentioned in the preceding paragraph.

Accountability to the public

1.56 The Investigation Committee understands that the Council has conferred on it very important responsibilities. It has endeavoured, on the

¹⁴ Personal data such as Hong Kong Identity Card numbers and email addresses in the documents appended to this Report have been obliterated.

one hand, to carry out its investigation in a thorough, fair and impartial manner, and to work according to the procedure that has been laid down, and on the other hand, to work as expeditiously and efficiently as possible.

1.57 Further, to enhance transparency of its work, the minutes of evidence in the form of verbatim transcripts are included in this Report, and this Report is made public on the same day it is tabled in the Council and uploaded onto LegCo website for public perusal.

Standard of proof and assessment of evidence

1.58 The Investigation Committee notes the views expressed by Members in the debate on the non-referral motion in relation to the standard of proof which should be applied in this investigation. These views include:

- (a) the Investigation Committee must adopt a stringent standard of proof, although it might not be necessary to adopt the standard of proof in criminal proceedings;
- (b) the more serious the consequences of legal proceedings, the higher the standard of proof that should be adopted;
- (c) as the Investigation Committee is not a court, it would not be appropriate to apply the standards of proof adopted by the courts in determining whether the allegations were substantiated;
- (d) the investigation should not rely on media reports; and

- (e) the Investigation Committee should not accept hearsay evidence, as this will deprive members and the Member under investigation of the rights to put questions to the witnesses.

1.59 The Investigation Committee notes that RoP do not prescribe what standard of proof an investigation committee should adopt, how an investigation committee should go about obtaining evidence for establishing the facts stated in the censure motion, or how the evidence obtained should be assessed and weighed. The Investigation Committee also notes that in criminal proceedings, the standard of proof applied by the courts is “proof beyond reasonable doubt”, while in civil proceedings, the standard of proof is “proof on a balance of probabilities”. The Investigation Committee understands that as it is not a court of law, such standards of proof and the normal rules of evidence need not apply. However, given that the Investigation Committee is tasked by the Council to investigate very serious allegations against a Member which could lead to the Member under investigation being disqualified from the office, and having regard to the standard of proof adopted in disciplinary proceedings in Hong Kong¹⁵, it has decided to adopt the following standard of proof: the more serious the allegation, the more compelling the evidence is required to establish the allegation.

1.60 Although the Investigation Committee is not regulated by those rules which are applied by the courts under the law of evidence, the Investigation Committee will take into consideration the following factors when assessing the quality and evaluating the weight of the evidence it has obtained:

¹⁵ Refer to *A Solicitor v The Law Society of Hong Kong (2008)* 11 HKCFAR 117, CFA, at 167.

- (a) *relevance of the evidence*: the Investigation Committee will only consider those items of evidence relevant to its investigation, i.e. evidence which bears on the facts stated in the censure motion which are required to be established. Irrelevant and immaterial evidence provided by the witnesses will not be considered;
- (b) *directness of evidence*: the Investigation Committee will consider whether the evidence it has received is first-hand evidence or evidence from secondary sources and will give proper weight to the evidence having regard to its nature. In assessing the directness of evidence, the Investigation Committee will consider whether the evidence given by a witness is based on his direct participation or being an eye-witness, or based on accounts given by other persons. If the Investigation Committee is satisfied that a piece of evidence is relevant and reliable, it will be taken into consideration even if it is not first-hand. The Investigation Committee will not rely on any information referred to in media reports or articles as evidence for the purpose of establishing any facts stated in the censure motion, but it may refer to such reports or articles as background reference materials; and
- (c) *reliability of evidence*: the more reliable an item of evidence, the greater significance the Investigation Committee will attach to it. As such, witnesses have been requested to appear before the Investigation Committee at its hearings to be

examined on oath under section 11 of LCPPO so that members of the Investigation Committee could observe the witnesses' demeanour while giving evidence. In examining the reliability of evidence, the Investigation Committee will consider whether the witness has an in-depth, comprehensive and balanced understanding of the matter.

Hearings and evidence

1.61 After making its Practice and Procedure, the Investigation Committee conducted a total of 54 meetings, including 11 hearings and 43 internal deliberations. When the Investigation Committee started its investigation procedure, it first invited Hon Miriam LAU, the mover of the censure motion, and the three other Members who jointly signed the notice of the motion to provide in writing information in support of the misbehaviour alleged of Mr KAM as particularized in the Schedule to the censure motion and then invited Mr KAM, the Member under investigation, to respond in writing. The Investigation Committee also instructed the Clerk to the Investigation Committee to gather information relevant to the censure motion, including the verbatim transcripts of the relevant media interviews, relevant media reports alluded to in the Schedule to the censure motion and materials relating to the employment and dismissal of Ms Kimmie WONG, personal assistant to Mr KAM, and to provide Mr KAM with a full set of the documents for his reference.

1.62 On the basis of the information and responses received, the Investigation Committee decided that it was necessary to conduct hearings

for the purpose of establishing the facts stated in the censure motion. To that end, the Investigation Committee initially invited the following persons to attend its hearing to give evidence:

- (1) Mr KAM, the Member under investigation;
- (2) Hon Albert HO (Chairman of the Democratic Party);
- (3) Hon Emily LAU (Deputy Chairman of the Democratic Party);
- (4) Ms Kimmie WONG (the assistant dismissed by Mr KAM);
- (5) Ms Anita LUI (another former assistant of Mr KAM who worked in the same office as Ms Kimmie WONG); and
- (6) Ms Mandy TAM (Ms TAM employed Ms Kimmie WONG when she was a Member).

1.63 Mr KAM agreed to appear before the Investigation Committee to give evidence. As Mr KAM did not make an election for hearings to be held in public, all meetings (including hearings) of the Investigation Committee were held in private pursuant to Rule 73A(4) of RoP. Mr KAM provided a total of four written statements (IC Paper Nos. K5(C), K6(C), K9(C) and K16(C)) to the Investigation Committee and attended a total of six hearings at which he was examined under oath by the Investigation Committee. The Investigation Committee also acceded to the request of Mr KAM to attend a hearing to make his summing-up submissions after the Investigation Committee had completed the taking of evidence from all witnesses, notwithstanding the fact that the Practice and Procedure has not provided for such an arrangement.

1.64 Hon Albert HO, Hon Emily LAU and Ms Anita LUI agreed to be witnesses. Mr HO and Ms LAU provided written statements to the Investigation Committee (IC Paper Nos. WA11(C), WA18(C), WE8(C) and WE17(C) respectively) and were examined under oath by the Investigation Committee. Ms LUI only agreed to provide evidence in writing. Ms LUI provided two written statements (IC Paper Nos. WL12(C) and WL15(C)) in response to written questions raised by the Investigation Committee, and she subsequently appeared at a hearing before the Investigation Committee to formally confirm and produce the two written statements under oath.

1.65 As regards Ms Mandy TAM, the Clerk to the Investigation Committee received a confidentiality undertaking signed by her on 25 April 2010, signifying her consent to be a witness of the investigation and to be bound by the confidentiality requirements. The written statement submitted by Mr KAM (IC Paper No. K5(C)) was then forwarded to Ms TAM, as a witness, on 3 May 2010 pursuant to paragraph 15 of the Practice and Procedure. In the telephone conversation with and an email sent to an assistant to the Clerk to the Investigation Committee on 10 May 2010, Ms TAM stated that she would be a witness only if Ms Kimmie WONG agreed to be a witness. In view of the new condition imposed by Ms TAM, the Clerk arranged for the retrieval of Mr KAM's written statement from Ms TAM on the following day. The Investigation Committee decided at its meeting on 13 May 2010 that Ms TAM would not be regarded as a witness before Ms WONG gave consent to be a witness. The Clerk to the Investigation Committee wrote to Mr KAM on 14 May 2010 to inform him of the above situation.

1.66 According to a letter from Hon Miriam LAU to all LegCo Members, Ms Kimmie WONG had informed Hon Miriam LAU, the mover of the censure motion, through her lawyer on 17 November 2009 that “due to immense pressure and strain caused by this matter, she has decided to disengage from further involvement in any investigation”. The Investigation Committee nevertheless extended an invitation to Ms WONG, but Ms WONG informed the Clerk to the Investigation Committee through an email dated 28 April 2010 that she needed more time to consider if she would be a witness. The Clerk to the Investigation Committee wrote to Mr KAM on 29 April 2010, informing him of the above situation. As Ms WONG all along did not give any reply, the Investigation Committee instructed the Chairman to make enquiries with Ms WONG in person. The Chairman then had a telephone conversation with Ms WONG on 24 November 2010. In that telephone conversation, Ms WONG said a number of times that she felt pressure each time the incident was brought up, and she hoped to forget the incident as quickly as possible and keep a low profile. She informed the Chairman that she did not wish to be involved in the investigation and therefore she also was not willing to be a witness. The Investigation Committee recognizes that its work may be made more difficult as a result of her not being a witness, but the Investigation Committee respects Ms WONG’s wish and considers that resorting to the coercive power under section 9(1) of LCPPO to compel Ms WONG to attend hearings as a witness is not a desirable approach under the circumstances of this case. The Clerk to the Investigation Committee subsequently wrote to Mr KAM again, informing him that Ms WONG had finally decided not to be a witness and that the Investigation Committee had maintained its decision of not regarding Ms TAM as a witness.

1.67 Mr KAM did not formally propose any witness for the Investigation Committee to consider calling. Nevertheless, Mr KAM said at the hearing held on 13 January 2011 that as there were other Members of the Democratic Party who attended the party caucus meeting held on 2 October 2009, the Investigation Committee should not rely solely on the evidence obtained from Hon Albert HO and Hon Emily LAU in making the relevant observations (please refer to paragraph 2.113 of Chapter 2 for details). The Investigation Committee therefore decided to invite all other Members of the Democratic Party who had attended that caucus meeting, including Hon CHEUNG Man-kwong, Hon Andrew CHENG, Hon LEE Wing-tat, Hon Fred LI, Hon WONG Sing-chi and Hon James TO, to give evidence as witnesses. They provided written statements to the Investigation Committee (IC Paper Nos. WC19(C), WN20(C), WT21(C), WF22(C), WS23(C) and WJ24(C) respectively) and were examined under oath by the Investigation Committee.

1.68 Pursuant to paragraph 19 of the Practice and Procedure, the relevant parts of the draft verbatim transcripts of the proceedings of the hearings containing the evidence of a witness or Mr KAM, the Member under investigation, were forwarded to the witness or Mr KAM for sight and correction. One copy each of the written statements and documents submitted by witnesses and the finalized verbatim transcripts of hearings attended by them were forwarded to Mr KAM for reference and he was allowed to retain such documents until such future dates as might be specified by the Investigation Committee. Having regard to the relevant procedure and the usual practice adopted by other similar committees, the Investigation Committee has decided not to accede to the request of Mr KAM to be provided with an additional copy of the verbatim transcripts

for use by his legal adviser, so as to ensure the confidentiality of the proceedings of its hearings.

1.69 For the purpose of establishing the facts stated in the censure motion, the Investigation Committee has primarily relied on direct, first-hand evidence, such as copies of email messages¹⁶ between Mr KAM and Ms Kimmie WONG, verbatim records of the press conference and radio interview attended by Mr KAM, the oral and written evidence given under oath by Mr KAM, Hon Albert HO, Hon Emily LAU and other Members of the Democratic Party, as well as information such as employment contracts and other contemporaneous records relating to the employment of Ms WONG and Ms Anita LUI collated by the Clerk to the Investigation Committee. Evidence from secondary sources is used for the purpose of establishing the facts stated in the censure motion only when the Investigation Committee is satisfied that it is reliable.

1.70 Copies of two written statements produced by Ms Anita LUI as well as the verbatim transcripts of the hearing at which Ms LUI formally produced these statements under oath have been provided, in accordance with paragraphs 16 and 20 of the Practice and Procedure, to Mr KAM for him to respond. Mr KAM did not give any written response to specific contents of the statements but contended at the hearing on 21 October 2010

¹⁶ With a view to facilitating its work, the Investigation Committee requested Hon KAM Nai-wai to provide all the emails between him and Ms WONG between 1 April and 30 September 2009, but he refused on the ground that such emails could not comprehensively reflect Ms WONG's work performance. The Investigation Committee decided not to seek the Council's special authorization to exercise the powers conferred by section 9(1) of LCPPO to order Mr KAM to produce copies of such emails. Please refer to paragraph 2.26 of Chapter 2 for details.

that certain contents in Ms LUI's statements were hearsay only. He further contended through his solicitors in a letter dated 11 January 2011 to the Investigation Committee that as Ms LUI had told the Investigation Committee at the hearing she would not answer any question regarding the statements, the Investigation Committee should not consider the evidence given by Ms LUI (**Appendix 1.10**). The Investigation Committee does not accept this view since Mr KAM has been given ample opportunity to respond to and comment on Ms LUI's testimony both in writing and at hearings. Having regard to Mr KAM's comments and the factors set out in paragraph 1.60, the Investigation Committee has taken into account, and given appropriate weight to, the answers to questions provided by Ms Anita LUI in her written statements insofar as they relevantly, directly and reliably represent her observations of events with which the Investigation Committee is concerned.

1.71 As Ms Kimmie WONG has declined to be a witness and the Investigation Committee has decided not to request the Council to authorize the Investigation Committee to exercise the power under section 9(1) of LCPPO to order her to appear before the committee, Ms WONG has not directly provided evidence to the Investigation Committee. Yet, the Investigation Committee notes that Ms WONG issued an open statement through her solicitors to all LegCo Members on 3 December 2009 to assist Members in making their decision in respect of the censure motion. The Investigation Committee considers that Ms WONG's open statement should be regarded as background information to which the Investigation Committee may refer. The Investigation Committee has therefore made reference to the open statement in taking evidence from Mr KAM and witnesses. In making reference to Ms WONG's statement,

the Investigation Committee has considered the factors set out in paragraph 1.60. Mr KAM has stressed to the Investigation Committee that as the statement was not made by Ms WONG under oath and both the Investigation Committee and Mr KAM did not have an opportunity to put questions to Ms WONG on the statement, the statement had no evidential value and the Investigation Committee should not consider it. The Investigation Committee does not agree with Mr KAM's contention.

The Report

1.72 Paragraph 22 of the Practice and Procedure provides that those parts of the Investigation Committee's Report which set out the evidence, on the basis of which the Investigation Committee has established the facts stated in the censure motion, will be forwarded to the Member under investigation and the witnesses concerned for comment. In accordance with this provision, the relevant parts of draft Chapter 2 of this Report were forwarded to the witnesses concerned for comment, and Hon James TO and Hon WONG Sing-chi submitted comments (**Appendices 1.11** and **1.12** respectively) to the Investigation Committee. As for Mr KAM, the Investigation Committee notes that the reputation of Mr KAM may be affected by its findings and observations contained in the Report and hence has decided that, in line with the normal practices of select committees, those parts in the draft Report containing findings and observations, together with those parts which set out the evidence, be forwarded to Mr KAM to give him an opportunity to respond. Accordingly, the Investigation Committee forwarded on 2 June 2011 the relevant parts of draft Chapters 2 to 4 of this Report to Mr KAM for him to comment by 13 June 2011.

1.73 Mr KAM requested the Investigation Committee to allow him to attend a further hearing so as to make comments on the draft Report orally. Although the Practice and Procedure did not provide for such an arrangement and no committee of LegCo had adopted such an arrangement, the Investigation Committee was of the view that consideration could be given to acceding to Mr KAM's request provided that he would agree to submit written comments in advance to enable members to have a better understanding of the points to be made orally by him, and also answer oral questions from members. Mr KAM however considered that he had the right to choose the way by which he made comments on the draft Report. He also refused to submit written comments in advance, nor answer oral questions. As no consensus could be reached by both parties through communication in writing (the letters are set out in **Appendix 1.13**) over five months (June to November 2011), the Investigation Committee considered that its work should not be procrastinated further, and therefore decided that Mr KAM should submit his written comments in written form pursuant to the Practice and Procedure and the normal practice of LegCo committees. Mr KAM eventually submitted his written comments (**Appendix 1.14**) on 5 December 2011. In finalizing the Report, the Investigation Committee had carefully considered the written comments of Mr KAM on the draft Report and, in the light of those comments, made appropriate changes to the Report.

1.74 The Report of the Investigation Committee was considered and finalized at its meetings on 22 and 29 February 2012 and the minutes of the proceedings are in **Appendix 1.15**.

1.75 This Report consists of the main report, written statements and relevant documents considered, and minutes of evidence in the form of verbatim transcripts in the original language used at the hearings. To minimize the use of paper, the verbatim transcripts are available only on CD-ROM. This LegCo website (address: www.legco.gov.hk) also provides access to this Report for perusal.

1.76 The main body of the Report comprises five chapters. Chapter 2 of this Report gives an account of the relationship between Mr KAM and Ms Kimmie WONG since she commenced employment as Mr KAM's personal assistant on 15 December 2008, an account of Ms WONG's complaint to Hon Emily LAU about her dismissal by Mr KAM on 24 September 2009 and events that led to Mr KAM's payment of cash compensation in the amount of \$150,000 to Ms WONG, and subsequent developments after the case was first reported by the local media on 4 October 2009. To fulfil the Investigation Committee's responsibility under Rule 73A(2) of RoP for establishing the facts stated in the censure motion and giving its views on whether or not the facts as established constitute grounds for the censure, Chapter 3 of the Report provides an analysis on "the facts to be established" as set out in the Schedule to the censure motion and the results of the analysis, whereas Chapter 4 of the Report sets out the views of the Investigation Committee, while deliberating on the allegations contained in the Schedule to the censure motion, on whether the facts as established in Chapter 3 constitute grounds for the proposed censure. Chapter 5 sets out the other observations and views of the Investigation Committee.

Chapter 2 Information and evidence relevant to the particulars of the misbehaviour set out in the Schedule to the censure motion

2.1 This Chapter sets out the information and evidence gathered by the Investigation Committee relevant to the particulars of the misbehaviour set out in the Schedule to the censure motion. In this connection, the Investigation Committee has made reference to the written evidence provided by Hon KAM Nai-wai and witnesses, the evidence given by them at hearings, an open statement issued by Ms Kimmie WONG Lai-chu on 3 December 2009 to all Members of the Legislative Council (“LegCo”), verbatim transcripts of the relevant press conferences and interviews gathered by the Clerk to the Investigation Committee as instructed by the Investigation Committee, as well as the relevant appointment letter of Ms WONG. The relevant documents are set out in Appendices 2.1 to 2.11.

Ms WONG’s employment in the Member’s Office of Hon KAM Nai-wai

2.2 After being elected as a LegCo Member in September 2008, Mr KAM started recruiting staff to assist him in discharging his LegCo duties. Ms WONG sent Mr KAM an email on 18 November 2008, expressing an interest in the post of Personal Assistant to a LegCo Member. She also indicated in the email that she had served as the election campaign manager of Ms Mandy TAM Heung-man, a former LegCo Member, and prior to that, she had worked in the media for 15 years. According to the records of the Accounts Office of the LegCo Secretariat, Ms WONG worked as a Personal Assistant in the Member’s Office of Ms TAM during

the period between 30 November 2007 and 30 September 2008 when Ms TAM was a LegCo Member.

2.3 At first, Mr KAM did not consider employing Ms WONG because the monthly salary of \$27,000 to \$28,000 (Ms WONG was paid \$35,000 a month when she was employed in the Member's Office of Ms TAM) that she asked for exceeded his budget and was higher than those of other staff members then employed by him. These staff members' salaries ranged between \$8,000 and \$13,000 a month payable under the LegCo Members' operating expenses reimbursement system. Ms WONG subsequently called Mr KAM, expressing once again her interest in the Personal Assistant post. They then met once but Mr KAM still did not offer her the job. Later, Ms TAM called Mr KAM and recommended Ms WONG to him, saying that she was "a capable person".

2.4 Taking into account the fact that he was a newly elected LegCo Member, in particular a directly elected Member, Mr KAM thought he needed to hire a staff member who had good relationships with the press to write press releases for him and assist him in organizing activities, with a view to boosting his popularity by attracting media coverage. After cutting other expenses, Mr KAM made a job offer to Ms WONG with a monthly salary of \$25,000, which was accepted by her. With effect from 15 December 2008, Ms WONG took up the post of Personal Assistant to Mr KAM, and started working in Mr KAM's Member's Office at Central Government Offices (West Wing). They subsequently signed an appointment letter, i.e. employment contract (**Appendix 2.1**) on 29 December 2008, which stipulated a probation period of three months and a monthly salary of \$22,500, i.e. the amount for which Mr KAM

applied each month for reimbursement by the LegCo Secretariat in respect of Ms WONG's salary. As Mr KAM separately paid Ms WONG a monthly allowance of \$2,500, her total monthly remuneration was \$25,000. The contract also stipulated that, after the probation period, either party intending to terminate the employment contract was required to give the other party one month's written notice or a payment in lieu of notice.

2.5 The main duties of Ms WONG were to follow up all the LegCo business of Mr KAM, including publicity and liaison (in particular with the press), community liaison activities, handling of cases, study of incidents and information gathering, as well as coordination work in organizing events. With regard to organizing events, such as forums, Ms WONG needed to take care of various tasks solely on her own (commonly known as "one-man operation"), including preparing the budget, finding topics, contacting speakers, identifying and decorating venues, getting things ready for guests, liaising with the press on the day of the event, writing press releases and so on.

2.6 Apart from Ms WONG, Ms Anita LUI Suet-ching was the only other staff member who worked in Mr KAM's Member's Office at Central Government Offices (West Wing). Ms LUI had been employed as an Executive Assistant to Mr KAM since 21 November 2008. Her main duties included undertaking all administrative and secretarial work related to Mr KAM's roles as LegCo Member and District Council member.

2.7 The Investigation Committee notes that both Ms WONG and Ms LUI were employed solely by Mr KAM, and he had, as required, signed on the Claim for Reimbursement of Operating Expenses by

Members of the Legislative Council Form (Form A), certifying that the relevant expenses were expenses which “arose out of my LegCo duties”.

2.8 Mr KAM told the Investigation Committee that on the whole, he found himself getting along well with Ms WONG. Unlike the work undertaken by Ms TAM, who was a former LegCo Member from a functional constituency, his work often included holding district functions and dealing with district affairs, and 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. Mr KAM stated that 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”. During that period, Ms WONG was able to meet the basic requirements, and in meeting these basic requirements, her performance on the whole was “good”, but after June 2009, Mr KAM was not satisfied with certain parts of Ms WONG’s performance. In appraising the performance of his staff members, Mr KAM used the following standards: “excellent” for the best staff members whose work attitude was positive and with initiative, followed by “good”, “ordinary” and then “poor”.

Afternoon tea meeting on 15 June 2009

2.9 Mr KAM told the Investigation Committee that during a function organized by his Office at Lei Tung Estate in early June 2009, Ms WONG disclosed to him that she was disturbed by “problems relating to her boyfriend” and she sought his assistance on two matters. Mr KAM

subsequently provided assistance to her on the one that involved the police. Since then, Ms WONG talked to Mr KAM about her relationship problems on quite a number of occasions, and among them there was one involving another failed relationship. However, she only spoke about how she was disturbed by these matters and her views in this respect but she did not ask Mr KAM to do anything. Mr KAM noticed that Ms WONG was depressed during that period, and occasionally she sounded emotional and upset when she spoke. Mr KAM recalled that he had talked to her again about her relationship problems on 13 or 14 June 2009.

2.10 According to the evidence given by Mr KAM, on 15 June 2009 between 4:00 pm and 5:00 pm, Mr KAM found that there was still some time before attending class (a Master Programme in Public Administration pursued by him at that time) at around 6:00 pm, he went to Ms WONG's desk and invited her to have afternoon tea with him. According to the evidence given by Ms LUI, when Mr KAM asked Ms WONG to go out with him, he requested Ms WONG to take her handbag with her, which Ms LUI understood to mean that Mr KAM and Ms WONG would be discussing work until after duty hours, and hence she would not return to the Member's Office. Mr KAM told the Investigation Committee that he could not remember too clearly whether he had asked Ms WONG to take her handbag with her, but even if he had, it was just because she had to carry her identity card when going out and not to imply that Ms WONG would not need to return to the Member's Office, and it would not have been possible that he had thought about having other activities with her following the tea meeting. He then drove her to the shopping mall at International Finance Centre ("IFC"). On arrival, he went with Ms WONG to a restaurant called Café Costa on the third floor of the mall to have afternoon tea, which lasted for less than one hour.

2.11 Mr KAM explained to the Investigation Committee that he invited Ms WONG to have afternoon tea because he was concerned that her emotional and relationship problems might affect her work. Moreover, it was Ms WONG who took the initiative to disclose to him her relationship problems and sought help from him, and therefore he thought that being her employer, he should help her deal with these problems.

2.12 Regarding the reason for choosing to talk to Ms WONG in a restaurant, Mr KAM explained that as he needed to drive to Kowloon side to attend class after the tea meeting in any event, he thought it would be better for them to have the conversation outside. As he usually chose to cross the harbour via Western Harbour Crossing to avoid traffic congestion, the IFC in Central was in the same direction and he was more familiar with this mall because he had been there with his wife¹ for an interview. He therefore chose a restaurant in that mall. In deciding the location of the tea meeting, Mr KAM had not considered how long it would take for Ms WONG to get back to the Member's Office afterwards or whether she would go back to the Member's Office at all.

2.13 Mr KAM explained that he did not choose to talk to Ms WONG in the Member's Office because she had indicated that she did not want to let other people, especially Ms LUI, know about her relationship problems. Given that he seldom closed his office door when handling official business, Ms LUI might find it odd if he closed the door when he talked to Ms WONG. In the past, whenever he and Ms WONG

¹ At the hearing on 29 May 2010, Mr KAM said that he and his wife had attended an interview at that restaurant (lines 523 to 524 of IC Paper No. V2(C)). Yet, when making comments on the draft Report subsequently, he denied this, saying that only he himself had been interviewed there (paragraphs A.4 and A.5 of Appendix 1.14).

talked about her relationship problems, they did that away from the sight of Ms LUI, such as in the corridor outside the offices of the Members.

2.14 According to the evidence given by Ms LUI, she found it strange for Mr KAM to request Ms WONG to go out with him to discuss their work because it seemed that Mr KAM did not want her to know what they were going to discuss. While Ms LUI was curious as to the kind of work they would be discussing, she did not ask any question further about it as both of them were unwilling to mention it.

2.15 At the afternoon tea meeting on 15 June 2009, Mr KAM talked to Ms WONG about her relationship problems, and shared with her his love life with his wife. Mr KAM explained to the Investigation Committee that at that time he was hoping that, by using the empathy skill, a skill commonly used in professional social work training, Ms WONG would feel that he had also experienced ups and downs in his love life, and thus could put himself in her shoes and understand how she felt about her relationship problems. He was in all sincerity to help her regain self-confidence, pull herself together, and concentrate on her work.

2.16 In the course of sharing his personal love life with Ms WONG, Mr KAM told Ms WONG that he had good feelings towards her. In her open statement (**Appendix 2.2**) issued to all LegCo Members on 3 December 2009, Ms WONG said, “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.” Mr KAM said at the hearings that he also felt that Ms WONG’s reaction at that moment was that she was a bit taken by surprise and shocked, while he

was also astonished and quite taken by surprise when seeing her reaction. He realized there and then that she perceived that his expression of good feelings was making advances to her². Mr KAM also said that he could not recall whether he had immediately apologized to her for expressing good feelings towards her at the tea meeting.

2.17 Upon hearing Ms WONG's indication to resign following his expression of good feelings towards her, Mr KAM was flustered, and he tried to dissuade her. Subsequently, he paid the bill and left the restaurant together with Ms WONG. Ms WONG did not tender her resignation at the end. She said in her open statement, "As I needed a job, therefore, with KAM Nai-wai's dissuasion for a few times, I stayed in my post." Mr KAM pointed out at a hearing that after the tea meeting, Ms WONG made no more mention of her intention to resign.

2.18 Ms WONG said in her open statement that at the tea meeting, while making it clear that he did not want her to resign, Mr KAM requested her to "return home and think twice about our relationship." Mr KAM's response at a hearing was that he could not recall that he had made such a remark, but he did say that "You go back and think clearly whether you need to resign," when Ms WONG said she would resign.

2.19 Mr KAM told his wife that evening about the afternoon tea meeting with Ms WONG. As he thought that he might have been wrong

² Please refer to lines 127 to 129 of the Verbatim Transcript of the relevant part of the radio programme Tipping the Points attended by Mr KAM (**Appendix 2.9**), which was broadcast on Channel 1 of the Hong Kong Commercial Radio in the evening of 6 October 2009.

in telling Ms WONG that he had good feelings towards her, he admitted to his wife that he had done wrong. Subsequently on the Hong Kong Commercial Radio programme Tipping the Points broadcast on Channel 1 in the evening of 6 October 2009, he said that he felt that his wife “was feeling uncomfortable at heart” at that time, but she definitely did not ask for a divorce because of this, or express any dissatisfaction with the incident.

2.20 With regard to what he had exactly said in telling Ms WONG that he “had good feelings” towards her, Mr KAM said at the hearing on 14 July 2010: “as it had been so many months ago, all I can remember are only bits and pieces of the conversation. As to how every word was said, there is no way I can repeat from memory. Yet, of course, the context of our conversation did make reference to Ms WONG’s relationship problems and her work situation.”³ At the hearing on 21 October 2010, Mr KAM made a supplement about the way he said the expression “have good feelings” towards Ms WONG at the tea meeting on 15 June 2009: it was either “I had also encountered this kind of situations in the past. In fact, your work performance is not bad, quite good indeed, and I too have good feelings towards you.” or “Actually your work performance in the past was quite good, not bad at all, and I have good feelings towards you. As with these matters, you needn’t worry yourself too much about them.”⁴

³ Please refer to lines 305 to 309 of the Verbatim Transcript of the hearing on 14 July 2010 (IC Paper No. V6(C)).

⁴ Please refer to lines 358 to 360 and 448 to 449 of the Verbatim Transcript of the hearing on 21 October 2010 (IC Paper No. V7(C)).

The working relationship between Mr KAM and Ms WONG after the afternoon tea meeting

2.21 Ms WONG said in her open statement, “After I had rejected KAM Nai-wai’s advances to me⁵, he still sought to meet me in private on numerous occasions. In order to stop KAM Nai-wai from having false expectations⁶, 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.” According to the written statement of Hon Emily LAU, Deputy Chairman of the Democratic Party, Ms WONG told her in the evening of 24 September 2009, the day on which she was dismissed by Mr KAM, “KAM Nai-wai apologized to her after the incident, but he called her many times. As she found the calls annoying, she did not answer any of them.” According to the evidence given by Mr KAM, Ms WONG refused to attend a meeting with him on 18 June 2009 organized by the Hong Kong Monetary Authority for assisting the Octave Notes victims. Following that, Mr KAM requested Ms WONG on more than one occasion to sit down to talk in order to find out why she had not attended the aforesaid meeting and whether she had any problem at work. However, all such requests were turned down by Ms WONG. It was not until early July that Ms WONG sat down to talk to Mr KAM.

2.22 In his evidence, Mr KAM said that given his temperament, if a subordinate refused to sit down to discuss official business with him, it was

⁵ Mr KAM denied that his expression of good feelings towards Ms WONG was meant for expressing affection towards her or seeking her love. Please refer to paragraph 2.104 of this Chapter.

⁶ A typo in the open statement (in Chinese) of Ms WONG: “暇想” (false expectations) should be written as “遐想”.

possible that he would dismiss the subordinate. As to why he did not dismiss Ms WONG, Mr KAM explained that he “understood that she was depressed, sometimes in an unstable mood, and under such circumstances, coupled with some misunderstanding on her part, she did not want to attend the meeting.”

2.23 According to Mr KAM’s understanding, Ms WONG was unwilling to sit down to speak with him because she felt that Mr KAM’s expression of good feelings towards her was “an indication that he probably had some feelings for her”. Mr KAM felt that should the situation continue, office work would be affected. He therefore sent an email to Ms WONG on 22 June 2009 to let her know that he just wanted to discuss work with her, to make it clear that he would only concentrate on his own work and that he did not have any other intentions. He also asked her “not to think in a wrong direction”. The email sent by Mr KAM to Ms WONG reads as follows:

“Dear Kimmie,

I fully understand the problems you are facing.

Today, I just wish to make it clear that I will only concentrate⁷ on my work in future. I hope that you can assist me in boosting my popularity and I shall carry on the fight for democracy. I don’t have any other intentions in my mind.

⁷ A typo in the email (in Chinese) of Mr KAM : “尊注” (concentrate) should be written as “專注”.

At any rate, as always, I shall be glad to assist you in solving your problems, but I also hope that you can be more devoted to your work.

Besides, I have just received the assignments (see attachment) of Mass Media & Public Administration, a new subject of my MPA programme. Can you help me in this regard?⁸

Kam Wai”

2.24 In the above email, Mr KAM asked Ms WONG to help him with the assignments of the Master Programme in Public Administration which he was pursuing then. Mr KAM explained to the Investigation Committee that he just meant to request Ms WONG to search for some information and textbooks on mass media for him, as she was a veteran mass media worker. He intended to complete the assignments on his own after finding such information. Mr KAM said at a hearing that Ms WONG had never responded to him as to whether she would provide him with such assistance, and neither had he pursued it.

2.25 Mr KAM said at the hearings that Ms WONG finally sat down to talk to him in early July 2009. During the conversation, Mr KAM apologized to her for having expressed good feelings towards her at the afternoon tea meeting on 15 June 2009, “I wish to apologize to you because

⁸ When the relevant parts of the draft of this Report were sent, pursuant to paragraph 22 of the Practice and Procedure, to Mr KAM for comments, he proposed to the Investigation Committee that this subparagraph and paragraph 2.24 be deleted from the Report for the reason that the information therein was irrelevant. The Investigation Committee disagrees to Mr KAM’s viewpoint (see paragraph 3.30 of Chapter 3).

the incident has led you to have such comprehension and has caused such a problem.” Mr KAM also said he had told Ms WONG at that meeting, “Come on, you need to work in a more proactive manner. You can’t go on like this.” and “We need to work together. The way you behave does not work.” Mr KAM told the Investigation Committee that, in retrospect, he felt that the remarks he made to Ms WONG at that meeting could be regarded as a verbal warning, though the word “warning” had not been used. Mr KAM also said that Ms WONG had admitted at the meeting that she needed to improve her work attitude and she undertook to make improvements. Mr KAM said that as he considered he had clarified the matter with Ms WONG at that meeting, as far as he was concerned, the incident was over and the problem arising from that afternoon tea meeting had also been solved.

2.26 During the summer recess of July and August 2009, Mr KAM did not spend too much time in the Member’s Office because he seldom returned to the Member’s Office during that period as one of his family members had contracted human swine influenza in July. Besides, he went on leave overseas from 4 to 20 August. According to the information provided by Mr KAM, during the period from December 2008 (when Ms WONG assumed her post) to 24 September 2009 (when she was dismissed), there were 628 emails exchanged between him and Ms WONG, i.e. over 60 emails a month on average. There were 91 and 94 emails in July and August 2009 respectively. The Investigation Committee requested Mr KAM to provide copies of all the emails between him and Ms WONG from April to September 2009 but Mr KAM turned down the request because he thought, after consulting his lawyers, that the emails between him and Ms WONG were completely irrelevant to the particulars

of the misbehaviour set out in the Schedule to the censure motion. He was also of the view that the request had exceeded the scope of the investigation, and that the request was a fishing expedition for evidence on a false pretext, an investigation approach which he considered to be neither fair nor impartial. Mr KAM also said at the hearings that emailing was only one of the means through which he communicated with his staff members, and could not comprehensively reflect the work performance of Ms WONG. The Investigation Committee does not agree with Mr KAM's argument as the emails in question may assist the Investigation Committee in understanding the working relationship between Mr KAM and Ms WONG during the period from April to September 2009, which would enable it to make a more impartial and comprehensive assessment of the overall work performance of Ms WONG. Nevertheless, after weighing the possible benefits it may derive from the emails against the manpower and other resources involved in seeking the special authorization of LegCo to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), the Investigation Committee decided not to take any further action to seek such authorization to order Mr KAM to produce copies of the relevant emails.

2.27 Mr KAM cited several examples to the Investigation Committee and submitted copies of the relevant emails to illustrate that there were problems with the performance of Ms WONG in July and August 2009, which failed to meet his requirements. Mr KAM pointed out that all such examples involved work that was within the scope of work of Ms WONG. He also felt that there were problems with the attitude of Ms WONG. The following paragraphs outline the examples cited by Mr KAM.

2.28 Mr KAM wrote in the Supervision Brief (**Appendix 2.3**), which he issued to all LegCo Members on 9 December 2009, 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.” The email was sent at 6:42 pm (Hong Kong time; applicable to all time marks mentioned below), and the email (in English) reads as follows:

“Dear Kimmie

There are lot of mistake in the C & W report. I remember I made a written amendment on it.

But the revision, which u sent to me, haven’t made any amendment? Why?

Pls check it carefully. and check all the gammer⁹ of district report.

Regards

Kam Wai”

2.29 On 12 August 2009¹⁰, Mr KAM called Ms WONG from

⁹ A typo in the email (in English) of Mr KAM – “gammer” should be spelt as “grammar”.

¹⁰ As Mr KAM had sent an email to Ms WONG in the morning of 13 August 2009, and in it he mentioned “Yesterday, I asked you to write an article on shoe-shining stalls”, so the date on which Mr KAM made the telephone call to Hong Kong should be 12 August 2009, instead of 13 August 2009 (the date on which he claimed in the Supervision Brief to have made the call).

Europe shortly after 5:00 pm¹¹ to ask her to write and issue a press release on shoeshiners in Central on his behalf, but she did not act as instructed. Mr KAM said at a hearing that, among the several examples he had cited to illustrate that her work performance or attitude was no so good, this incident was one he minded more. At 9:47 am on the following day (13 August 2009), Mr KAM sent an email to Ms WONG. The email reads as follows:

“Dear Kimmie,

Yesterday, I asked you to write an article on shoe-shining stalls, which I think is your most fundamental duty.

I hope someone can assist me in keeping up the liaison with the media while I am not in Hong Kong.

If you think this job is not within your scope of work, I think we need to discuss seriously how to handle it.

Kam Wai”

2.30 Ms WONG replied to Mr KAM at 10:18 am, i.e. about half an hour after he had sent her the email. She said in the email:

“Yesterday, I was busy the whole day writing the Work Report, revising its contents afresh¹². I did not even

¹¹ Although Mr KAM said at the hearing on 29 May 2010 that the time should be “shortly after 4 o’clock” (see line 1580 of the Verbatim Transcript (IC Paper No. V2(C))), he said the time was “shortly after 5 o’clock” in the Supervision Brief; and Ms WONG also mentioned in her reply email to him that it was “almost 6 o’clock” when Mr KAM called her (the email is reproduced in full in the next paragraph).

¹² A typo in the email (in Chinese) of Ms WONG – “從新” (afresh) should be written as “重新”.

have the time for a proper meal. In addition, I had to handle the entire tree forum by myself, including the slogans, invitations, site inspection, audio equipment and easy-mount frames, and the budget, all on my own. The guests also asked me to prepare this and that for them. At the time you called me, it was almost six o'clock, the time for me to attend class. I really felt dizzy and ran out of energy. 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.”

2.31 At 2:44 pm of the same day, Mr KAM responded to Ms WONG by email. In the email, he advised Ms WONG that she should not put too much effort on the tree issue, and said that he hoped she could put more effort on the air issue instead because he was the spokesman of the Democratic Party on environmental affairs. Mr KAM also said in the email that as he thought that the planning of events was not Ms WONG's specialty, he intended to reassign, upon his return to Hong Kong, such work to other staff members so that she could concentrate on writing speeches, articles, press releases, blogs, work reports as well as liaising with the press. Mr KAM also reminded Ms WONG that should anything extraordinary happen, she might need to work on holidays or after office hours. Mr KAM said at a hearing that his impression was that in the end Ms WONG did not write the press release on shoe-shining stalls. The email (in English) reads as follows:

“Dear Kimmie

Pls don't put to much¹³ effort on the tree issue, I hope I can put more afford¹⁴ on the air issue because I am the spokeman¹⁵ of DP envirnmental¹⁶ issue.

[REDACTED]

[REDACTED]

[REDACTED]¹⁷

I think you are not the expertise on the planning of events. I will discuss this issue when I back to HK. I think the planning of event may be taken over by Kelvin or Monkey and u may be major on the writing of speech, article, press release, blog, working report and the liaise with media. Sometime u need to work on holiday or after office hour when there is a suddenly issue. Any way, discuss it later.

Regards

Kam Wai”

¹³ A typo in Mr KAM's email (in English) – “to much” should be spelt as “too much”.

¹⁴ Another typo in Mr KAM's email (in English) – “afford” should be spelt as “effort”.

¹⁵ Another typo in Mr KAM's email (in English) – “spokeman” should be spelt as “spokesman”.

¹⁶ Another typo in Mr KAM's email (in English) – “envirnmental” should be spelt as “environmental”.

¹⁷ As this paragraph is irrelevant to the matter stated in the censure motion and in response to Mr KAM's request, the Investigation Committee has obliterated it.

2.32 At 11:00 am on 25 August 2009, Mr KAM sent an email to Ms WONG, requesting her to carry out, as soon as possible within that day, publicity work on the tree forum by sending emails, launching blogs and posting articles on the website of the Democratic Party. Mr KAM explained at a hearing that, although the tree forum was held in the name of the Democratic Party, it was actually organized by his Member's Office because he was the spokesman of the Democratic Party on environmental affairs. In addition, as the Democratic Party did not have a lot of manpower, it was necessary for Ms WONG to take up the relevant work.

2.33 At 12:59 pm on 26 August 2009, Ms WONG sent an email to Mr KAM requesting to take a day's leave on 28 August (Friday).

2.34 At 9:20 pm on 27 August 2009, Mr KAM replied to Ms WONG by email. In the email, he said he was dissatisfied with Ms WONG's "sudden" request for taking leave on 28 August because he had planned to discuss with Ms WONG on that day the arrangements of the tree forum to be held on Sunday (which should be 30 August¹⁸). With regard to whether Ms WONG knew that Mr KAM would usually hold a meeting on the eve of a certain event to discuss the relevant arrangements, Mr KAM told the Investigation Committee that this was just his work practice, and he had not issued any guideline to his staff stipulating that no one should take leave on the eve of an event. Before sending this email to Ms WONG, Mr KAM had not informed her of such a practice either verbally or in writing. According to the evidence given by Mr KAM, Ms WONG took leave on 28 August as scheduled.

¹⁸ The Supervision Brief issued by Mr KAM stated that the tree forum was to be held on 29 August, which was a Saturday. As such, it appears that there was an error with the date.

2.35 At 10:07 pm on 28 August 2009, Mr KAM sent an email to Ms WONG to express his disappointment with her publicity work for the tree forum. The email (in English) reads as follows:

“Dear Kimmie

I disappoint with the arrangement of publicity of tree forum.

It is too late. I just received SMS by DP today afternoon.

Why there is no English version for the email? Why there was no final approval for the email? Do u know there are some wrong in the email?

In my blog, the banner have been posted on Tuesday.

Today, I know our vice-chairlady Emily will conduct a forum for the school drug on this Sunday. So, we need to inform our DP member earlier.

Pls evaluate the events.

Regards

Kam Wai”

2.36 Mr KAM told the Investigation Committee he was under the impression that as early as March or April and no later than June of 2009, he had mentioned to Ms WONG the plan to organize the tree forum, which was the first forum Ms WONG organized for his Member’s Office.

2.37 At 10:23 pm on 28 August 2009, Mr KAM sent an email to Monkey, one of his employees, with a copy to Ms WONG. In the email, Mr KAM gave instructions to Monkey on the preparatory work for a forum on air pollution. He also requested Ms WONG to liaise with Monkey and another staff member “ah keung” to make some suggestions on the subject of the forum and guest speakers, and to monitor the progress of the preparatory work and report to him accordingly.

2.38 At 11:19 am on 11 September 2009, Mr KAM sent an email to Ms LUI and Ms WONG, requesting them to start MSN sessions (chat room) while he was attending LegCo meetings, so that Mr KAM could communicate with them and make work arrangements.

2.39 At 12:35 am on 20 September 2009 (Sunday), Mr KAM sent an email concurrently to four staff members, namely Ms LUI, Ms WONG, Monkey and Kelvin YIM. In the email, Mr KAM requested Ms LUI to make arrangements for him to have a work meeting with the four of them at 12:30 pm on 22 September in the Member’s Office in the Central Government Offices to discuss the “central program and location program” of the Democratic Party, as well as the preparations for the new LegCo session. Mr KAM said in his Supervision Brief, “As KAM Nai-wai was dissatisfied with the progress of the arrangements for the Forum on Air Pollution, he sent an email to request for a meeting to be arranged with four staff members including WONG Lai-chu to discuss the division of labour for pre-forum preparatory work, district activities and work for the new LegCo session”. According to the evidence given by Mr KAM, the meeting was eventually held at about 4:30 pm on 23 September 2009.

Mr KAM invited Ms WONG and Ms LUI to go out for lunch

2.40 At noon of 22 September 2009¹⁹, Mr KAM, standing at the entrance to his room in the Member's Office, asked Ms WONG and Ms LUI whether they had time to go out for lunch with him. He then returned to his seat to do some work, awaiting their replies.

2.41 With regard to the purpose of inviting the two staff members to go out for lunch, Mr KAM told the Investigation Committee, "After I returned from my summer vacation overseas, I found that none of the work had been completed. I was at that time slightly hot-tempered, and did criticize and scold those colleagues ... By September, I felt that mere scolding would not help, and I must find a way to ease the atmosphere. So I decided to take her (them) out to enjoy a meal together, and organize some activities." Mr KAM also said that the lunch concerned was a working lunch with two purposes: first, hoping to conduct communication and liaison on work; second, to discuss work issues. However, Mr KAM said that he had not told them then the lunch was intended for discussing business. According to the evidence given by Ms LUI, when Mr KAM extended the invitation, he did not state that he intended to discuss work arrangements with them during the lunch.

¹⁹ Ms WONG said in her open statement that Mr KAM invited her and Ms LUI to go out for lunch in the morning on 23 September 2009, conducted a work meeting with staff members on 24 September and dismissed her with immediate effect on "the following day". Hence, according to the text of the statement, Ms WONG was dismissed on 25 September. However, according to the copy of the Notice of Termination of Employment, which was attached to the supplementary written statement (IC Paper No. K6(C)) submitted by Mr KAM on 3 May 2010, Mr KAM terminated the employment of Ms WONG on 24 September 20. Besides, Mr KAM also said at a hearing that, after checking his own records, the lunch invitation was made on 22 September as he had a medical appointment that day. As such, the day on which Mr KAM invited Ms WONG to go out for lunch should have been 22 September.

2.42 According to the evidence given by Ms LUI, as she already had a lunch appointment with friends, she immediately told Mr KAM this to turn down his invitation after he had proposed it, and Mr KAM forthwith asked Ms WONG whether she would go out for lunch with him. Ms LUI told the Investigation Committee, “Ms WONG said that she had brought food, so she would not dine out with him.” Ms WONG stated in her open statement that she “did not respond” to Mr KAM’s invitation. Mr KAM said at a hearing that while Ms LUI had already replied that she would not have lunch with him when he returned to his seat, he did not receive any response from Ms WONG, and he was not aware at that moment whether Ms WONG had brought food or not. He subsequently left the Member’s Office in a hurry to attend to some matters.

2.43 In her open statement, Ms WONG stated, “KAM Nai-wai called me after leaving the office, once again inviting me to go out for lunch with him alone. After I turned him down, he asked if I could have lunch with him on the following day, and I stated clearly that I could not.” 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 waiting for his turn to see the doctor, asking her whether she would go out for lunch with him. But he did not have any recollection that he had asked her to have lunch with him on the following day.

2.44 According to the evidence given by Ms LUI, Ms WONG told her later that Mr KAM had called to ask Ms WONG if she would go out for lunch with him.

2.45 Ms WONG said in her open statement that when Mr KAM returned to the Member's Office in the afternoon of the day on which he invited her to lunch, he requested her to go to another room to discuss official business with him. Mr KAM told the Investigation Committee that as he was not quite satisfied with the work performance of Ms WONG, he decided to conduct a work meeting on 23 September 2009 so as to reassign some of Ms WONG's duties to other staff members. Therefore, he planned to hold a preparatory meeting with Ms WONG in the afternoon of 22 September, telling her what could be done in relation to work arrangements.

2.46 Mr KAM told the Investigation Committee that he originally planned to raise at the preparatory meeting a number of issues for discussion. These issues included "the air pollution forum", "the tree forum", how contingencies should be handled in the future, how the image could be built up, how the Public Accounts Committee should be handled, as well as personnel arrangements. However, Ms WONG suggested at the preparatory meeting that the relevant issues be discussed at the work meeting to be held on the following day, "Perhaps you may withhold the discussion until 23 September." Mr KAM scribbled a note on the above items for discussion on a piece of paper before the preparatory meeting. Mr KAM submitted a copy of that note at the hearing on 30 June 2010 (**Appendix 2.4**), and explained it.

Mr KAM dismissed Ms WONG

2.47 At 4:30 pm on 23 September 2009 (Wednesday), Mr KAM held a work meeting with his staff in the Member's Office. According to

the evidence given by Ms LUI, as a researcher of the Democratic Party was on sick leave on that day, Ms WONG had to assume the task of writing a press release on the activities of Mr KAM. According to the evidence given by Mr KAM, the press release was on the replacement of old buses by the CityBus and New World First Bus. Ms WONG stated in her open statement that in order to finish writing the press release in time, she was writing the press release and taking part in the meeting simultaneously. According to the evidence given by Ms LUI, Ms WONG requested for the staff meeting to be held in the Member's Office so that she could write the press release at the same time, to which Mr KAM did not raise any objection. Mr KAM said at the hearings that in order to allow Ms WONG to write the press release, all the staff members sat in a circle in the Member's Office to hold the meeting. Ms WONG said in her open statement that, regarding her writing a press release while attending the meeting, "KAM Nai-wai was dissatisfied, and immediately asked other colleagues to leave the office and go to another venue to continue with the meeting, and that I joined the meeting as soon as I had finished writing the press release."

2.48 Mr KAM said at the hearings that at that moment he considered the press release Ms WONG was writing did not carry much news value, so there was no urgent need to send it out to the media. He thought it would not make much difference for the press release to be issued at 4:30 pm or 6:00 pm. As the meeting was convened for the purpose of discussing the redistribution of the duties of Ms WONG, he thought she should focus on the meeting. In addition, he expected that the

meeting would not last too long²⁰, and experienced staff members should be able to finish writing the press release within half an hour. Therefore, he considered that Ms WONG should have enough time to write the press release after the meeting and be able to finish it before she was off duty that day. The Investigation Committee asked Mr KAM whether he had told Ms WONG what he was thinking at that moment. Mr KAM responded that he had said this to Ms WONG: “I hope you will stop writing the press release and go back to it after the meeting.”

2.49 As Ms WONG did not stop writing the press release immediately as instructed by him, Mr KAM scolded her in a relatively angry tone. Mr KAM said at a hearing that he scolded Ms WONG then, “How can we hold the meeting ... with you not making any response, and just keeping your head down and I not seeing your face?” According to the evidence given by Ms LUI, Ms WONG did not keep her head down. She was writing the press release at her desk, facing the computer monitor, whereas Mr KAM, Ms LUI and two other staff members were sitting in front of Ms WONG. As a partitioning panel was installed at Ms WONG’s desk, there might be a chance that their line of sight was blocked. With regard to Ms WONG’s relatively few responses to the discussion topics, Ms LUI believed that this was because the earlier part of the meeting was about work in the districts. Mr KAM said at a hearing that the atmosphere at that moment was “rather unpleasant”. According to the observation of Ms LUI, Mr KAM was rather agitated. Mr KAM, however, did not

²⁰ Mr KAM said that a work meeting would usually last for only half an hour or 45 minutes, and it would not be longer than an hour. Please refer to lines 1368 to 1369 of the Verbatim Transcript of the hearing on 30 June 2010 (IC Paper No. V5(C)) and lines 598 to 599 of the Verbatim Transcript of the hearing on 14 July 2010 (IC Paper No. V6(C)).

consider himself to be very agitated at that moment, but admitted that he was indeed very unhappy.

2.50 Mr KAM told the Investigation Committee that in his opinion, Ms WONG refused to stop writing the press release because she needed to attend a class at 6:00 pm that evening, which explained why she wished to finish the work first before joining the discussion of the meeting. According to the evidence given by Ms LUI, Mr KAM had never indicated how long the meeting would last, and she did not know whether Ms WONG needed to attend class that evening. Ms LUI said that, even if Ms WONG had to attend class in the evening, she would generally finish her work before leaving the office. She said that if there was a task which had to be completed urgently, Ms WONG would not leave on the dot.

2.51 Mr KAM pointed out at the hearings that one of the reasons for, and which triggered, his dismissal of Ms WONG was her refusal to comply with his instructions to stop writing the press release so as to join the discussion on the redistribution of duties. Mr KAM also said that after scolding Ms WONG at the work meeting, he thought that it would no longer be possible for them to work together, and the idea of dismissing her thus emerged.

2.52 In the evening of the same day, i.e. 23 September (Wednesday), Hon Emily LAU, Deputy Chairman of the Democratic Party, received a call from Ms Mandy TAM, Ms WONG's former employer. Ms TAM told her that there was a sexual harassment case involving a LegCo Member of the Democratic Party, whose name Ms TAM did not mention. Ms LAU told Ms TAM that she was very busy as she had just

returned to Hong Kong from a LegCo delegation to Central Europe, and she would not have time to meet Ms TAM and the complainant until the weekend.

2.53 At about 10:00 am, or slightly earlier, of the following day, i.e. 24 September 2009 (Thursday), Mr KAM asked Ms LUI, soon after her arrival at the office, to retrieve Ms WONG's employment contract (i.e. the appointment letter) for him. After a while, Mr KAM asked Ms WONG to go to his room. After closing the door, he informed Ms WONG of his decision to dismiss her. Mr KAM said then, "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 continue working together. In future, if we need to work, you must change your work attitude before we can go on working together." The dialogue did not lead to any conclusion. At that moment, neither side signed any paper. Mr KAM pointed out at a hearing that he did not really recognize or feel that Ms WONG had shown any "anger", such as "banging on the table", nor did she indicate that she would lodge a complaint. Ms WONG then left the room, and Mr KAM also left the Member's Office afterwards.

2.54 According to the evidence given by Ms LUI, after leaving Mr KAM's room, Ms WONG told her that she had just been dismissed with immediate effect by Mr KAM. Ms LUI was shocked about this at that moment, but she did not ask Ms WONG right away about the reason for her dismissal as Mr KAM was still in the Member's Office. Ms WONG packed her belongings and left without saying anything.

Ms WONG sought assistance from Hon Emily LAU

2.55 At noon of the same day, i.e. 24 September 2009, Ms LAU received another call from Ms TAM saying that the complainant she mentioned the previous night had just been dismissed, and she therefore hoped to meet Ms LAU as soon as possible. At that moment, Ms LAU did not know who the LegCo Member of the Democratic Party and the complainant were that Ms TAM had in mind, but she agreed to meet Ms TAM and the complainant that evening after the meeting of the Central Committee of the Democratic Party.

2.56 At about 5:00 pm on the same day, Mr KAM returned to the Member's Office and asked Ms LUI whether Ms WONG had left. Ms LUI told him that Ms WONG had left in the morning after packing her personal belongings, and had not returned to the office. Mr KAM did not have any reaction to this, and further asked Ms LUI whether Ms WONG had said anything to her. Ms LUI told Mr KAM that Ms WONG had given an account of some of her work. Mr KAM forthwith instructed Ms LUI to work out the correct amount of salary of that month and payment in lieu of notice, which were payable to Ms WONG. He also instructed Ms LUI that the cheque should be ready for Ms WONG's collection within seven days from her dismissal. According to the evidence given by Ms LUI, Mr KAM had never explained to her why he dismissed Ms WONG.

2.57 Mr KAM told the Investigation Committee that while the dialogue between him and Ms WONG in the morning of 24 September 2009 when he told her that he would dismiss her did not lead to any conclusion and both sides did not sign any paper, he did not find it

surprising that Ms WONG packed her belongings and left the office. According to his understanding, Ms WONG left because she did not accept the demand for her to improve her work attitude, and she felt that she could not continue working in his Member's Office.

2.58 At about 6:00 pm on the same day, i.e. 24 September 2009, when Mr KAM was about to leave the Member's Office, a fellow member of the Democratic Party told him in person that there was a hearsay about a female assistant complaining that she had been unreasonably dismissed by him, and the cause for the dismissal involved the relationship between a man and a woman or relationship problem. Mr KAM was unwilling to divulge to the Investigation Committee the identity of that party member. Hon Fred LI, Hon James TO, Hon CHEUNG Man-kwong, Hon Andrew CHENG, Hon LEE Wing-tat and Hon WONG Sing-chi all told the Investigation Committee that they were not the party member in question, and they did not know who that member was. Mr KAM told the Investigation Committee that at that moment he considered the hearsay to be untrue, and hence it had to be dealt with seriously. He therefore decided to report the incident to Hon Albert HO, Chairman of the Democratic Party, and Ms LAU, Deputy Chairman of the Democratic Party, in the evening. After leaving a class at about 9:00 pm, Mr KAM returned to the headquarters of the Democratic Party, and sat in at the meeting of the Central Committee of the Democratic Party held that night. When the meeting finished at about 10:00 pm, Mr KAM took the initiative to give Mr HO and Ms LAU an account of his dismissal of Ms WONG.

2.59 As Ms LAU was in a hurry to go to meet the complainant and Ms TAM (see paragraph 2.55), the meeting between Mr KAM, Mr HO and

Ms LAU lasted for 10 to 15 minutes only. As such, Mr KAM just briefly described what happened, saying that he had expressed good feelings towards Ms WONG, but he did not give a detailed account of the incident or have an in-depth discussion with them. According to the evidence given by Ms LAU, it was at that moment that she realized that the sexual harassment case mentioned by Ms TAM might be related to the dismissal of Ms WONG by Mr KAM. After Mr KAM had finished reporting the incident, Ms LAU said, “Ms TAM and the assistant have already lodged a complaint with me, and I am now dashing off to meet them.” She went on to say, “Perhaps let us first find out what Ms Mandy TAM has to say, and then see what needs to be followed up when I return.” Ms LAU told the Investigation Committee that it did not come as a shock to her when Mr KAM suddenly told her and Mr HO about the incident on his own accord. Mr KAM told the Investigation Committee that he informed his wife later that evening of his dismissal of Ms WONG.

2.60 At about 10:30 pm on the same day, Ms LAU arrived at the Diamond Hill MTR Station by MTR and Ms TAM was waiting for her at the gate. Ms TAM took Ms LAU to a room in the management office of the Galaxia, where Ms WONG was already there. Prior to this meeting, Ms LAU did not know Ms WONG. Ms TAM was present throughout the meeting, and she also spoke.

2.61 Ms LAU described the situation to the Investigation Committee as follows: “She [Ms WONG] said that a few months ago, KAM Nai-wai invited her to have afternoon tea at a restaurant, and told her he had affection for her. She found this unacceptable and immediately told him so. KAM Nai-wai apologized to her afterwards, but he called her

many times. She found the calls annoying, and she therefore did not answer any of them. Ms WONG also said that a few days ago, he lost his temper over some work-related problems, and even dismissed her with immediate effect that morning (i.e. 24th of the month), which made her angry and unhappy. She said that her monthly income was \$25,000, and work was very important to her because she needed to provide financial support to her family. She hoped that the Democratic Party and I would deal with the matter impartially and fairly. I asked her what she wished us to do. She said she was very confused. I told her that there was no need to hurry; she could tell me after thinking through it, and I would also relay the matter to Albert HO, Chairman of the Democratic Party. I told her I understood that she did not want the incident to be made public and she promised not to spread any information about it, but I respected her right to lodge a complaint with any institution and make public the incident. The meeting lasted for about half an hour.”

Democratic Party probed into the dismissal of Ms WONG by Mr KAM

2.62 After meeting with Ms WONG and Ms TAM, Ms LAU called Mr HO to tell him about the meeting in detail. As it was already rather late, Mr HO only said “yes” and did not make other response.

2.63 On the following day, i.e. 25 September 2009, Mr KAM called Ms LAU and asked her about her meeting with Ms WONG and Ms TAM. She told him the details of the meeting.

2.64 Ms WONG said in her open statement that Ms LAU called her on the day (i.e. 25 September 2009) following their meeting, saying that

she could arrange for Ms WONG to take up a job in the Democratic Party. Ms WONG then thanked her, but did not accept the offer, nor did she make any demand. Ms LAU told the Investigation Committee that as she did not approve of Mr KAM's immediate dismissal of Ms WONG, and as Ms WONG had stressed at the meeting on 24 September 2009 that work and income were very important to her, she considered that the problem of Ms WONG's employment should be dealt with first. After discussing with Mr HO, she thought that it was wrong for Mr KAM to have dismissed Ms WONG with immediate effect, and as Ms WONG needed to support her family financially, work income was of great importance to her. Ms LAU therefore called Ms WONG and offered to arrange for her to work at the headquarters of the Democratic Party, and to meet with Mr HO.

2.65 On 27 September 2009 before the General Meeting of the Democratic Party, Ms LAU told Mr HO that Ms WONG had asked to meet him and sought their assistance to deal with her dismissal. Mr HO agreed to meet Ms WONG. Meanwhile, Ms LAU requested Mr HO to seek legal advice on the prima facie factual elements of sexual harassment. Mr HO called the Hong Kong Human Rights Monitor that evening to seek preliminary legal advice.

Ms LUI resigned

2.66 On 28 September 2009, Ms LUI tendered her resignation to Mr KAM, effective on 27 October 2009. Ms LUI told the Investigation Committee that she resigned because Mr KAM had accused her of criticizing him behind his back. She felt that he did not trust her, and thus it was difficult to maintain a good employer-employee relationship. In

addition, she felt disgusted after learning the cause of Ms WONG's dismissal and considered such an employer unacceptable. According to Ms LUI's understanding, the cause of Ms WONG's dismissal was: "Mr KAM's expression of good feelings towards Ms WONG was rejected right away by her, and he therefore gradually became highly critical of her work performance. As Ms WONG did not want Mr KAM to have any misunderstanding that there might be a prospect for them to develop a relationship beyond that between an employer and an employee, she became formal²¹ and cold towards him, thus affecting her working relationship with Mr KAM. Mr KAM eventually could not tolerate it anymore and dismissed her with immediate effect."

2.67 Regarding Ms LUI's tendering her resignation shortly after Ms WONG's departure, Mr KAM said that he did not ask Ms LUI the reasons for her resignation, nor did he urge her to stay on because he found that the atmosphere of the Member's Office was not very good throughout September 2009, and he had criticized her and had been somewhat dissatisfied with her (as Mr KAM heard that she had criticized him behind his back, and that she had disclosed to a staff member the news that Mr KAM intended to dismiss him). He considered his working relationship with Ms LUI to be rather tense prior to her resignation.

Ms WONG sought justice

2.68 On 29 September 2009, Ms WONG returned to the Member's Office to sign the Notice of Termination of Employment (with date printed

²¹ A typo in the written reply (in Chinese) of Ms LUI to further questions raised by the Investigation Committee: "工事化" (formal) should be written as "公事化".

as 24 September 2009) and collect the cheque for her salary for September, one month's salary in lieu of notice, as well as payments for annual leave and compensatory leave. Ms LUI was tasked to calculate the amount of money payable to Ms WONG and prepare the cheque. When Ms WONG was signing the acknowledgement of receipt for the cheque, Ms LUI told her that as there was little time, the amount on the cheque might be incorrect, and she would therefore check it again. Should there be any error, she would contact Ms WONG again to issue her a further cheque for the difference. Ms WONG said she understood and hoped that Ms LUI could complete the checking as soon as possible.

2.69 At noon of 30 September 2009, Mr HO and Ms LAU met with Ms WONG and Ms TAM in the office of Mr HO's law firm. The meeting lasted for about half an hour. During the meeting, Ms WONG complained that Mr KAM had dismissed her unreasonably, and she mentioned that he had expressed good feelings towards her a few months ago, and she rejected him. She told the two Members that she thought her dismissal might be connected to that incident. Mr HO told the Investigation Committee that Ms WONG had not put forward any concrete facts to connect the two incidents. However, Mr HO said at that time that if there was such a connection, the dismissal was immoral and unacceptable. He and Ms LAU therefore suggested that Ms WONG could separately lodge a complaint with institutions such as the Equal Opportunities Commission, but Ms WONG responded that she just hoped that the Democratic Party would deal with the matter fairly, and she had no intention of letting it escalate. According to the evidence given by Mr HO and Ms LAU, Ms WONG had made three demands at that time: (1) Mr KAM to brief the caucus of the Democratic Party (consisting of nine LegCo Members) on the

incident; (2) Mr KAM to issue a letter of apology to her, affirming her good performance record and ability; and (3) Mr KAM to pay her \$150,000 as compensation. Ms LAU pointed out that “Ms WONG said that she would consider the incident to be resolved should KAM Nai-wai fully comply with the three aforesaid demands. She also made it clear that she did not wish to make public the incident.”

2.70 Ms WONG said in her open statement that at the meeting, “Ms Emily LAU raised again that I might stay on to work for the Democratic Party. I stated clearly that I did not want to work in the Democratic Party and only agreed to accept the additional compensation for unreasonable dismissal ... ” Mr HO pointed out that at the meeting, he had briefly mentioned whether it was necessary to help Ms WONG find another job, but she stated clearly that she was not interested in working in the Democratic Party or the Member’s Office of any Member of the Democratic Party.

2.71 Ms WONG said in her open statement that she had made the following demands at the meeting:

- “1) KAM Nai-wai to issue a letter of apology in his personal capacity, explaining in detail the reasons for dismissing me, in particular, to give an account of the fact that he had confessed his feelings to me and admit that it was unreasonable to have dismissed me, and to make a sincere apology;
- 2) the Office of Legislative Council Member Hon KAM Nai-wai to issue a reference letter to clarify that there was no problem with my work performance; and

- 3) all Legislative Council Members of the Democratic Party to be informed that KAM Nai-wai had confessed his feelings to me, and the reason for my dismissal had nothing whatsoever to do with my work performance, so as to do me justice.”

2.72 The Investigation Committee notes that the above three demands as set out in Ms WONG’s open statement were not quite the same as those mentioned by Mr HO and Ms LAU (see paragraph 2.69). In particular, the compensation of \$150,000 was not mentioned in Ms WONG’s three demands, and she stated in the open statement that she “only agreed to accept additional compensation for unreasonable dismissal”.

2.73 Ms WONG also stated in her open statement that, apart from agreeing to her three demands, Mr HO also “added the following two courses of action:

- (1) all the Legislative Council Members of the Democratic Party are to censure KAM Nai-wai; and
- (2) staff members of the offices of the Democratic Party to be informed that my dismissal was not due to any problem with my work performance.”

2.74 Ms LAU pointed out that Ms WONG had definitely not raised the two aforesaid courses of action at their meeting on 30 September 2009, and it would be impossible for Mr HO to have agreed that Mr KAM be censured by all LegCo Members of the Democratic Party because the

incident had yet to be investigated. According to the written statement submitted by Mr HO, the first of the three demands made by Ms WONG included “judging between right and wrong as well as reprimanding” Mr KAM by caucus members of the Democratic Party. As for the compensation of \$150,000, Mr HO pointed out that the amount was proposed by Ms WONG. He believed the amount was probably calculated by Ms WONG to be the total amount of her salary for six months. He also believed that it could be the legal maximum amount of compensation for unreasonable dismissal, and she considered that it would be relatively difficult to find another job as it was already the end of the year (it was near October then) and she did not intend to work for Mr KAM anymore, so she felt that she should be entitled to that amount of compensation.

2.75 After meeting with Ms WONG, Mr HO relayed her demands to Mr KAM, and asked him to give an account of the incident at the caucus meeting of the Democratic Party on 2 October 2009.

2.76 On 2 October 2009, the Democratic Party held its caucus meeting to discuss Mr KAM’s dismissal of Ms WONG. Before the meeting started, Mr KAM and Mr TO discussed the incident (details in paragraph 2.114). LegCo Members of the Democratic Party who attended the caucus meeting included Hon Albert HO (the Chairman), Hon Emily LAU (Deputy Chairman), Hon Fred LI, Hon James TO, Hon CHEUNG Man-kwong, Hon Andrew CHENG, Hon LEE Wing-tat and Hon WONG Sing-chi as well as Mr KAM. Mr KAM gave an account of the incident to caucus members and said he would consider the demands made by Ms WONG. Mr HO told the Investigation Committee that Mr KAM had

admitted that he had a hot temper and said he had dismissed Ms WONG with immediate effect on a moment of impulse; Mr KAM had also admitted that he had told Ms WONG that he had good feelings towards her on one occasion a few months ago, but stressed that he did not intend to make advances to her; and Mr KAM had apologized to Ms WONG as she reacted very strongly. Mr HO also told the Investigation Committee that Mr KAM had denied that he dismissed Ms WONG due to relationship problems between them, and that all the caucus members were of the view that it was inappropriate for Mr KAM to have said he “had good feelings” for Ms WONG and they chided Mr KAM for being wrong in dismissing with immediate effect a staff member who had not committed any major mistake. As such, they requested Mr KAM to try all means to see how the situation could be remedied, and also told him to improve his temper and his relationship with his employees. With regard to whether and how Mr KAM had explained the meaning he wished to convey in telling Ms WONG that he had good feelings towards her, the evidence given in this regard by caucus members other than Mr HO and Ms LAU is set out in paragraph 2.114.

2.77 On 3 October 2009, Mr HO, Ms LAU, Mr KAM and other LegCo Members of the Democratic Party held an informal meeting to discuss the incident. The meeting lasted for more than an hour. As Mr KAM denied the allegations made by Ms WONG, all participants of the meeting considered that an independent inquiry should be conducted to find out what actually happened before a conclusion could be drawn. They also agreed to invite the Hong Kong Human Rights Monitor to assist in setting up the inquiry.

2.78 In the afternoon of 3 October 2009, through a staff member working in the Offices of LegCo Members of the Democratic Party in the Central Government Offices, Mr KAM sent Ms WONG a personal letter of apology, a letter of recommendation and a cheque for \$150,000. Mr KAM informed Mr HO afterwards that Ms WONG had indicated her acceptance of the contents of the letters and had received the cheque. Mr KAM also called Ms LAU to inform her that Ms WONG had received the cheque and his letters, and that Ms WONG hoped the incident would come to an end and not be made public.

2.79 The personal letter of apology written by Mr KAM to Ms WONG reads as follows:

“3 October 2009

Dear Ms Kimmie WONG,

I would like to thank you for the contribution you made to my office during the past few months.

On 24 September 2009, due to my inability to manage my hot temper, I dismissed you with immediate effect by paying you one month’s salary in lieu of notice, which caused you embarrassment and humiliation, thus hurting your dignity²². I deeply regretted it afterwards.

During this period of time, some of my words made you feel disturbed and unhappy. For this, I would like to offer you my most sincere apologies.

²² A typo in the letter of apology (in Chinese) of Mr KAM to Ms WONG : “尊” (dignity) should be written as “尊嚴” (dignity).

Also, throughout the period you worked as my personal assistant, you performed well in your work. To make up for the mistake I committed that day, I am willing to compensate you with a sum of HK\$150,000, being your salary for six months, so that you can have sufficient time to find another job. Please accept my offer.

If you still have other complaints, I am willing to face the impartial handling of such complaints by the Democratic Party.

(Signed by Mr KAM)”

2.80 The letter of recommendation (in English) issued by Mr KAM to Ms WONG reads as follows:

“ TO WHOM IT MAY CONCERN

Sept 24, 2009

This is to certify that Miss Wong Lai Chu, Kimmie, holder of HKID: [REDACTED] was employed as my Personal Assistant for the period from Dec 15, 2008 to Sept 24, 2009.

During her employment with me, Miss Wong was responsible for the following duties

1. To liaise with the press and media and prepare press invitations and releases

2. To prepare my work reports, including liaising with the designer and the printer
3. To update my blog and facebook regularly
4. To arrange and organize special events

Miss Wong has good Chinese and English language skills, has discharged her responsibility to my satisfaction. She is knowledgeable, diligent, and hardworking and is works well under pressure.

Miss Wong has a very good relationship with the media and got along well with her colleagues

I have no hesitation in recommending her to you and I wish her a very bright future.

Best Regards

(signed)

Mr. Kam Nai Wai”

The incident came to light

2.81 On 4 October 2009, the Apple Daily, with a front-page headline of “KAM Nai-wai sacked a female assistant following his unsuccessful advances to her. The Democratic Party will investigate thoroughly the incident suspected to have involved sexual harassment”,

was the first newspaper to report on Mr KAM's dismissal of a female assistant. It was reported that the female assistant had lodged a complaint with the Democratic Party. Hon Albert HO, Chairman of the Democratic Party, forthwith called an emergency meeting to discuss the incident with the leadership core of the Party.

2.82 Mr KAM called a press conference in the afternoon of the same day. Reporters asked Mr KAM questions such as whether he had sexually harassed the female assistant (i.e. Ms WONG), whether he had done anything to make her misunderstand and lodge the complaint, whether he had dismissed her due to his unsuccessful advances to her, whether he had made advances to her (the verbatim transcript of the press conference is in **Appendix 2.5**²³), to which Mr KAM replied all with denials. Mr KAM also said at the press conference that as he did not wish to hurt or affect anyone, he refused to comment on the work performance of the female assistant dismissed by him. The press conference lasted for about 26 minutes.

2.83 In reply to the question of whether he had made advances to the female assistant (i.e. Ms WONG), Mr KAM said at the press conference that "I did not", and he did not mention that he had told the female assistant that he had good feelings towards her. According to the evidence given by Mr HO, following his hearing of Mr KAM's response to the question in this manner, he felt a bit uncomfortable. After the press conference had finished, Ms WONG called Mr HO and said, "He has indeed spoken those words to me."

²³ See lines 60 to 61, 99 to 100, 189, 273 to 274, 381 to 382 and 397 to 398 of Appendix 2.5.

2.84 According to the evidence given by Ms LAU, Ms WONG also called her after Mr KAM's press conference had finished and said that she was unhappy with what Mr KAM had said at the press conference in two aspects:

- (1) Mr KAM's saying that he did not make advances to her did not accord with the facts; and
- (2) Mr KAM did not affirm her ability in work.

2.85 Ms LAU relayed the views of Ms WONG to Mr HO afterwards.

2.86 After Mr KAM's press conference had finished, Hon Albert HO, Chairman of the Democratic Party, and Mr SIN Chung-kai, Deputy Chairman, called another press conference in the afternoon of the same day. Hon Emily LAU, another Deputy Chairman, was absent due to other commitments. Mr HO confirmed at the press conference that he and Ms LAU met with a former employee of Mr KAM on 30 September 2009. The employee had made a verbal complaint and subsequently accepted the way the Democratic Party dealt with the matter. Mr KAM had also given an account of the incident to the LegCo Members of the Democratic Party.

2.87 Mr HO also said at the press conference that Mr KAM had called him before the commencement of the press conference, asking him to tell reporters on his behalf that he 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" (the verbatim transcript of the press conference is in **Appendix 2.6**). Mr KAM said at a

hearing that he had made it clear to Mr HO in the telephone conversation that he had never sought the love of Ms WONG. With regard to reporters' questions on whether Mr KAM's female assistant (i.e. Ms WONG) had complained of being sexually harassed, or of being dismissed by Mr KAM because of his unsuccessful advances to her, Mr HO told reporters at the press conference that as he had not obtained the consent of the female assistant to disclose details of her complaint, he could only adopt the stance of "neither confirming nor denying the allegations" on that day.

2.88 According to the evidence given by Ms LAU, when Mr KAM called her that evening, she informed him of Ms WONG's views on what he had said at the press conference.

2.89 In the morning of 5 October 2009, Ms Mandy TAM was interviewed by "Talkabout", a programme of Radio Television Hong Kong, by telephone. Ms TAM said that she had previously employed the female assistant dismissed by Mr KAM, and she knew about the entire dismissal process and had accompanied the female assistant at her meeting with Mr HO regarding the dismissal (the verbatim transcript of the telephone interview is in **Appendix 2.7**).

2.90 On 5 October 2009, Mr HO met with Mr KAM and "pointed out to him (roughly): even though your own intention was not to 'make advances' when you expressed that you 'have good feelings' towards WONG Lai-chu, but objectively, she might have perceived your words differently. Hence, you should have made full disclosure in answering the relevant questions raised by reporters. I think your mere denial of having made advances to her was incomplete and unfair. As Chairman, I am

duty-bound to request you to make clarification with the media.”

Mr KAM agreed to consider the request of Mr HO.

2.91 On 5 October 2009, the News Channel of Cable TV reported: “The incident of dismissal of the female assistant by KAM Nai-wai, LegCo Member of the Democratic Party, has heated up. Despite his repeated denial of having dismissed the assistant due to his unsuccessful advances to her, we have learnt that he admitted to the Democratic Party that he had expressed good feelings towards her, and he also admitted that he had done wrong. Albert HO, Chairman of the Democratic Party, takes the view that he has committed a highly immoral mistake. If the incident goes public, it is highly likely that he will have to resign.” It also reported: “Albert HO has also told the complainant that solely on what KAM Nai-wai himself had admitted, it was a grave mistake and highly immoral, and any person will perceive the subsequent dismissal of the complainant was due to his unsuccessful advances to her. Should the incident be made public, it is highly likely that KAM Nai-wai would have to resign. On whether it constitutes sexual harassment, it can only be confirmed by a detailed investigation.” (The verbatim transcript of the news coverage is in **Appendix 2.8.**)

2.92 In response to the news report of News Channel of Cable TV, Mr HO pointed out at a hearing that the quotations in the report were “totally incorrect”. Mr HO said that at the caucus meeting of the Democratic Party, he had not, on the basis of this incident alone, stated as a factual statement that “he had committed a highly immoral mistake”, as the claim that Mr KAM had dismissed the female assistant because of unsuccessful advances to her had yet to be substantiated by facts. At that

time, he was merely making a hypothetical remark and analysis of the proposition, i.e. if it was proved to be true, it would be an immoral act. Mr KAM told the Investigation Committee that he had never heard Mr HO said at the caucus meeting that “he has committed a highly immoral mistake. If the incident goes public, it is highly likely that he will have to resign.”

2.93 In the dusk of the same day, i.e. 6 October 2009, Mr KAM attended an interview on a radio programme (the verbatim transcript of the relevant part of the programme is at **Appendix 2.9**). On the programme, he admitted, openly for the first time, that he had told his female assistant (i.e. Ms WONG) that he had good feelings towards her during an afternoon tea meeting in June 2009 but he was not thinking of making advances to her. He said that he realized there and then that Ms WONG perceived that his saying “have good feelings” was “making advances” to her. The explanation given by Mr KAM on the radio programme for telling his female assistant he had good feelings towards her was that there was some “sharing of feelings” between him and Ms WONG during the afternoon tea meeting, including the ups and downs as well as the plain and uneventful periods of his love life with his wife which spanned two to three decades; and as he “was at one moment sentimental and touched” in this sharing process, he expressed good feelings towards Ms WONG. Mr KAM also disclosed on the radio programme that he had called his female assistant to invite her to go out for lunch with him, and this might have given her the impression that he wanted to go on a date with her (please refer to paragraph 2.43).

2.94 Mr KAM said on the radio programme that he considered Ms WONG's "overall performance in the past was good".

2.95 As to why he attended the radio programme, Mr KAM told the Investigation Committee that subsequent to the press conference on 4 October 2009, some media made highly inaccurate reports of the incident within the following two days (i.e. 5 and 6 October). In particular, in a telephone interview on the programme of the Radio Television Hong Kong "Talkabout", Ms Mandy TAM, Ms WONG's former employer, made some incomplete and untrue remarks. In addition, Mr HO had reminded him of the need to clarify and rectify the situation (please refer to paragraph 2.90). Mr KAM therefore attended the aforesaid radio programme and disclosed that he "had said the expression of having good feelings towards her [Ms WONG]". Mr KAM pointed out that when he said he "was at one moment sentimental and touched" at the radio programme, he was just describing the atmosphere of the afternoon tea meeting. When Ms WONG talked about her relationship problems, he made use of some relatively emotional words (the so-called "putting oneself into other people's shoes") to make her feel that there would always be ups and downs in relationships and every one would encounter such situations. He considered that this explanation did not contradict nor conflict with his saying that he was just applying the empathy skill in telling Ms WONG that he had good feelings towards her.

2.96 On 8 October 2009, the Democratic Party held a Central Committee meeting, at which Mr KAM gave an account of the incident. The Central Committee decided to invite the Hong Kong Human Rights Monitor to assist in making arrangements for conducting an independent

inquiry into the incident, and that the Democratic Party would bear all the expenses and would provide administrative support. An extract of the minutes of the meeting is on page 3 of **Appendix 2.10**.

The LegCo decided to conduct an investigation

2.97 On 9 October 2009, LegCo House Committee agreed that the allegations about Mr KAM's dismissal of his assistant be followed up by way of a motion, to be moved by the Chairman of the House Committee, Hon Miriam LAU Kin-ye under Rule 49B (1A) of the Rules of Procedure of the Legislative Council ("RoP"), to censure Mr KAM in accordance with Article 79(7) of the Basic Law.

2.98 On 19 November 2009, the Democratic Party held a Central Committee meeting, at which members learnt that Ms WONG had informed the Hong Kong Human Rights Monitor that she would not assist in the investigation, and hence the Hong Kong Human Rights Monitor indicated that it would not conduct the investigation. The chairman of the Disciplinary Committee of the Democratic Party advised the Central Committee that upon completion of the investigation of Mr KAM by LegCo, the Disciplinary Committee would commence its investigation. An extract of the minutes of the meeting is on page 2 of Appendix 2.10.

2.99 On 24 November 2009, Ms Miriam LAU gave notice of her intention to move a motion to censure Mr KAM under Rule 49B(1A) of the RoP at the Council meeting of 9 December 2009. The notice of the censure motion was also signed by Dr Hon Joseph LEE, Hon IP Kwok-him and Hon Mrs Regina IP, in compliance with the requirement under

Rule 30(1A) of the RoP that the notice of a censure motion shall be signed by three other Members.

2.100 On 3 December 2009, Ms WONG issued an open statement (Appendix 2.2) through her lawyers to all LegCo Members, elaborating on the circumstances leading to her dismissal and her subsequent complaint to the Democratic Party about the dismissal.

2.101 On 9 December 2009, Mr KAM issued a Supervision Brief on Ms WONG's work performance (Appendix 2.3) to all LegCo Members. The Brief listed a number of examples which Mr KAM considered illustrative of her work performance being not so good.

2.102 Ms Miriam LAU moved a motion to censure Mr KAM under Rule 49B(1A) of the RoP at the Council meeting of 9 December 2009 (Appendix 1.1).

2.103 According to the evidence given by Mr KAM, Ms WONG cashed on 11 January 2010 the cheque in the amount of \$150,000 given to her by Mr KAM.

Mr KAM explained to the Investigation Committee about his telling Ms WONG that he had good feelings towards her

2.104 Regarding his telling Ms WONG that he had good feelings towards her, Mr KAM explained in his written statement that 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.²⁴ “Good feelings” was the term he used in expressing friendliness in a working relationship towards her, and in doing so, he hoped he could ease her emotional distress, thus boosting her self-confidence. Mr KAM stressed that “In saying the term ‘good feelings’ under the circumstances of that day, my intention was not to express the kind of affectionate feelings between a man and a woman, and I did not mean at all to make advances or seek love.” With regard to the understanding of Ms WONG, as quoted by Ms LUI, i.e. that Mr KAM had confessed his feelings to her in the afternoon tea meeting and he had hoped to develop “a relationship beyond that between an employer and an employee”, Mr KAM told the Investigation Committee that as far as his intention, thought and impression were concerned, he had never said or thought of such an idea, nor could he comprehend why Ms WONG had such a feeling.

2.105 Mr KAM stressed that in telling Ms WONG that he had good feelings towards her, he had hoped this could motivate her to do better in her work, and it was his impression that he would occasionally tell his staff members that he “had good feelings” towards them to indicate that he approved of their good work performance. Mr KAM told the Investigation Committee that he could not find any record which showed that he had used the expression “have good feelings” to recognize the work performance of his staff members. On this point, Ms LUI told the Investigation Committee that “Mr KAM had never used the term ‘good feelings’ to affirm my work performance. During the summer recess of 2009 and before Mr KAM went on a vacation overseas with his family, he

²⁴ Such an explanation as given by Mr KAM first appeared in his written statement submitted on 15 March 2011 (Appendix 2.11).

had interviewed me and affirmed my work performance. At that time, he used words such as ‘satisfied’ and ‘appreciate’ and he asked me to keep up the hard work.” With regard to Ms LUI’s remark, Mr KAM responded at the hearing on 21 October 2010 that he did not use the expression “have good feelings” to express his views about Ms LUI’s work performance because unlike Ms WONG, Ms LUI had not encountered any relationship problems.

2.106 As to why Mr KAM had told Ms WONG that he had good feelings towards her on the basis of her work performance despite the fact that her work performance had not been rated as “excellent” by him, Mr KAM explained to the Investigation Committee that judgement should not be made solely on the basis of the expression “have good feelings”, because there was a context to this expression. The context was that Ms WONG had relationship problems, and against such a background they had an afternoon tea meeting, and in the course of the conversation, he said some comforting words to her out of “empathy”, and it was under such circumstances that he said he “had good feelings” towards her. Mr KAM stated that the thought behind his saying he had “good feelings” towards Ms WONG was that her performance deserved “approval” and commendation, but this did not mean that there was no need for her to improve her performance. He just hoped to ease her emotional distress, so as to boost her self-confidence.

2.107 Mr KAM also explained to the Investigation Committee that he had not revealed to reporters in the press conference on 4 October 2009 that he had told his female assistant (i.e. Ms WONG) that he had good feelings towards her because he had to protect the privacy of Ms WONG; otherwise, he would need to talk about her relationship problems.

2.108 When asked by the Investigation Committee why he did not mention on the radio programme that the expression “have good feelings” was meant to affirm the work performance of Ms WONG, Mr KAM explained that at that moment he was only disclosing limited details of the incident. Should he elaborate on the incident, he would have to disclose more personal information about Ms WONG, and he felt that it was necessary for him to protect the privacy of Ms WONG. Besides, the focus at that juncture was to put right some inaccurate reports, so it might not be possible for him to recall the causes and consequences of the incident in a focussed manner and give clear answers to each and every question.

2.109 Mr KAM said at a hearing that when he gave an account of the incident to caucus members of the Democratic Party, he had not specifically mentioned the term “empathy” because the focus of discussion then was on the complaint lodged by a staff member who had been dismissed by him with immediate effect and it was necessary to deal with the complaint. Mr KAM also said that while he had briefed caucus members of the Democratic Party on what happened at the afternoon tea meeting, he did not elaborate on each and every point.

2.110 Ms Emily LAU said at a hearing that in their day to day contact, she did not discuss relationship problems with Mr KAM, and LegCo Members of the Democratic Party did not need to inform senior members of the Party about the employment or dismissal of their own assistants. Ms LAU said that she recalled clearly that when Mr KAM gave an account of the dismissal to her and Mr HO on 24 September 2009, he admitted that he had told Ms WONG that he “had affection” for her. As Ms LAU understood it, Mr KAM was talking about personal affairs and

relationships, i.e. his private affairs; and that when he said he “had affection” for Ms WONG, it carried the same meaning as “had good feelings” towards Ms WONG as both referred to the relationship between a man and a woman, and not the friendliness in a working relationship. While Ms LAU could not recall how Ms WONG mentioned “had affection”, she considered Ms WONG’s description of what happened at the afternoon tea meeting in her open statement was more or less the same as what she had said.

2.111 Mr KAM told the Investigation Committee that he had never mentioned to anyone that he “had affection” for Ms WONG, and the expression “had good feelings” as said by him was definitely not the same as “had affection”. In his consciousness, thought, behaviour and words, he had never told Ms WONG that he “had affection” for her, nor had he made any such gesture or had any such thought. However, he could not stop Ms WONG from having her own thoughts. This was all along his stance and viewpoint.

2.112 Mr HO told the Investigation Committee that “Because, as you know, the most important thing for us, as lawyers, is to pay heed to the critical issue: what you said at that moment was very important. I remember clearly, from the beginning to the end, what Hon KAM Nai-wai had said was that he ‘had good feelings’... if he had ever said ‘had affection’, I would have confronted him: why do you modify now what you have said? I will not let him modify, in this way in front of us, what he has said”. 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 “had 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. Mr HO also considered it unwise for Mr KAM to tell a woman with relationship problems that he had “good feelings” towards her because it would easily cause misunderstanding. According to the evidence given by Mr KAM and Mr HO, caucus members of the Democratic Party also found it inappropriate for Mr KAM to have said the expression “have good feelings” towards Ms WONG. Mr HO also told the Investigation Committee that at the caucus meeting of the Democratic Party on 2 October 2009, while Mr KAM did not elucidate his intended meaning when he said he “had good feelings” towards Ms WONG, he did say that “had good feelings” was not intended to express love between a man and a woman. Mr HO believed that Mr KAM was expressing his concern and good intentions to a friend at that moment.

2.113 Mr KAM told the Investigation Committee that, although he might not have said the sentence “I said I had good feelings towards her in order to affirm her work” when he gave an account of the dismissal to Mr HO and Ms LAU for the first time on 24 September 2009, it was his impression that he had said at the caucus meeting something of similar wording, i.e. when he told Ms WONG that he had good feelings towards her, he was actually affirming her work performance. The Investigation Committee pointed out to Mr KAM that both Mr HO’s and Ms LAU’s evidence did not substantiate that he had indicated at the caucus meeting that he told Ms WONG that he “had good feelings” towards her was for

approving of her abilities and affirming her work performance. Mr KAM responded that the Investigation Committee should not make a judgement relying solely on the evidence of these two Members as there were other Members of the Democratic Party who had attended the caucus meeting. The Investigation Committee therefore invited all other Members of the Democratic Party who had attended the caucus meeting (i.e. Hon Fred LI, Hon James TO, Hon CHEUNG Man-kwong, Hon Andrew CHENG, Hon LEE Wing-tat and Hon WONG Sing-chi) to be witnesses to provide further information to the Investigation Committee. The Investigation Committee asked them the question, “During the period between 24 September 2009 (when Mr KAM dismissed Ms WONG) and 4 October 2009 (when the dismissal incident came to light), did Mr KAM explain what he meant when he said he ‘had good feelings’ towards Ms WONG, including explanations related to private relationships or work performance, and how did he explain it?”

2.114 In this connection, Hon CHEUNG Man-kwong said, “I did not associate the expression [had good feelings] with private relationships, nor did I specifically pursue whether it was related to work performance.” Hon James TO said that before the start of the caucus meeting, he had made enquiries with Mr KAM and had shared with him his personal experience: more than a decade ago, Mr TO had comforted a female secretary, who was depressed as she had been dumped by her boyfriend, by saying, “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 also said that, in saying such words, he was deliberately praising the secretary in order to boost her self-confidence. Mr TO also said that he then asked Mr KAM, “Was it

because Ms WONG was not bad looking and she was competent at work, and you just hoped to make her regain self-confidence?” Mr KAM then responded to Mr TO that it was exactly what he had meant in saying those words to Ms WONG in the hope of boosting her self-confidence, but then he had been misunderstood. Hon WONG Sing-chi indicated in his written statement to the Investigation Committee that he “can’t remember the specific details of Mr KAM’s explanation on ‘had good feelings’, but I have never felt that there was any private relationship between Mr KAM and Ms WONG Lai-chu”. He also said at a hearing that when he heard Mr KAM repeat the words “had good feelings” at the caucus meeting, his reaction was “a bit doubtful about whether it was true and why Mr KAM had said those words”. Hon LEE Wing-tat said, “As far as I can recall, KAM Nai-wai did not explain the meaning of ‘had good feelings’ in detail, nor did I ask him about the meaning of ‘had good feelings’ at the caucus meeting or on other occasions.” Both Hon Fred LI and Hon Andrew CHENG told the Investigation Committee that they had already forgotten details of the caucus meeting as it was a long time ago.

Mr KAM explained to the Investigation Committee his immediate dismissal of Ms WONG

2.115 On 12 February 2010, the Investigation Committee wrote to Mr KAM to invite him to give a written response to the information provided by the mover of the censure motion. Mr KAM submitted his written response (i.e. his written statement, **Appendix 2.11**) on 15 March 2010. Mr KAM pointed out in his written statement that in June 2009, as Ms WONG had emotional distress, she showed problems in her work attitude. Examples included not attending a meeting organized by the

financial regulatory body (see paragraph 2.21), not concentrating on work (see paragraph 2.23), refusing to write a press release (see paragraphs 2.29 to 2.31), suddenly requesting to take leave on the eve of an event that she was responsible for organizing (see paragraphs 2.33 and 2.34), and not implementing publicity initiatives on schedule (see paragraph 2.35), etc.. Mr KAM pointed out that all these examples served to illustrate that there were problems with her work attitude between June and September 2009, and that such a change in work attitude eventually made her unable to complete 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 she had persistently failed to show any improvement for three months without any reasonable explanation. It was under such circumstances that he finally decided to dismiss Ms WONG.

2.116 Mr KAM told the Investigation Committee that he had dismissed Ms WONG because there were problems with her work performance and attitude. Also, as he had given her one month's salary as payment in lieu of notice at the time of dismissal, he had already acted in compliance with the requirements stipulated in the employment contract and legislation. With regard to why he paid an additional compensation of \$150,000 to Ms WONG four days after (i.e. on 3 October 2009) she had collected on 29 September 2009 the amount payable to her under the employment contract and legislation, Mr KAM explained that he did so as he had dismissed Ms WONG with immediate effect because of his hot temper, and that he had spoken some words which had made Ms WONG feel disturbed and unhappy. Also, he knew that Ms WONG might face financial difficulties as it would be relatively difficult for one to find a

media job at the end of a year. As such, he felt that if it was within his ability, he should give her some assistance. Mr KAM had not thought of helping Ms WONG to cope with her financial difficulties by other means (such as lending money to her) because Ms WONG's demands were made to him through a third party, and he thought he would comply if he could. With regard to the demand for cash compensation made by Ms WONG, Hon James TO told the Investigation Committee that his reaction at the caucus meeting of 2 October 2009 was that "concessions are preferred in order to settle the matter amicably", and it would not be asking too much to include "a fee for putting up with scoldings" in the compensation for the dismissal as Mr KAM vented his temper on subordinates. Mr TO added that other participants of the meeting also thought that Mr KAM should accept Ms WONG's request because the immediate dismissal would hurt the self-esteem of the staff member concerned.

2.117 With regard to the work performance and attitude of Ms WONG, the Investigation Committee notes that Mr KAM said on the radio programme on 6 October 2009 that Ms WONG's "overall performance in the past was good". Yet, Mr KAM stated in the written statement (Appendix 2.11) he submitted to the Investigation Committee on 15 March 2010 that this assessment was valid only for the initial six months (i.e. Stage I) of her employment. When asked why he had not made this clear on the radio programme, Mr KAM explained 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 (i.e. Ms WONG). With regard to the remark he made openly that the overall performance of Ms WONG was good, he said that on the one hand, it was for approving of her work performance in the initial six

months of employment, and on the other hand, it would make it easier for her to find another job.

2.118 Mr KAM denied that he had dismissed Ms WONG because he had been rejected after telling her that he “had good feelings” towards her, and that her dismissal was related to her refusal of his invitation to go out for lunch two days prior to the dismissal.

The overall working relationships between Mr KAM, Ms LUI and Ms WONG

2.119 The Investigation Committee has also looked into the overall working relationship between Mr KAM and the two staff members who worked in his Member’s Office (i.e. Ms WONG and Ms LUI). With regard to what he required of Ms WONG in her work, Mr KAM stated that as Ms WONG was a veteran media worker and had worked in a LegCo Member’s Office before, he expected Ms WONG to be able to take up more work. When compared with Ms WONG and Ms LUI, staff members in district offices usually had much heavier workload but lower salaries. As such, he expected Ms WONG and Ms LUI to work even harder, but they usually left the office very punctually. As to the time for getting off duty, Mr KAM said he could not remember it very clearly, but they usually left between 6:00 pm and 6:30 pm, and no later than 7:00 pm. The Investigation Committee notes that it was stipulated in the employment contract of Ms WONG that her total working hours in a week was 44 hours, and overtime work would not be compensated by allowance but by time off (the ceiling on accumulated overtime being 40 hours). On her departure, Ms WONG was paid an amount of overtime allowance equivalent to salary for 11 hours.

2.120 According to the evidence given by Ms LUI, she communicated with Mr KAM mainly by face-to-face discussions and electronic communication, for example, by making use of the time when Mr KAM returned to the Member's Office and by email to discuss work arrangements with him. Ms LUI said that Mr KAM relied more on MSN (chat-room) to communicate with staff members. However, as no record would be kept for discussions in MSN, and she felt that Mr KAM said something different each time on the same issue, Ms LUI used emails more to communicate with Mr KAM in finalizing work arrangements in order to avoid misunderstanding when discussing work and to facilitate future follow-up and avoid mistakes.

2.121 Ms LUI provided the Investigation Committee with an example to illustrate that Mr KAM might say something different on different occasions on the same issue. For example, when a staff member asked Mr KAM what activity themes he expected to be covered in the district newsletter, Mr KAM mentioned several activity themes. However, when that staff member asked him the same question at a later time on the same day or the following day, Mr KAM then mentioned some other activity themes.

2.122 Mr KAM stated that he was not aware that the reason behind Ms LUI's using emails more for communicating with him was to avoid different versions in verbal messages. Mr KAM also pointed out that as he "worked his way up from elementary positions", he 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, he often had his own way of doing things and perception, and often felt dissatisfied with the

work of his colleagues. Mr KAM said that he had a hot temper, and “could easily become irritated and then started scolding staff members, questioning them why a certain job cannot be done”. Mr KAM said that he had said to each staff member, “See what you have done! How can you submit something like this to me?” He was often dissatisfied with the performance of his employees. While this regularly occurred both before and after June 2009, he became particularly irritated, and short-tempered with “anger almost flaring up” during the summer recess, as he found that none of the tasks could be accomplished. He scolded staff members by saying, “What’s wrong with you? Still have not finished? How can that be? Why has it taken so long and still it is not yet done?” Mr KAM considered that he had not done well in controlling his temper, and he often criticized the work of colleagues and showed his dissatisfaction. According to the evidence given by Mr KAM, Ms LUI had also told him that he did not have a good working relationship with colleagues in general. Mr KAM considered that his relationship with employees, management style and temper all needed a comprehensive review and improvement.

2.123 Ms LUI pointed out that while Ms WONG had said that Mr KAM assigned work hastily, resulting in Ms WONG not having enough time to make good preparation, Ms WONG had not mentioned whether she was overworked or not. Mr KAM’s response to this remark was that in a Member’s Office, many matters were urgent, and had to be rushed, but he considered this was the normal mode of operation in a Member’s Office.

2.124 Ms LUI pointed out that “During Ms WONG’s employment, Mr KAM had said on numerous occasions that her work failed to meet his expectations, and his attitude and tone in talking to her was no different

from those he used when talking to other staff members. As regards Mr KAM's dissatisfaction, Ms WONG, like other staff members, did not show any strong reaction, but would ask Mr KAM in detail about his demands, so as to get the tasks done. However, during the summer recess (exact period forgotten), Mr KAM imposed harsher work requirements on Ms WONG than before, while Ms WONG took stronger offence towards Mr KAM's dissatisfaction than before. Since then, Ms WONG told me she would communicate with Mr KAM mainly by email so as to avoid misunderstanding in the process, which might in turn affect her performance."

2.125 Ms LUI quoted the following example to illustrate that Mr KAM had imposed harsher work requirements on Ms WONG than before: "In the past, when Mr KAM was dissatisfied with a document or an activity proposal submitted by a staff member, he would make amendments to it himself before passing it back to the relevant staff member for implementation. Sometimes he would add a teasing remark, 'What kind of rubbish have you submitted to me?' The atmosphere was not too solemn. Yet, during the summer recess, when Mr KAM was unhappy with Ms WONG, his attitude became harsh, thus making the atmosphere rather tense."

2.126 With regard to the above remarks of Ms LUI and the example she gave, Mr KAM pointed out that on his return (i.e. 20 August 2009) from his summer vacation, he found that none of the tasks assigned to Ms WONG had been completed, and as a result, he had to take them back and do the work himself. As Mr KAM became very irritated, he vented his ill-temper and discontent on her, as well as scolded and criticized her.

2.127 On 24 September 2009, Ms WONG was dismissed with immediate effect.

2.128 On 28 September 2009, Ms LUI tendered her resignation to Mr KAM, which came into effect on 27 October.

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' 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.

Chapter 4 Whether the facts as established constitute grounds for the censure of Hon KAM Nai-wai

4.1 This Chapter sets out the views given, pursuant to Rule 73A(2) of the Rules of Procedure (“RoP”), by the Investigation Committee on whether the facts as established (set out in Chapter 3) constitute grounds for the censure of Hon KAM Nai-wai.

Issues related to the Investigation Committee giving views on the two allegations set out in the Schedule to the censure motion

4.2 As pointed out in Chapter 3 of this Report, details of Mr KAM’s misbehaviour, as alleged by the Members initiating the censure motion in the Schedule to the censure motion, comprise two parts: the headings in bold print and the main text in normal print. 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**

- (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**

4.3 The Investigation Committee considers that the above two headings are allegations of misbehaviour against Mr KAM made by the

Members initiating the censure motion on the basis of the details set out in the main text under the headings. As such, the relevant circumstances described in the main text of the Schedule to the censure motion are “facts to be established”. Chapter 3 of this Report presents an analysis and findings of the Investigation Committee on the “facts to be established”. Since the allegations in the two headings contain elements of subjective judgement, the Investigation Committee considers that they are not “facts to be established”. Nevertheless, pursuant to Rule 73A(2) of the RoP (i.e. giving its views on whether or not the facts as established constitute grounds for the censure), the Investigation Committee gives its views on the allegations in this Chapter.

Views of the Investigation Committee on the first allegation

4.4 The first allegation as set out in the Schedule to the censure motion is reproduced below:

“Hon KAM Nai-wai made inconsistent remarks to the media and withheld key information, causing the public to have doubts about his integrity”.

4.5 The Members initiating the censure motion alleged that **“Hon KAM Nai-wai made inconsistent remarks to the media”** and **“withheld key information”**, thus **“causing the public to have doubts about his integrity”**. The Investigation Committee considers that the **“remarks”** made by Mr KAM to the media to which the allegation refers are those remarks made by Mr KAM at a press conference called by him on 4 October 2009 and those made on a radio programme Tipping the Points

on 6 October 2009 (Appendices 2.5 and 2.9). With respect to the remarks made to the media by Mr KAM, the **“inconsistency”** to which the allegation refers lies in the fact that Mr KAM denied having made advances to his female assistant (i.e. Ms Kimmie WONG Lai-chu¹) at the press conference but he admitted two days later on the radio programme that he did express good feelings towards her in mid-June 2009; while the **“key information”** that Mr KAM is alleged to have **“withheld”** is the fact that he had expressed good feelings towards his female assistant, which he did not disclose at the press conference.

4.6 In Chapter 3 of this Report, the Investigation Committee has established the following facts which are pertinent to the first allegation (i.e. the first to third items in paragraph 3.4 of Chapter 3):

- (a) Mr KAM expressed good feelings towards Ms WONG when he was alone with her on one occasion in mid-June 2009 (please refer to paragraph 3.5);
- (b) Mr KAM denied at a press conference called by him on 4 October 2009 that he had made advances to a female assistant who was subsequently dismissed by him, and he did not disclose that he had expressed good feelings towards the female assistant (please refer to paragraphs 3.6 to 3.16); and

¹ Mr KAM did not disclose the name of the female assistant at the press conference or on the radio programme. Ms WONG issued a statement on 9 October 2009 to newspapers, confirming that she was the female assistant dismissed by Mr KAM. The statement was published in Ming Pao Daily News on the following day (i.e. 10 October 2009).

- (c) 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 (please refer to paragraphs 3.17 to 3.18).

Whether Mr KAM made “inconsistent” remarks to the media

4.7 With regard to the meaning of the word “inconsistent”, the Investigation Committee considers that “inconsistent” remarks refer to the incompatible remarks made on two occasions. Yet, if the focuses of the talks on the two occasions are different, remarks made on the second occasion which were not made on the first occasion does not necessarily mean that the remarks are “inconsistent” as remarks may be made on the second occasion for supplementing what was said on the first occasion. On the basis of this understanding, the issue considered by the Investigation Committee is whether Mr KAM’s expression of good feelings towards Ms WONG could reasonably be understood as making advances to her, and whether Ms WONG and an ordinary person perceived it as such. If both answers are in the affirmative, then Mr KAM’s admission of having expressed good feelings towards the female assistant (i.e. Ms WONG) in the second talk (i.e. the radio programme) might be inconsistent with his denial of having made advances to his female assistant in the first talk (i.e. the press conference), thus constituting the making of “inconsistent” remarks.

4.8 Mr KAM said in his written statement submitted to the Investigation Committee on 15 March 2010 (Appendix 2.11) and

subsequently in giving evidence at hearings that his expressing good feelings towards Ms WONG was under the special circumstances at that time. Based on the “friendliness in a working relationship”, he was approving of Ms WONG’s abilities and affirming her work performance, and he was using social workers’ empathy skill in the hope that he could ease her emotional distress, thus boosting her self-confidence. Mr KAM stressed that his expression of good feelings towards Ms WONG was not meant to make advances to her or to seek her love, and that he had never taken any action to court Ms WONG. He therefore remarked openly at the press conference on 4 October 2009 and on the radio programme on 6 October 2009 that he had not made advances to her or sought her love. Mr KAM considers that his denial, in reply to reporters’ questions at the press conference, of having made advances to or sought the love of the female assistant (i.e. Ms WONG) was not contradictory to his admission on the radio programme that he had expressed good feelings towards the female assistant. Mr KAM therefore considers that his remarks made on these two occasions were not “inconsistent”.

4.9 Although Mr KAM repeatedly stressed in giving evidence to the Investigation Committee that his “expression of good feelings towards Ms WONG was to affirm her work performance”, none of the evidence given by the Legislative Council (“LegCo”) Members who attended the caucus meeting of the Democratic Party on 2 October 2009 shows that Mr KAM had put forward the above saying when he gave an account of the dismissal to them at the meeting. Also, the reaction of Ms WONG there and then at the afternoon tea meeting and her subsequent attitude of rejecting Mr KAM, Mr KAM’s reactions to the incident (for example, his apologizing to Ms WONG and admitting to his wife that he had done

wrong), as well as the circumstances surrounding the worsened working relationship between him and Ms WONG, all make the Investigation Committee unable to accept Mr KAM's explanation that his telling Ms WONG that he had good feelings towards her did not involve the expression of affection between a man and a woman. While Mr KAM insisted that the Investigation Committee should only take into account what he meant and not other people's views, the Investigation Committee considered that it must make a judgement based on its findings. As Mr KAM denied at the press conference on 4 October 2009 that he had ever made advances to the female assistant, but he subsequently admitted on the radio programme on 6 October 2009 that he had expressed good feelings towards her, the Investigation Committee considers that there were indeed "inconsistencies" between the remarks he made.

Whether Mr KAM "withheld key information" in the remarks he made to the media

4.10 The Investigation Committee considers that the expression "withheld key information" means a conscious act of not disclosing non-trivial information which the other party of the dialogue is interested to know or considers to be crucial. As such, "withheld key information" is not the same as "forgot to disclose key information", and key information is often withheld for the purpose of avoiding adverse consequences of the disclosure.

4.11 As to the key information which is alleged to have been withheld by Mr KAM, the Investigation Committee considers that according to the main text immediately following the first allegation in the

Schedule to the motion, the key information is the fact that Mr KAM “had expressed good feelings towards the female assistant”, which he allegedly withheld at the press conference on 4 October 2009. According to the understanding about “withheld key information” referred to in the preceding paragraph, the Investigation Committee has considered the following questions:

- (a) Was the fact that Mr KAM “had expressed good feelings towards the female assistant” a piece of trivial information?
- (b) Did Mr KAM consciously choose not to disclose the fact that he “had expressed good feelings towards the female assistant”?
- (c) Should Mr KAM still be regarded as having “withheld key information” given that he disclosed the relevant fact two days later?

4.12 The Investigation Committee notes that before the dismissal came to light on 4 October 2009, Mr KAM had explained to Hon Albert HO (Chairman), Hon Emily LAU (Deputy Chairman), as well as other caucus members of the Democratic Party in respect of the complaint lodged by Ms WONG about her unreasonable dismissal by Mr KAM on 24 September 2009. On each of those occasions, Mr KAM did mention that he had expressed good feelings towards Ms WONG. Even though Mr KAM had only 10 to 15 minutes to give an account of the entire incident to Mr HO and Ms LAU on 24 September 2009, he specifically mentioned that he had expressed good feelings towards Ms WONG. Then on 4 October 2009, Mr KAM took the initiative to call a press conference,

with the purpose of responding to a newspaper report on that day, which alleged that he had dismissed a female assistant (i.e. Ms WONG) due to his unsuccessful advances to her and that the female assistant had made a complaint to the Democratic Party. At that moment, Mr KAM clearly knew that the fact that he “had expressed good feelings towards the female assistant” was indeed information crucial to the public understanding of “the female assistant’s complaint about being unreasonably dismissed”.

4.13 The Investigation Committee considers that before attending the press conference, Mr KAM should have known that he would face the question of “whether he had made advances” or related questions, and he should have contemplated how to respond to such questions, as it was reported in a newspaper on that day that Mr KAM had dismissed a female assistant due to his unsuccessful advances to her. Yet, when asked repeatedly at the press conference whether he had made advances to the female assistant (i.e. Ms WONG) and what he had done to trigger her misunderstanding that subsequently led to the complaint (see paragraph 2.82 of Chapter 2), he did not mention at all the fact that he “had expressed good feelings towards the female assistant”. The Investigation Committee considers that Mr KAM’s failure to disclose that fact was not due to forgetfulness or an oversight but was attributable to a conscious decision not to make the disclosure. The Investigation Committee also rejects the defence of Mr KAM that he did not disclose that fact in order to protect the privacy of Ms WONG because, when he admitted on the radio programme on 6 October 2009 that he had expressed good feelings towards the female assistant, he did not need to further disclose her privacy (i.e. details of her relationship problems).

4.14 The Investigation Committee has also considered whether Mr KAM should still be regarded as having “withheld key information” on the basis that although Mr KAM did not disclose the fact that he “had expressed good feelings towards the female assistant” at the press conference on 4 October 2009, he did disclose it two days later on the radio programme. The Investigation Committee considers that if a person makes disclosure of key information expeditiously after realizing that he has forgotten to do so, he may be regarded as not having withheld key information deliberately. However, as pointed out in the preceding paragraph, Mr KAM’s failure to make the disclosure at the press conference was not due to forgetfulness or an oversight, but was attributable to a conscious decision not to disclose the fact that he had expressed good feelings towards the female assistant. Besides, Mr KAM admitted that it was because of the media reports and the reminder from Mr HO that he attended the radio programme to make clarifications on the incident.

4.15 On the basis of the analysis in paragraphs 4.12 to 4.14 above, the Investigation Committee considers that when denying that he had made advances to his female assistant (i.e. Ms WONG) at the press conference, Mr KAM should have supplemented his denial with the crucial fact that he “had expressed good feelings towards the female assistant”. As Mr KAM should have done so and yet he had consciously evaded doing that, the Investigation Committee considers that he had indeed “withheld key information” at the press conference on 4 October 2009.

4.16 As the findings of the analysis set out in paragraphs 4.7 to 4.15 above indicate that Mr KAM had indeed made “inconsistent” remarks to

the media and “withheld key information” from them, the Investigation Committee considers that it was likely for **“the public to have doubts about his integrity”**.

Views of the Investigation Committee on the second allegation

4.17 The second allegation set out in the Schedule to the censure motion is reproduced below:

“Hon KAM Nai-wai was unfair in dismissing his female assistant, whose overall work performance was judged by him as good, after his expression of affection was rejected by her”

4.18 The Investigation Committee considers that the allegation accuses Mr KAM of being **“unfair”** in the dismissal of the female assistant (i.e. Ms WONG). The facts set out in the main text of the Schedule to the motion include the following:

- (a) In mid-June 2009, Mr KAM expressed good feelings towards his female assistant;
- (b) Subsequently, Mr KAM noticed some signs of his female assistant rejecting him;
- (c) Between early September and mid-September, Mr KAM invited his female assistant to dine out and was also refused by her; and

- (d) Subsequently, on 24 September 2009, he terminated the employment contract with that female assistant with immediate effect without reason assigned, although her overall work performance was judged by him to be good.

4.19 The Investigation Committee notes that the Members initiating the censure motion used the word “subsequently” twice, signifying that there seems to be some connection between items (a) and (b), and items (c) and (d), and possibly among items (a), (b), (c) and (d) in the preceding paragraph such that Mr KAM was alleged of having dismissed a female assistant, whose overall work performance had been judged by him to be good, after his unsuccessful advances to her. As such, the Members initiating the censure motion were of the view that Mr KAM “was unfair”.

4.20 The Investigation Committee has established the following facts in Chapter 3 in connection with the second allegation (i.e. the fourth and fifth items as well as the first half of the sixth item in paragraph 3.4 of Chapter 3):

- (a) Mr KAM judged that the overall work performance of Ms WONG during the employment period to be good (see paragraphs 3.19 to 3.45);
- (b) 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 (the exact date was 22 September), Mr KAM invited the female assistant to dine out and was refused by her (see paragraphs 3.46 to 3.51); and

- (c) Mr KAM dismissed a female assistant (i.e. Ms WONG) on 24 September 2009 (see paragraphs 3.52 to 3.54).

4.21 The Investigation Committee considers that in order to determine whether Mr KAM has been unfair in handling this incident, it is necessary to first find out whether Mr KAM's dismissal of Ms WONG was due to the latter's work attitude and their ability to work together as well as whether there is any connection between the details of the censure motion respectively mentioned at items (a), (b), (c) and (d) in paragraph 4.18.

Reasons for Mr KAM's dismissal of Ms WONG

4.22 The Investigation Committee notes that Ms WONG told Mr HO and Ms LAU at the meeting with them on 30 September 2009 that she thought her dismissal could be related to her rejecting Mr KAM's advances to her. The Investigation Committee considers that it was 15 June 2009 when Mr KAM expressed good feelings towards Ms WONG and 24 September 2009 when Ms WONG was dismissed; while Mr KAM did make occasional criticisms on Ms WONG's work during that period, there is no evidence that Mr KAM's dismissal of Ms WONG was pre-meditated. While noting that Mr KAM was refused by Ms WONG when he called her on 22 September to invite her to go out for lunch with him, the Investigation Committee is not in possession of sufficient evidence showing that Mr KAM was deeply upset by her refusal and thus decided to dismiss her.

4.23 The Investigation Committee considers that the working relationship between Mr KAM and Ms WONG had become uneasy after

the afternoon tea meeting on 15 June 2009, and it was because of this that a serious confrontation occurred between them at the meeting on 23 September owing to some trivial matters in work arrangements. Ms WONG's attitude of rejecting Mr KAM after 15 June 2009 was probably related to Mr KAM's expression of good feelings towards her on that day, which was also the reason why she subsequently refused to be alone with him or to go out for lunch with him. Ms WONG's attitude could have deeply upset Mr KAM which might lead to a worsening of his attitude towards her, resulting in the deterioration of their relationship. The worsened relationship led to the loss of mutual trust which should exist between employer and employee, and made it difficult for them to communicate with each other². The communication problems between them made it easy for any conflict (such as the one which took place on 23 September) to happen and develop into a major confrontation. The work conflicts between them also led to the further deterioration of their relationship.

4.24 Mr KAM said on the radio programme as well as at the hearings that he decided to dismiss Ms WONG after his confrontation with Ms WONG on 23 September, which arose from Ms WONG not actively participating at the work meeting as she was busy writing the press release. Mr KAM also admitted to the Investigation Committee that this confrontation was the triggering point of Ms WONG's dismissal, i.e. Ms WONG did not take heed of his instruction to stop writing the press release so as to participate in the discussion on redistribution of work, and Ms WONG had work attitude problems. Mr KAM also said that after he

² For example, Mr KAM thought that Ms WONG refused to write the press release on shoeshiners because she considered that it was beyond the scope of her duties (see paragraph 3.32 of Chapter 3).

scolded Ms WONG at the work meeting, he considered that it was not possible for them to work together any longer, and the idea of dismissing her thus came to his mind. Mr KAM also agreed that the atmosphere at that moment was “rather unpleasant”.

4.25 The Investigation Committee therefore believes that the immediate cause for Mr KAM’s dismissal of Ms WONG was their deteriorating relationship as of September 2009 which had made it impossible for them to work together, and that the conflict on 23 September was the triggering point which caused a direct confrontation. As for the remote cause, it included Ms WONG’s attitude of rejecting Mr KAM following his expression of good feelings towards her in the afternoon tea meeting on 15 June.

4.26 The Investigation Committee believes that although there is no information suggesting that Mr KAM formed the idea of dismissing Ms WONG since the afternoon tea meeting, it was likely that Ms WONG’s rejection of Mr KAM’s advances to her had made it impossible for them to work together subsequently. As to Ms WONG’s claim that she was dismissed by Mr KAM because she had rejected Mr KAM’s expression of good feelings towards her, which she considered to be an act of making advances, the Investigation Committee has not obtained any relevant evidence. In other words, the Investigation Committee cannot substantiate the premise for saying Mr KAM “**was unfair**” in the second allegation, which is “**dismissing his female assistant after his expression of ‘good feelings’ was rejected by her**”. Nevertheless, this does not mean that Mr KAM acted fairly in dismissing Ms WONG. After conducting a careful analysis of the process of the dismissal, as detailed

below, the Investigation Committee considers that there was impropriety in Mr KAM's dismissal of Ms WONG.

Whether there was impropriety in the manner in which Mr KAM dismissed Ms WONG

4.27 Regardless of whether Mr KAM's remarks about the problems with Ms WONG's work performance and attitude in the Stage II were true, the Investigation Committee considers that there are issues which deserve examination regarding the manner in which Mr KAM dismissed Ms WONG. The relevant issues studied by the Investigation Committee include:

- (a) Did Mr KAM take appropriate disciplinary actions for Ms WONG to make improvement prior to the dismissal?
 - (b) Under the circumstances at that time, was it appropriate to dismiss Ms WONG with immediate effect?
 - (c) Did other relevant persons find it acceptable for Mr KAM to dismiss Ms WONG with immediate effect?
- (a) Did Mr KAM take appropriate disciplinary actions for Ms WONG to make improvement prior to the dismissal?

4.28 The Investigation Committee notes that, since one of the functions of LegCo Members is to monitor the performance of the Government, and Members are also society's role models, the public may expect that when Members make use of public funds to employ their staff

members, apart from complying with the basic requirements laid down in legislation and contracts, they will also make reference to those personnel management practices widely adopted by public and private organizations, including giving staff members whose work performance or attitude was not so good adequate opportunities to improve their performance or attitude. Under the common practice, unless the staff member concerned has committed extremely serious mistakes, they will not be immediately dismissed just because their performance or attitude was not so good; instead, they will be invited to discuss the causes for their work performance or attitude not meeting the requirements, and they will be given an opportunity to explain. Further, the employer and the staff member concerned will work together to formulate an improvement plan and the staff member will be given adequate time for making improvement. The employer should also re-assess the performance or attitude of the staff member concerned at an appropriate time to find out if there is still room for improvement. Dismissing the staff member concerned is normally the last resort.

4.29 The Investigation Committee considers that in the process of assessing the staff member's performance, the employer may, if necessary, issue verbal and written warnings to the staff member concerned so as to let him know clearly the improvement he has to make as well as the consequences of failure to make the required improvement within a specified period of time. Both verbal and written warnings are solemn disciplinary actions, which should generally be given in an interview. Further, apart from an officer from the personnel department who may be present as a witness, only the persons issuing and receiving the warning should be present; and be it a verbal or a written warning, a written record of it should be kept in the personnel file of the staff member concerned.

4.30 The Investigation Committee understands that the staff size of a Member's Office is usually small, with a relatively simple personnel structure. As such, it is unrealistic to expect a Member to adopt a formal appraisal system. Nevertheless, the Investigation Committee considers that in handling staff members whose work performance or attitude was not so good, a Member should at least let the staff members concerned know what their problems are and give them adequate opportunities to improve their performance or attitude.

4.31 In this regard, Mr KAM told the Investigation Committee that he had not adopted a formal appraisal system. Mr KAM said in his written statement that as Ms WONG was unable to handle and accomplish the jobs assigned by him, he had on numerous occasions sent emails to express his dissatisfaction and issued verbal warnings to her. However, Mr KAM provided only one instance of his giving verbal warnings to Ms WONG: according to the evidence given by Mr KAM, he had issued a verbal warning to Ms WONG in early July 2009 when he was alone with her at a meeting. At that meeting, he told Ms WONG, "We need to work together. The way you behave does not work." Mr KAM thought retrospectively that in making such a remark at that meeting, he had in fact given her a verbal warning, although the word "warning" had not been used then. The Investigation Committee considers that it was only when Mr KAM was giving evidence to the Investigation Committee and thinking retrospectively about past events that he considered he had issued a verbal warning to Ms WONG. However, there is no information to show that Ms WONG also perceived the situation as Mr KAM giving her a warning and knew clearly how she should make improvement, as well as the consequences if she did not do so.

4.32 Besides, according to Mr KAM, he apologized to Ms WONG at the meeting in early July 2009 for having expressed good feelings towards her at the afternoon tea meeting on 15 June 2009, and he also gave her a verbal warning on the same occasion. The Investigation Committee is perplexed that Mr KAM would have taken two contradictory actions at the same meeting, and it therefore does not believe that Mr KAM gave any verbal warning at that meeting at all. According to the evidence given by Mr KAM, his discussion with Ms WONG at the meeting covered issues such as work, their cooperation and Ms WONG's attitude, etc., while Ms WONG also admitted that she needed to improve her work attitude. The Investigation Committee considers however that the conversation could be only regarded as a discussion on issues about their cooperation at work, and was by no means a verbal warning with disciplinary implications.

4.33 In the Investigation Committee's view, if Mr KAM thought that Ms WONG needed to improve her work performance or attitude, he should have discussed it with her and he might have even given her verbal or written warnings.

4.34 On the issue of whether the emails provided by Mr KAM to the Investigation Committee should be considered as written warnings, the Investigation Committee is of the view that written warnings with disciplinary implications should not be mixed up with the day-to-day written messages sent by an employer to staff members for the purpose of giving instructions or advice on work progress or approach. Since the

emails touched upon specific work issues, and some of them were not sent to Ms WONG alone, the Investigation Committee considers that such emails should not be regarded as written warnings issued by Mr KAM to Ms WONG.

4.35 The Investigation Committee considers that, in claiming during the hearings that he had issued warnings to Ms WONG, Mr KAM was just putting forward his defence to the Investigation Committee in an attempt to justify his dismissal retrospectively. As a matter of fact, he had not taken any disciplinary action for Ms WONG to make improvement.

(b) Under the circumstances at that time, was it appropriate to dismiss Ms WONG with immediate effect?

4.36 The Investigation Committee notes that an employer may dismiss an employee for various reasons or considerations and according to the current Employment Ordinance (Cap. 57), for a staff member who has been employed under a continuous contract for a period of less than 24 months, the employment relationship may be terminated by the employer or the employee by giving notice or payment in lieu to the other party, and an employer dismissing an employee is not required to provide the other party with an explanation or justify to anyone else why the dismissal is reasonable. Since Ms WONG had been employed under a continuous contract for a period of less than 10 months (from 15 December 2008 to 24 September 2009), Mr KAM has the legal right to dismiss her without giving any explanation.

4.37 On the appropriateness of dismissing Ms WONG with immediate effect by making payment in lieu of notice, the Investigation Committee notes that the employment contract signed between Mr KAM and Ms WONG has provided for this termination arrangement.³ The Investigation Committee also understands that some employers may choose to provide the staff member with payment in lieu of notice so as to dismiss the staff member immediately without notice, in order to prevent the dismissed staff member from doing things detrimental to the interests of the employer. Therefore, dismissing a staff member immediately by giving him or her payment in lieu of notice may not necessarily be inappropriate.

4.38 The Investigation Committee considers that there was indeed room for improvement in the manner in which Mr KAM dismissed Ms WONG. This point was also acknowledged by Mr KAM in his written statement in which he stated that, “I had not been able to manage my temper, thus making Ms WONG feel disturbed and unhappy in the dismissal process.” After Ms WONG had lodged a complaint against him, Mr KAM acceded to her requests and provided her with a personal letter of apology, a reference letter (letter of recommendation), and a cheque for \$150,000 as compensation. In the letter of apology and the letter of recommendation, Mr KAM affirmed Ms WONG’s work performance. Mr KAM also said in the letter of apology that he was willing to pay her an amount of \$150,000 as compensation to make up for his fault.

³ See paragraph 14 of the appointment letter signed between Mr KAM and Ms WONG (Appendix 2.1).

(c) Did other relevant persons find it acceptable for Mr KAM to dismiss Ms WONG with immediate effect?

4.39 On the issue of whether other relevant persons found it acceptable for Mr KAM to dismiss Ms WONG with immediate effect, the Investigation Committee notes that Mr HO and Ms LAU first listened to an account by Mr KAM for dismissing Ms WONG on 24 September 2009. They then listened to Ms WONG's view about what she thought to be the reasons for her dismissal. Later, both Mr HO and Ms LAU attended the caucus meeting of the Democratic Party on 2 October, at which Mr KAM gave an account of the dismissal, and the unofficial meeting on 3 October. At the relevant time, they also talked to Ms WONG on the telephone. Therefore, these two Members may be considered to be relatively well-informed third parties. Mr HO considered it wrong for Mr KAM to have dismissed Ms WONG with immediate effect because such dismissal would cause great harm to the staff member concerned. In Mr HO's view, a staff member should not be dismissed in that way unless he had committed an extremely serious mistake. Ms LAU also did not approve of Mr KAM's dismissal of Ms WONG with immediate effect. In her opinion, an employer should follow the proper procedure by first issuing verbal warnings to the staff member whose performance was not so good, then written warnings, followed finally by dismissal.

4.40 The Investigation Committee notes that, other than Mr KAM, Mr HO and Ms LAU, other caucus members of the Democratic Party did not have the opportunity to make direct contact with Ms WONG, and they could only listen to Mr KAM's unilateral account of the incident and the information relayed by Mr HO and Ms LAU about their communication

with Ms WONG. Yet, they chided Mr KAM at the meeting on 2 October 2009 for having acted inappropriately, and hoped that Mr KAM could try all means to remedy the situation (Please refer to paragraph 2.76 of Chapter 2).

4.41 To sum up, the Investigation Committee considers that Mr KAM did not adopt good personnel management practices in that he did not issue any warning with disciplinary implications to Ms WONG to give the employee the opportunity to make improvement. As such, it was indeed improper for Mr KAM to have dismissed Ms WONG with immediate effect.

Conclusion

4.42 After analyzing the two allegations as set out in the censure motion, the Investigation Committee considers the “good feelings” expressed by Mr KAM towards Ms WONG at the afternoon tea meeting on 15 June 2009 was an expression of affection between a man and a woman. Regardless of what his wish might have been, such an expression made Ms WONG and even other people feel that he was “making advances” to her. Mr KAM also realized there and then that Ms WONG did have such a feeling. The argument that he expressed good feelings towards Ms WONG in order to approve of her personal capabilities and affirm her work performance was put forward by him only after the Investigation Committee had started its investigation. Such an argument is not credible. Mr KAM made use of such a far-fetched argument to contend that he was not making advances to Ms WONG, in the hope of proving that he had not made “inconsistent” remarks on the two occasions to the media and that he

had not “withheld key information” from them. Under such circumstances, the Investigation Committee is not satisfied that the evidence given by Mr KAM is the whole truth.

4.43 The Investigation Committee has confirmed that Mr KAM had indeed made inconsistent remarks and withheld key information (see paragraphs 4.9 and 4.15). When the incident came to light, the public were concerned whether the case involved Mr KAM dismissing a staff member employed with public money after his unsuccessful advances to her. Since Mr KAM consciously withheld key information, the public would indeed have doubts about his integrity. To a certain extent, this has adversely impacted on the overall image of LegCo Members as well as that of LegCo.

4.44 The Investigation Committee believes that Ms WONG had a deep trust in Mr KAM in early June 2009, so much so that she confided to him her own relationship problems and sought his assistance. As such, when Mr KAM suddenly made advances to her, her immediate reactions were completely understandable: she felt astonished and then expressed the wish to resign. The Investigation Committee considers that it was really inappropriate and unacceptable for Mr KAM, being a LegCo Member and a social worker⁴, to have acted in such a way.

4.45 With regard to whether there had been “unfairness” in the process of Mr KAM’s dismissal of Ms WONG, as set out in the second allegation in the censure motion, the Investigation Committee cannot prove

⁴ Source of information: personal data provided by Mr KAM and published on the Legislative Council web site.

that Ms WONG's dismissal with immediate effect was caused by her rejection of Mr KAM's expression of good feelings towards her. As Ms WONG is unwilling to give evidence as a witness, it is not possible for the Investigation Committee to find out whether Mr KAM had already, as he claimed, explained why he dismissed her on the day of her dismissal. The Investigation Committee therefore cannot confirm whether Mr KAM had been "unfair" in this incident.

4.46 Nevertheless, since Mr KAM expressed good feelings towards Ms WONG under inappropriate circumstances, he had caused pain to his subordinate and made their employer-employee relationship complicated and tense. Moreover, Mr KAM's failure to take appropriate remedial actions had led to the continuous deterioration of their relationship and loss of the mutual trust and cooperation which should have existed between them. Subsequently, Mr KAM dismissed her with immediate effect even though she had not made any serious mistakes. The Investigation Committee expresses regrets at the behaviour of Mr KAM as a supervisor. This incident has dealt an enormous blow to the reputation of Mr KAM, and for this, he has no one but himself to blame.

4.47 The Investigation Committee notes that the disqualification of a Member from the office is currently the most severe sanction that may be imposed on an individual LegCo Member, and has the effect of overturning the decision made by voters in an election. Therefore, such a sanction should be applicable only when a Member is found to have committed extremely serious misconduct. Having carefully considered the facts as established, the Investigation Committee considers that Mr KAM's conduct was improper in that it has failed to live up to the public's expectations on

the integrity and ethical standards of a LegCo Member, but that his misconduct was not so grave as to warrant disqualification from the office as a LegCo Member. In other words, the facts as established do not, in the Investigation Committee's view, constitute sufficient grounds for the censure of Mr KAM under Article 79(7) of the Basic Law.

Chapter 5 Other observations and views of the Investigation Committee

5.1 While Chapter 4 sets out the views given by the Investigation Committee under Rule 73A(2) of the Rules of Procedure (“RoP”) on whether the two allegations in the Schedule to the censure motion and the facts as established in Chapter 3 constitute grounds for the censure of Hon KAM Nai-wai, this Chapter details the other observations and views of the Investigation Committee for the future reference of the Legislative Council (“LegCo”) when it considers refining the mechanism in RoP for handling complaints relating to Members’ conduct and to facilitate future investigation committees or other committees in improving their investigation procedures.

The mechanism for implementing Article 79(7) of the Basic Law

5.2 Article 79(7) of the Basic Law (“BL 79(7)”) provides that the President of LegCo of the Hong Kong Special Administrative Region shall declare that a Member is no longer qualified for the office when he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the Members present. RoP contains provisions for handling censure motions (as summarized in paragraph 1.8 of Chapter 1), through which the mechanism for the disqualification of a Member from the office under BL 79(7) is implemented. Since this Investigation Committee is the first investigation committee established under the relevant provisions, members consider it appropriate to put forward their views on the mechanism based on the experience they have gained in the investigation process.

Review on the mechanism for the disqualification of a Member from the office

5.3 The Investigation Committee notes that the requirements stipulated in RoP for the moving of a censure motion by a Member are more stringent than those for moving an ordinary Member's Motion: Rule 30(1A) provides that a notice of a censure motion is required to be signed, not only by the Member who intends to move it as in the case of an ordinary Member's motion, but also by three other Members.

5.4 The Investigation Committee notes that while Hon Miriam LAU, in collaboration with three other Members, initiated the censure motion in her own personal capacity as a Member, she was in fact asked, at the meeting of the House Committee ("HC") on 9 October 2009, to act in her capacity as HC Chairman on the HC's decision on that day to activate the only mechanism in RoP (other than Rule 73(1)(c) and (ca)) for investigating the misconduct of a Member, that is, moving a censure motion in accordance with Rule 49B(1A) of RoP. At the meeting held on 16 October 2009, HC, having studied the relevant procedures, considered it inappropriate for Ms LAU to move the censure motion in her capacity as HC Chairman and for a committee under LegCo to be given the responsibility of drafting the details of the misbehaviour of a Member to be set out in the Schedule to the censure motion. As such, HC asked Ms LAU to move the censure motion in her own personal capacity as a Member. In view of HC's decision, Ms LAU and the three Members who jointly signed the notice of the censure motion participated in the work of drafting the details of the motion.

5.5 Against the background mentioned above, the Investigation Committee is of the view that in moving the censure motion, Hon Miriam LAU was in fact acting in accordance with the wish of the majority of members of HC, and it was not simply the case that she, on account of the information she had gathered, considered it necessary to act. Nevertheless, when Ms LAU moved the censure motion at the Council meeting on 9 December 2009, she said, “In the process of drafting the motion, I, together with the three Members jointly signing the notice, have exercised prudence in making assessment, and we believe that if the misbehaviour alleged in the motion is established, it would be adequate to make some people think that the Member in question should be disqualified.” The Investigation Committee considers that LegCo should consolidate the experience drawn from this investigation and conduct a review on the mechanism for the disqualification of a Member from the office, including the number of Members required to initiate a censure motion, what evidence and information Members have to put forward when initiating the censure motion, and whether a preliminary investigation should be conducted to establish whether there is a prima facie case.

Definition of “misbehaviour”

5.6 The Investigation Committee notes that when the Committee on Rules of Procedure (“CRoP”) of the First LegCo made rules in 1999 for putting in place a mechanism for implementing of BL 79(7), it had looked into what kinds of conduct of a Member would constitute “misbehaviour” as stated in that article, such that at least two-thirds of LegCo Members would consider that he or she should be disqualified from the office. CRoP learned that overseas legislatures had not drawn up an exhaustive list

of misconduct and each case was judged according to its gravity; and the acts involved in those cases were invariably related to the discharge of duties in the legislatures by their members. The major consideration was whether the misbehaviour has caused such serious disrepute to the parliament as to constitute contempt. After making reference to the practices adopted by overseas legislatures and local professional bodies, as well as consulting the views of LegCo Members then, CRoP concluded that it would be more appropriate for LegCo of the day to determine whether the BL 79(7) mechanism should be activated by the specific conduct, instead of prescribing what constitutes “misbehaviour” beforehand.

5.7 The Investigation Committee is of the view that the disqualification of a Member from the office is the most severe sanction that may be imposed on an individual Member, which is in effect tantamount to overturning the decision made by voters in an election, and hence prudence must be exercised. The Investigation Committee notes that no standards for the ethical conduct of Members have been laid down in the current RoP. The Committee on Members’ Interests of various LegCo terms had issued, under Rule 73(1)(e) of RoP, “Advisory Guidelines on Matters of Ethics in relation to the Conduct of Members of the Legislative Council of the Hong Kong Special Administrative Region in their capacity as such” (**Appendix 5.1**) (“Guidelines”) to Members at the beginning of each term to remind Members of the need to act prudently in order not to affect their credibility and legitimacy, and even those of LegCo as a whole. Paragraph 1 of the Guidelines clearly states that a Member should ensure that his conduct must not be such as to bring discredit upon LegCo. The Investigation Committee considers however that as the Guidelines is only advisory in nature, it serves only as a reference in the

event that it is necessary to make judgement on the conduct of a Member. The Investigation Committee is of the view that it is by no means easy for it to gauge the damage caused by the conduct of individual Members to the reputation of LegCo, and there could not be a generalization of the conduct involved. It is therefore by no means easy to formulate clear and explicit criteria for defining “misbehaviour”. Besides, while BL 79(7) has not explicitly stipulated that “misbehaviour” should cover only the conduct of Members in the discharge of their duties as Members, the Investigation Committee is of the view that the mechanism in question should not be applicable to conduct purely related to a Member’s personal or private life, unless such conduct seriously affect the reputation of LegCo as a whole.

5.8 As the Investigation Committee has only investigated one case of alleged misbehaviour against a Member and, based on which, expressed its views, it considers that that could not form the basis for proposing a list of misbehaviours or a set of criteria for determining whether a specific conduct constitutes “misbehaviour” on the basis of one case only.

The mechanism for handling misconduct of varying gravity

5.9 The Investigation Committee is of the view that what the current RoP is most in need of is a comprehensive mechanism for handling complaints against Members’ misconduct of varying gravity.

5.10 According to RoP, if a Member fails to comply with Rule 81 (Premature Publication of Evidence), he may be admonished or reprimanded by LegCo on a motion to that effect. If a Member fails to comply with Rule 83 (Registration of Interests), 83A (Personal Pecuniary

Interest to be Disclosed), 83AA (Claims for Reimbursement of Operating Expenses or Applications for Advance of Operating Funds) or 84(1) or (1A) (Voting or Withdrawal in case of Direct Pecuniary Interest), he may be admonished, reprimanded or suspended by the Council on a motion to that effect. As for complaints against other misconduct of a Member, the only way to handle such cases is to activate the mechanism for the disqualification of the Member from the office under BL 79(7).

5.11 In dealing with a Member who has committed misconduct under the mechanism mentioned above, LegCo may only choose between disqualifying the Member from the office and not imposing any sanction at all, and there is no other form of sanction. LegCo is facing a dilemma: if the disqualification of a Member from the office, which is the ultimate and only sanction, is imposed regardless of the gravity of his misconduct, it may be excessively severe; on the contrary, if no sanction at all is imposed on account of the fact that the gravity of the misconduct in question does not warrant the disqualification of the Member from the office, it could give rise to public perception that LegCo is shielding the Member in question, thus undermining the credibility of LegCo.

5.12 The Investigation Committee notes that under the current mechanism stipulated in Rule 49B(1A) of RoP for disqualification of Members from the office, upon the moving of a censure motion by a Member jointly with three other Members, the only procedure under which the commencement of investigation may be blocked is that a motion of not referring the matter stated in the censure motion to an investigation committee (“non-referral motion”) is moved by any Member under Rule 49B(2A) of RoP, and that the motion is passed by LegCo. Immediately

upon the moving of a motion to censure Hon KAM Nai-wai by Hon Miriam LAU, Hon Paul TSE moved a non-referral motion and his reasons included: even if the allegations set out in the censure motion were substantiated, the misconduct of Mr KAM was not so serious as to warrant disqualification of him from the office, and thus no investigation should be commenced. However, there were Members who considered that members of the public would have no way of knowing the truth if the matter was not investigated and left unresolved, making it difficult to do justice to those persons concerned. The non-referral motion was subsequently negated, which showed that the Council did not agree that the commencement of an investigation on the alleged misconduct of Mr KAM should be blocked pursuant to the above procedure. As a matter of fact, the above procedure was made by CRoP of the First LegCo to enable LegCo to decide not to commence an investigation on frivolous or vexatious allegations; it is not a procedure for blocking an investigation into allegations of misconduct of lesser gravity.

5.13 The Investigation Committee considers that the situation mentioned above has emerged because LegCo has not formulated an appropriate mechanism for handling complaints and put in place proportionate sanctions (e.g. issuance of warnings) for misconduct which is not so serious as to warrant the disqualification of the Member in question from office.

5.14 The Investigation Committee understands that the establishment of a mechanism for handling complaints against Members' misconduct has always been a controversial issue. On 19 July 1995 and 3 April 1996 respectively, the former LegCo twice debated a resolution to

authorize the Committee on Members' Interests to monitor the conduct of Members, but both resolutions were negatived. The Investigation Committee considers that with the change of time, LegCo should consider afresh the need to review the current mechanism in order to ensure that there are appropriate mechanisms and proportionate sanctions for dealing with complaints against Members' misconduct of varying gravity, so as to safeguard the credibility of LegCo.

**Motion to censure Hon KAM Nai-wai
moved under Rule 49B(1A) of the Rules of Procedure
by Hon Miriam LAU Kin-yee
at the Legislative Council meeting
of Wednesday, 9 December 2009**

Wording of the Motion

That this Council, in accordance with Article 79(7) of the Basic Law, censures Hon KAM Nai-wai for misbehaviour (details as particularized in the Schedule to this motion).

Schedule

Details of misbehaviours of Hon KAM Nai-wai are set out below:

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

There were media reports on 4 October 2009 that Hon KAM Nai-wai dismissed his female assistant because of his unsuccessful advances to her. The female assistant was employed with public funds to assist him in performing his duties as a Legislative Council Member. At his press conference held on the same day, Mr KAM:

- (i) denied that he had made advances to his female assistant and did not disclose that he had expressed affection towards her; and
- (ii) denied that he had dismissed his female assistant because of his unsuccessful advances, and pointed out that the employment contract with his female assistant was terminated by giving one-month payment in lieu of notice which was in accordance with the employment contract, but did not mention that he had expressed affection towards her.

However, after the media subsequently reported that he had actually made advances to his female assistant, Mr KAM admitted on 6 October 2009 on a radio programme that he had expressed affection towards his female assistant when he was alone with her on one occasion in mid-June 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

In mid-June 2009, Hon KAM Nai-wai expressed affection towards his female assistant. Subsequently, he noticed some signs of his female assistant rejecting him. Between early September and mid-September 2009, Mr KAM invited his female assistant to dine out and was also refused by her. Subsequently on 24 September 2009, he terminated the employment contract with his female assistant with immediate effect without reason assigned, although her overall work performance was judged by him to be good.

**Rules in the Rules of Procedure
related to the processing of censure motions**

* * * * *

30. Manner of Giving Notice of Motions and Amendments

(1A) Notice of a motion moved under Rule 49B(1A) (Disqualification of Member from Office) shall be signed by the Member wishing to move the motion and 3 other Members.

38. Occasions when a Member may Speak more than once

(1) A Member may not speak more than once on a question, except –

- (a) in committee of the whole Council; or
- (b) as provided in subrule (2); or
- (c) in explanation as provided in subrule (3); or
- (d) in the case of the mover of a motion, in reply at the end of the debate on the motion; or
- (e) *(Repealed L.N. 86 of 2000)*
- (f) upon a Member's motion as provided in subrule (8); or
- (g) with the leave of the President.

40. Adjournment of Debate or of Proceedings of a Committee of the Whole Council

(6A) A debate adjourned under the provisions of Rule 49B(2A) (Disqualification of Member from Office) shall be resumed at the earliest meeting of the Council at which normal business is transacted after the report of the investigation committee has been laid on the Table of the Council.

49B. Disqualification of Member from Office

(1) A motion to relieve a Member of his duties as a Member under Article 79(6) of the Basic Law shall be moved in the following form:

“That whereas (name of Member) was convicted on (date) in (court) in (place) of a criminal offence(s) and was sentenced on (date) by (court) to imprisonment for one month or more (as particularized in the Schedule to this motion), this Council relieves (name of Member) of his/her duties as a Member of the Legislative Council.”.

(1A) A motion to censure a Member under Article 79(7) of the Basic Law shall be moved in the following form:

“That this Council, in accordance with Article 79(7) of the Basic Law, censures (name of Member) for misbehaviour/breach of oath under Article 104 of the Basic Law/misbehaviour and breach of oath under Article 104 of the Basic Law (details as particularized in the Schedule to this motion).”.

(2) No amendment may be moved to a motion moved under subrule (1) or (1A).

(2A) Upon the moving of a motion under subrule (1A), debate shall be adjourned and the matter stated in the motion shall be referred to an investigation committee unless the Council, on a motion which may be moved without notice by any Member, otherwise orders. If the latter motion is agreed to by the Council, no further action shall be taken on the motion moved under subrule (1A).

(3) The passage of a motion moved under subrule (1) or (1A) shall require a two-thirds majority vote of the Members present.

(4) Where the Council has decided to relieve a Member of his duties or to censure a Member, the President shall declare forthwith that the Member is no longer qualified for his office.

73A. Investigation Committee

(1) An investigation committee required to be established under Rule 49B(2A) (Disqualification of Member from Office) shall consist of a chairman, a deputy chairman and 5 members who shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. The mover of the motion under Rule 49B(1A), the Members jointly signing the motion, and the Member who is the subject of the motion shall not be appointed to the committee.

(2) The committee shall be responsible for establishing the facts stated in the motion moved under Rule 49B(1A) (Disqualification of Member from Office), and giving its views on whether or not the facts as established constitute grounds for the censure.

(3) The quorum of the committee shall be 5 members including the chairman.

(4) Subject to subrule (5), all meetings of an investigation committee shall be held in camera.

(5) (a) Upon an election made by the Member who is the subject of the motion under Rule 49B(1A) (Disqualification of Member from Office), meetings at which a witness or witnesses appear shall be held in public, provided that such election is made before the first of such meetings.

(b) Notwithstanding an election made under paragraph (a), the committee may decide on sufficient reason, upon a request made by a member of the committee or an application made by a witness, to hold any such meetings or any part thereof in camera.

(6) In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence.

(7) The clerk to the committee appointed under Rule 6(7) (Duties of the Clerk) shall attend meetings of the committee and shall keep the minutes of proceedings of the committee.

(8) Divisions in an investigation committee shall be taken by the clerk to the committee who shall ask each member of the committee separately how he wishes to vote and record the votes accordingly.

(9) Neither the chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided in which case he shall give a casting vote.

(10) (a) A member of an investigation committee may bring a report for the committee's consideration. When all the reports have been brought up the chairman shall propose the reports in order until one is accepted as a basis for discussion, beginning with his own report and proceeding with the remainder in the order in which they were brought up. The question to be proposed by the chairman on a report shall be that the chairman's (or Mr.'s) report be read a second time paragraph by

paragraph. When this question has been agreed to, it shall not be proposed on further reports but portions thereof may be offered as amendments to the report under consideration if they are relevant to it.

- (b) The committee shall then go through the report paragraph by paragraph and when concluded, the chairman shall put the question that this report be the report of the committee to the Council.

(11) The minutes of proceedings of the committee shall record all proceedings on consideration of a report with a note of divisions, if divisions were taken in the committee, showing the names of members voting in the division or declining to vote.

(12) An investigation committee shall, as soon as it has completed investigation of the matter referred to it, report to the Council thereon and the committee shall be dissolved accordingly. The investigation committee may be revived to deal with any further matters arising therefrom by resolution of the Council.

(13) Subject to these Rules of Procedure, the practice and procedure of the investigation committee shall be determined by the committee.

80. Attendance of Witness

- (a) Any standing committee may summon, as required when exercising its powers and functions, persons concerned to testify or give evidence; and

- (b) the House Committee or a Bills Committee, Panel, select committee, investigation committee or any other committee, where so authorised by the Legislative Council, may summon, as required when exercising the committee's powers and functions, persons concerned to testify or give evidence,

but the Chief Executive may decide, in the light of security and vital public interests, whether Government officials or other personnel in charge of Government affairs should testify or give evidence before the Legislative Council or its committees.

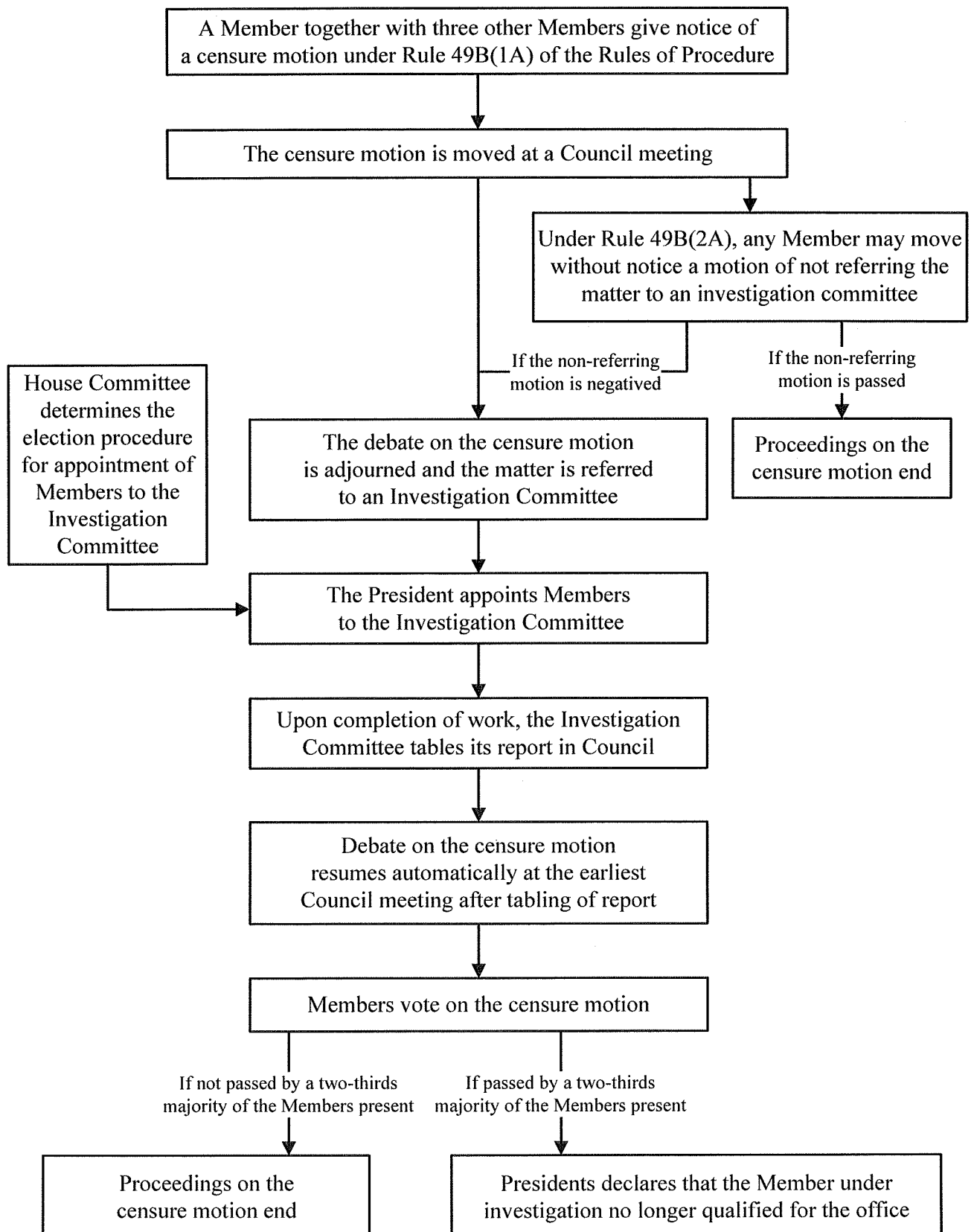
84. Voting or Withdrawal in case of Direct Pecuniary Interest

(1) In the Council or in any committee or subcommittee, a Member shall not vote upon any question in which he has a direct pecuniary interest except where his interest is in common with the rest of the population of Hong Kong or a sector thereof or his vote is given on a matter of Government policy.

(1A) In the Council or a committee of the whole Council, a Member shall withdraw when a vote is taken on a question in which he has a direct pecuniary interest except where his interest is in common with the rest of the population of Hong Kong or a sector thereof or his vote is given on a matter of Government policy.

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Flow chart on the mechanism for the disqualification of Members from the office under Article 79(7) of the Basic Law



**Verbatim transcript of the proceedings of agenda item XII
of the 32nd House Committee meeting
in the 2008-2009 Legislative Council session
held at 2:30 pm on Friday, 9 October 2009**

出席委員 Members present :

劉健儀議員, GBS, JP (內務委員會主席)	Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
李華明議員, SBS, JP (內務委員會副主席)	Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
何俊仁議員	Hon Albert HO Chun-yan
何鍾泰議員, SBS, S.B.St.J., JP	Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
李卓人議員	Hon LEE Cheuk-yan
李國寶議員, 大紫荊勳賢, GBS, JP	Dr Hon David LI Kwok-po, GBM, GBS, JP
吳靄儀議員	Dr Hon Margaret NG
涂謹申議員	Hon James TO Kun-sun
張文光議員	Hon CHEUNG Man-kwong
陳鑑林議員, SBS, JP	Hon CHAN Kam-lam, SBS, JP
梁劉柔芬議員, GBS, JP	Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
梁耀忠議員	Hon LEUNG Yiu-chung
黃容根議員, SBS, JP	Hon WONG Yung-kan, SBS, JP
劉江華議員, JP	Hon LAU Kong-wah, JP
劉皇發議員, 大紫荊勳賢, GBS, JP	Hon LAU Wong-fat, GBM, GBS, JP
劉慧卿議員, JP	Hon Emily LAU Wai-hing, JP
鄭家富議員	Hon Andrew CHENG Kar-foo
譚耀宗議員, GBS, JP	Hon TAM Yiu-chung, GBS, JP
李鳳英議員, BBS, JP	Hon LI Fung-ying, BBS, JP
張宇人議員, SBS, JP	Hon Tommy CHEUNG Yu-yan, SBS, JP
陳偉業議員	Hon Albert CHAN Wai-yip
馮檢基議員, SBS, JP	Hon Frederick FUNG Kin-kee, SBS, JP
余若薇議員, SC, JP	Hon Audrey EU Yuet-mee, SC, JP
方剛議員, SBS, JP	Hon Vincent FANG Kang, SBS, JP
王國興議員, MH	Hon WONG Kwok-hing, MH
李永達議員	Hon LEE Wing-tat
李國麟議員, SBS, JP	Dr Hon Joseph LEE Kok-long, SBS, JP
林健鋒議員, SBS, JP	Hon Jeffrey LAM Kin-fung, SBS, JP
梁君彥議員, SBS, JP	Hon Andrew LEUNG Kwan-yuen, SBS, JP

梁家傑議員, SC
張學明議員, GBS, JP
黃定光議員, BBS, JP
湯家驊議員, SC
詹培忠議員
劉秀成議員, SBS, JP
甘乃威議員, MH
何秀蘭議員
林大輝議員, BBS, JP
陳克勤議員
陳茂波議員, MH, JP
陳健波議員, JP
陳淑莊議員
梁美芬議員
梁家騮議員
張國柱議員
黃成智議員
黃國健議員, BBS
黃毓民議員
葉偉明議員, MH
葉國謙議員, GBS, JP
葉劉淑儀議員, GBS, JP
潘佩璆議員

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

缺席委員 Members absent :

黃宜弘議員, GBS
霍震霆議員, GBS, JP
石禮謙議員, SBS, JP
梁國雄議員
李慧琼議員
謝偉俊議員
譚偉豪議員, JP

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

列席秘書 Clerk in attendance :

內務委員會秘書
甘伍麗文女士

Mrs Vivian KAM
Clerk to the House Committee

列席職員 Staff in attendance :

秘書長 吳文華女士	Ms Pauline NG Secretary General
署理法律顧問 張炳鑫先生	Mr Arthur CHEUNG Acting Legal Adviser
助理秘書長 1 李蔡若蓮女士	Mrs Constance LI Assistant Secretary General 1
助理秘書長 3 林鄭寶玲女士	Mrs Justina LAM Assistant Secretary General 3
助理秘書長(特別職務) 馬朱雪履女士	Mrs Percy MA Assistant Secretary General (Special Duty)
高級助理法律顧問 1 馮秀娟女士	Ms Connie FUNG Senior Assistant Legal Adviser 1
署理首席議會秘書(總務) 劉國昌先生	Mr Andy LAU Acting Principal Council Secretary(Administration)
首席議會秘書(申訴) 湯李燕屏女士	Mrs Sharon TONG Principal Council Secretary (Complaints)
公共資訊總主任 黃永泰先生	Mr Simon WONG Chief Public Information Officer
總議會秘書(2)6 梁慶儀小姐	Miss Odelia LEUNG Chief Council Secretary (2)6
總議會秘書(3)1 梁紹基先生	Mr Arthur LEUNG Chief Council Secretary (3)1
助理法律顧問 2 曹志遠先生	Mr Timothy TSO Assistant Legal Adviser 2
助理法律顧問 4 林秉文先生	Mr Stephen LAM Assistant Legal Adviser 4

助理法律顧問 5 鄭潔儀女士	Miss Kitty CHENG Assistant Legal Adviser 5
助理法律顧問 6 顧建華先生	Mr KAU Kin-wah Assistant Legal Adviser 6
助理法律顧問 7 盧詠儀小姐	Miss Winnie LO Assistant Legal Adviser 7
助理法律顧問 8 易永健先生	Mr YICK Wing-kin Assistant Legal Adviser 8
助理法律顧問 9 譚淑芳女士	Ms Clara TAM Assistant Legal Adviser 9
高級議會秘書(2)3 余蕙文女士	Ms Amy YU Senior Council Secretary (2)3
高級議會事務助理(2)1 李志榮先生	Mr Ringo LEE Senior Legislative Assistant (2)1
高級議會事務助理(2)3 張慧敏女士	Ms Anna CHEUNG Senior Legislative Assistant (2)3
議會事務助理(2)8 簡俊豪先生	Mr Arthur KAN Legislative Assistant (2)8

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XII. 甘乃威議員的助理被解僱事宜

Dismissal of Hon KAM Nai-wai's assistant

(當值議員會議召集人葉劉淑儀議員於2009年10月8日致內務委員會主席的函件(立法會CB(2)2616/08-09(01)號文件))

(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))

(立法會CP1479/08-09號文件)

(LC Paper No. CP 1479/08-09)

主席：如果對此議程沒有其他意見，接下來是議程第 XII 項"甘乃威議員的助理被解僱事宜"，請甘乃威議員先發言。

甘乃威議員：主席，最近我終止一名助理合約的事宜，引起了很多市民大眾的關心與疑慮，我在此再次向公眾表示歉意。我相信大家會公平、公正地處理這件事情，我知道大家稍後會進行討論，決定究竟會否進行調查工作。如果大家決定進行調查工作，我是會全力配合大家有關的調查工作。接下來我將會避席，以方便大家討論。

主席：好，謝謝。李國麟議員，我知道你舉了手，但我要讓葉劉淑儀議員先發言，她是昨天當值議員的代表，因為是她要求把這討論事項加入今天的議程，故此先把時間交給葉劉淑儀議員。

葉劉淑儀議員：多謝主席。我代表昨天的當值議員，匯報有關我們處理投訴甘議員事件的一些建議。首先，在投訴方面，由 10 月 5 日至今中午，申訴部共收到 18 份意見書及 19 位市民來電，其中有關誠信方面有 17 次意見；有關性騷擾方面有 6 次意見；有關不合理的僱傭方面有 5 次意見；要求立法會調查有 18 次意見。

本週當值議員有 6 位，除了梁劉柔芬議員不在香港，我們 5 位——李華明議員、李國麟議員、劉江華議員、張國柱議員——昨天討論了這件事情。經我們詳細研究市民的意見及要求後，認為有廣泛的公眾關注，立法會是有基礎跟進的。市民主要有 3 個關注要點：第一，市民希望查明涉及性騷擾的指控是否屬實；第二，事件所牽涉的助理是否由公帑所聘請的職員，因為事件牽涉的助理是由公帑所聘請的職員，市民關注到解僱過程有否涉及不當使用公帑，以及解僱的理由是否合理；第三，市民亦關注牽涉議員誠信的問題。我們的結論認為有理由需要跟進，經過詳細討論及考慮過法律意見後，我們認為市民意見所涉及的事宜都屬於較嚴重，直接與立法會的聲譽有關，所以立法會應該跟進。

由於議員個人利益監察委員會的職權範圍，包括制訂有關議員操守的指引，所以委員會在這方面具備相當的經驗，把有關個案交付該委員會跟進較為恰當。此外，由於議員個人利益監察委員會的調查權，並不適用於涉用議員操守的投訴個案，我們建議立法會通過決議，賦權給議員利益監察委員會就此事件展開調查，並向立法會提交報告，多謝主席。

主席：好，謝謝。有同事要求發言，首先是李國麟議員。

李國麟議員：多謝主席。我是昨天其中一位出席的議員，我想就第 11 段作出澄清。以我理解，我們在第 11 段提出的 3 項建議 —— (a)、(b)及(c)項建議中，據我的理解，(a)項應寫為"當值議員認為，有關意見所涉及的事宜性質嚴重，直接與立法會信譽有關，故應交由立法會內會討論如何跟進"，以我的理解我們昨天的建議是這樣的，而不是現時的寫法，這是第一件事；另外，(b)項中"由於議員個人利益監察委員會的職權範圍是包括制訂有關議員操守的指引，所以委員會在這方面具備相當經驗，及把有關個案交付委員會跟進"，這個是"可以是其中一項選擇"，這是我記得我們昨天對(b)項的建議寫法；至於(c)項我們是有討論過，但並不在於建議之列。我想同事在討論這事項之前 —— 在我的記憶當中，我記得我們昨天的建議與這份文件的寫法有些出入，故此，我想作出一些補充與澄清，多謝主席。

主席：好，葉劉淑儀議員對(a)、(b)項.....其實(c)項可能未必需要討論但亦要寫出來，因為要談談議員個人利益監察委員能否去做的問題。

李國麟議員：關於我們的建議，以我昨天的記憶這個並不是我們的建議，我們曾經討論過的事情與建議的事情，以我理解在字眼上是不同的，所以我想作出澄清，謝謝。

主席：也許我把時間交回葉劉淑儀議員澄清。

葉劉淑儀議員：嗯.....李議員的澄清亦是恰當的，其實他所說的比文件紀錄更準確。

主席：好，所以建議其實都是很技術性的.....

葉劉淑儀議員：是，其實都是交由立法會內會討論。

主席：.....都是交由立法會內會處理究竟如何跟進，以及"交付議員個人利益監察委員會較為恰當"改為"可以是其中一個考慮"。因為，當然來說，我們內會是可以決定事件是否交到議員個人利益監察委員會，又或者我們另定一個委員會，包括小組委員會或成

立專責委員會等，都是我們可以商討去選擇的。

葉劉淑儀議員：主席，我只澄清多一句。我們昨天開會時都是一致同意要交回內會討論。內會的考慮範圍當然不只局限於我們的建議，只是沒有寫明出來。

主席：好，謝謝。吳靄儀議員。

吳靄儀議員：多謝主席。今次在第 11 段的(a)、(b)、(c)項中，我想都是說這事宜性質嚴重，立法會應該跟進，大家都應該沒有太大意見。但是對於跟進機制，我對(b)段及(c)段則非常有意見。因為，第一，你指控一位議員操守的問題，是行為不檢，這是一項非常嚴肅的指控，應該很嚴肅地處理，應該用我們既定的機制來辦事，除非我們沒有既定的機制。

議員個人利益監察委員會的調查權不涉及這個範圍，是大家都同意的，即使第 9 段第 73(1)(d)條中，談到"議員身份所作行為的操守標準事宜"，這個亦是一般原則性，與調查個別議員無關。所以我認為以議員個人利益監察委員會現時沒有的權力，因為一件事情一個議員硬要加一些權力，把它的權力改變，我認為是極不適宜的。

主席，至於調查.....如果大家想成立一個調查委員會，我們現時的《議事規則》已經有這樣的程序，就是我們第 40.....《議事規則》，請各位議員看一看，我們《議事規則》第 49B 條中就是譴責議員。既然有一個如此嚴肅的指控，我認為應該有一個嚴肅的程序，就是應該有人在立法會上動議這位議員 —— 這是第 49B(1A)條中 —— 因為這位議員行為不檢，並且用一個附表列明他是如何行為不檢，然後提出再交由內會成立一個小組委員會去調查這件事情。如果指控成立的話，便交由議員.....如果經三分之二的議員通過譴責這位議員，這位議員便應該被取消資格。如果大家認為指控不成立的話，便要還這位議員一個清白，這件事以後就是這樣解決。

主席，所以我覺得我們已經有一個現有機制 —— 一個公平的機制 —— 就是你指控別人行為不檢，的確要說清楚是基於甚麼去指證別人行為不檢。至於查明，是由公正的聆訊及公正的調查委員會去查明，然後成立抑或不成，然後再由大會經投票通過，這是最正確的方式。如果沒有人願意指控或者沒有人能夠說清楚這位議員是哪方面"唔妥"，你便要調查看看有甚麼"唔妥"，然

後又不知道結果會是怎樣的。"妥與唔妥"，之後又要怎樣呢？所以我認為這是令人非常不滿意的。

主席，今天我反對(b)項與(c)項，即是擴大議員個人利益監察委員會的權力，並且是在這樣的一個情況下，我們在過去數年，三番四次基於認為很容易會被利用作為一項政治工具而否決成立這樣的機制。如果我們今天在數小時內決定要這樣做，我認為是特別不適宜的。我們應該按照公平而既定的機制去做，要做任何的調查，我們都應該這樣進行。

主席：好。我想提醒大家，在《議事規則》第 49B 條中關於"取消議員的資格"，剛才吳靄儀議員指可以成立一個調查委員會，是根據《議事規則》第 73A 條，是有一個調查委員會的.....

吳靄儀議員：這是我們現時的機制下，唯一訂明可成立調查委員會去調查議員的操守。或者我順道再說，這與我們第 73 條的權力是分開的。專責委員會傳召證人那些事情，是我們七十三條之下的權力。

主席：不是，我談及的是調查委員會.....

吳靄儀議員：我知道，主席.....

主席：.....與取消議員資格有關的，不是.....

吳靄儀議員：.....不是，第 73 條是個人利益監察委員會，我們在說《基本法》。我的意思是，如果你要成立一個調查議員操守的委員會，唯一的機制就是第 49B 條，即是《基本法》的第七十九(七)條下的權力，是現有的權力。

主席：也許法律顧問或者秘書長可以幫助我們，有關於第 49B 條及調查委員會的適用問題。

秘書長：主席，剛才提及的第 73A 條，是《議事規則》第 73A 條.....

吳靄儀議員：我知道，我明白，我沒有弄錯，是……

主席：吳靄儀議員，請讓秘書長先說下去。

秘書長：……是與第 49B 條，是由第 49B 條中引申出來，假如有 1 位議員加 3 位議員提出動議，指某些議員基於某些情況應該喪失議員資格的話。當他動議後，根據我們的《議事規則》將要中止待續，隨即事件交給第 73A 條的調查委員會……

吳靄儀議員：是，是，主席，我沒有弄錯……

主席：她沒有說你弄錯，她澄清這個……

吳靄儀議員：……我剛才說的第七十三條，是《基本法》第七十三條之下……在《基本法》第七十三條之下，我們成立專責委員會——即是現時我們雷曼小組那些——是另外一回事。我知道你在第 9 段中所說的第 73 條，是《議事規則》第 73 條。所以我沒有調亂兩件事情，請大家不要混淆，我仍然是說我們現時是有《議事規則》去成立小組委員會，調查一位議員的行為不檢的指控。

秘書長：……調查委員會，是。

主席：法律顧問，對於第 49B 條及第 73A 條的適用性有沒有補充？

法律顧問：主席，我只是想確實指出第 73 條——正如剛才議員所說——其實第 73 條以現時寫法，議員個人利益監察委員會的職權範圍，應該不包含特定一次去到調查今次事件……

吳靄儀議員：是……

主席：明白，明白……

法律顧問：……所以我相信在葉劉淑儀議員的文件中，即是秘書處關於……

主席：不是，法律顧問……

法律顧問：……說了需要特別授權，至於……

主席：法律顧問，可否說說現時如果不採用當值議員的建議，用第 49B 條來做，可以嗎？

法律顧問：用第 49B 條來做當然可以，但大前提是先要有人提出一個 motion，一個議案。根據《基本法》第七十九(七)條，要譴責一位議員，這是一個啟動的機制，而不可以直接去啟動一個調查，要先有議員進行這動作才可以的。

吳靄儀議員：是……是。主席，我可否澄清一點，就是……

主席：有很多同事……可以，你澄清吧。

吳靄儀議員：我很簡單澄清一點，開宗明義，指責一個議員、一個立法會議員行為不檢，是一件很嚴肅的事。因此，要啟動機制，必定要有一個明確的指控。在 49B 條中，第一步就是要有明確的指控，根據該指控成立委員會，而指控成立與否，就由這個委員會去述明，然後再由大會投票。這是最公平、清晰、有了斷的一個方法。

主席：或者我們聽聽其他議員的意見，好嗎？吳靄儀議員。請馮檢基議員。

馮檢基議員：主席，我猜不到這麼快。主席，我自己有一個看法，上一次秘書處曾徵詢我們的意見，就是議員個人利益監察委員會應否處理一些我稱為道德問題的範圍，即擴闊這個委員會的權力。當時的諮詢，我是不同意的，因為我覺得道德的事每個人都可以不同的。我們 60 個議員，可以有 60 個不同標準，由很寬鬆至很嚴謹、很保守也可以。如果有一個議員做了一些事情後，由

不同標準道德觀念的人來判斷我們或者認為他涉嫌做錯了一些道德事件，然後投票決定這個人是否做錯，這是非常危險的。

第一，道德標準大家有所不同；第二，可以把政治的想法滲入道德標準，這樣就更加危險；第三，因為以投票決定，而投票本身講求數量，就數量而言，今天我們沒有執政黨，但卻有建制派、泛民派，很多時建制派多過泛民派，就算建制派都會出現一個問題，就是可能會不公道。有何不公道呢？如果建制派要"弄死"那個人，便以多數票投贊成，那便會通過了。但是，有時建制派為了顯示他們是公道的，原本贊成的卻投反對票。我們亦見過一些情況，便是有些建制派的委員會主席，較一些泛民派主席為寬鬆，當他們執行《議事規則》時。情況可能是，他們看到泛民派時，便要刻意嚴謹一些。在這情況之下，很難判斷投票的結果，便能客觀反映這個人做得對還是錯，所以我一直反對議員個人利益監察委員會擴充權力。

第二個問題我要提出的是，如果我們這個委員會不擴權，於是為了某件事，又要動議一些特別權力架構來處理某個議員的問題，於是又會出現一些問題，為甚麼有人舉出中指，我們又不成立一個委員會呢？有些議員被拍下與一些女士行街看戲去酒店，我們又不成立一個委員會呢？再說得俗一點，有人說粗口，又是否要成立一個委員會呢？這些都是道德問題。所以，從我的角度看，道德問題不應由議會，以一個由不同議員審判的做法來處理這些問題。除非他犯法，犯法便很清楚了，就交由有關執行法例的部門處理。因此，我不同意將議員個人利益監察委員會職權範圍擴大，或者特別為一宗個案而作出擴權。

主席：OK，劉江華議員。

劉江華議員：主席，首先，馮檢基議員剛才提及泛民派與建制派，我覺得不應牽涉在此，事關我們是談原則性的問題。昨天討論的過程中，最後的結論其實大家是一致的。在一致之前，其實大家曾傾談很多方案，包括剛才談及應否擴權的問題。過往利益監察委員會也曾有幾次個案，發覺是不應這樣做的，這是完全明白的，大家也知道的。但是，大家有一個比較共通點，就是這件事是有一個調查，原因不是道德上的問題，而是議員的操守；而且，如果用公帑聘請一個議員助理，但一位議員——無論甚麼原因也好，事關我不想太詳細論述，只希望有個調查——無論以甚麼原因，包括私人感情、私人利益，去解僱一個用公帑聘請的立法會助理，從公帑運用的角度看，這是否行為不當呢？從這個角度看是比較重要的。當然，第三方面，便是誠信問題。從這幾個角

度看，大家覺得是須要調查的，而從社會或市民的角度，亦覺得立法會應進行調查。在這情況之下，建立之後，就是交往哪裏？這是最重要的，我們想過幾個方面。剛才吳靄儀議員跳到去取消議員資格，我們的確是沒有討論過，而市民的投訴亦沒有提到此點，所以我們沒有觸及。是否一跳便要跳到如此極端，按這項條文去處理呢？甚至說到要取消議員資格呢？在未有調查，未知道真相之前，在議會中，我覺得任何人也不會跳至這一步。所以，用這個方法，我覺得未必適當。

如果好像調查梁展文般進行調查，是否可以成立 Select Committee 專責委員會呢？這也討論過的。有些議員說，這好像過度嚴重了，但嚴重的程度在調查之前又不知道。所以，最後來說，由於監察委員會有經驗，事實上有討論過操守的問題，不過只是訂定指引而已。如果用一些個案去看這些指引，或者用指引來看個案，在這個委員會可能是最恰當的。就場合來說，大家較為一致，覺得這是比較適當的。

當然，最後是由內會決定，而我自己覺得，一跳就跳到引用取消議員資格的條文的做法並不恰當，但如果用專責委員會或利益監察委員會處理，我們認為都是沒有問題的。可是，似乎很多黨派在議會外，其實也是很一致的，我聽到很多議員也說要調查，立法會要獨立調查。但在立法會中，他們卻說不是，又這樣又那樣，我覺得這樣便不太好了。

主席：湯家驊議員。

湯家驊議員：主席，我相信我們今天的討論，主要是關於制度上的問題，希望傳媒或其他同事不要誤會我們在討論甘乃威議員本身在案件中是對還是錯的問題。

主席，我與吳靄儀議員一樣，對於第 11 段當值議員的建議有非常強烈的保留。我希望當值議員不要覺得我們對他們有冒犯，但我覺得他們當日傾談時並不太詳細考慮這問題。主席，我有數點想說。第一，議員操守……即議員個人利益監察委員會中所指的操守指引，據我理解，是關乎公帑運用的操守指引。過去差不多每一屆都有人提議，我們應否將道德操守或誠信操守加入其中，而每一屆我們都是否決這建議的。否決這建議其實最根本的基礎，是我們覺得不應在議會內，只是透過簡單多數的意見便運用議會的權力，對另一個議員，特別是一個直選的議員，提出懲處或批評，我覺得這是非常危險的。我們都明白，這個議會有非常濃厚的政治色彩，當提及操守時，當然，大家可能會談及誠信

或道德，但大家也明白，當談及道德或誠信時，無錯，很多時會有事實的標準，但很多時亦有政治色彩，甚至是非常強烈的政治色彩。簡單如以前的例子，我們有同事用粗口手勢向市民表示不滿，亦有近乎粗口語言在議會上出現。這些事件可能很多人也覺得在道德上是有問題的，但背後卻有很濃烈的政治色彩。至於誠信問題，對不起，我覺得我們差不多每天也在討論誠信問題。上至特首，下至議員，很多時我們也覺得，有些人在議會上說的話和做的事，是非常不符合普通社會一般人所認為應有的誠信標準。如果提出這些問題，只是透過簡單的多數，便可決定這個議員的前途，並不是說一定要他辭職，即使沒有把他撤職，在議會上通過這樣的判決，他以後怎樣繼續當議員呢？其實，他的政治前途可能就此毀於一旦，是否要把他撤職，其實分別不大。

主席，我覺得最重要的……我不明白劉江華議員剛才所說的話，我不同意這是一跳便跳到很極端的處理方法。在我們目前的制度上，對不起，是沒有中間落墨的地方，我們亦曾在議事規則委員會討論過，我們是否應該有些中間落墨的地方，但我們亦否決了這個建議。原因何在呢？我個人覺得，這不是極端的處理方法，相反，這是個較為公平的保障。這個保障是，如果有人覺得我們的同事的行為非常不可接納，便根據《基本法》第七十三條提出。剛才吳靄儀議員完全沒有誤解問題所在，亦沒有忽視其他條文。我覺得重點是，不要將之看作是極端懲罰，而是一個公平保障的機制。為何我說是公平保障呢？主席，因為如果有人覺得很有問題，便由他提出議案吧。他提出議案時，必須白紙黑字寫清楚究竟是甚麼一回事。指責他道德上有問題，這是否只是說：“我對你有好感”，便是有問題呢？還是“我對你有好感”之外，也要有其他元素。這些要寫清楚出來，然後容許議員作答，不可以是“無厘頭”，放諸四海皆可的指控，否則他怎樣回應呢？

我們的議員完成調查後，把報告交予大會，由三分之二的議員通過。我覺得這是較為公平的做法，總好過單是少數多數的決定。很多時我們有很多會議，老實說，民主派永遠是少數的。如果今次這樣做，開了這樣壞的先例，將來可能是一個無底深潭。因此，我並不視之為極端的處理方法，反而我覺得這是保障議員的方法，亦是《基本法》承認的。在現行制度中，我們沒有其他制度。

主席，我不覺因為沒有其他制度，我們便要放寬一次，好像當值議員提議般，就算只是 for 這宗案件或 for 一個時間而擴大權力。我覺得為了這宗個案而開創這樣的先例，是非常不可接納的。

主席：好的，葉劉淑儀議員已第二次舉手，不過由於你是倡議人，

所以我將你的次序放到最後，好嗎？你作整體回應。

葉劉淑儀議員：好的。

主席：何秀蘭議員。

何秀蘭議員：多謝主席。我覺得議員個人利益監察委員會其實應該按照本身的權力範圍去做。我們看第 73 條，即《議事規則》第 73(1)條(a)、(b)、(c)、(ca)、(d)和(e)，當中就着議員的個人利益登記、編製、申報、制度等，並處理關於個人利益的投訴和辦事處開支。唯一與解僱事件有關的，便是(d)那裏，就議員的身份所作的行為和操守標準發出指引，但只是發出指引而已。其實，當大家或社會質疑，甚至認為有人違反這項指引時，應以《議事規則》第 49B 條來調查，因為該條已有很清晰的程序，亦提供處理渠道，而不是就這宗事件改變議員個人利益監察委員會的權力，這做法是不理想的。我希望大家……監察委員會唯一要做的，是看看這事件是否屬第 73(1)條的現行職權範圍內。如果是的話，那便可以進行調查，但如果與職權範圍無關，我便覺得這個委員會應有一個清晰的說法。如果尚有質疑，議會或議員其實可考慮用第 49B 條，按照《議事規則》訂明的現有程序來處理。

主席，其實這事件一直以來也沒有原告的出現，以往我們也提過，議會要否處理不具名的投訴，我是反對處理不具名投訴的，而第 49B 條亦提供一個空間，便是當大家發覺有些報道或一些文件，或者是傳言，質疑某位議員操守不當的時候，其實議員即我們議會的同事，任何一位也可以自己具名具姓為一些不想出頭的弱勢處理這件事、帶動這件事。但是，對涉嫌的那位議員要公道一點，因為你是需要具名具姓及具一些初步的理據去開啟這項調查，所以我希望大家考慮用第 49B 條，而議員個人利益監察委員會要做的就是，可能要多舉行一次會議，看看這件事是否屬於其職權範圍便可以了，多謝主席。

主席：劉慧卿議員。

劉慧卿議員：主席，民主黨很願意配合任何方面，很公平、公正及公開調查關於甘乃威議員的事件。我們現正聯絡外面的一些機構，希望可以做一個獨立調查，這是我們很清楚的立場。立法會如果想做而其做法亦是公開、公平及公正的話，民主黨一定會支持的，我自己都是這個監察委員會，我也是副主席，以及我們的

黃成智議員亦是成員，但如果最終立法會決定該委員會處理，我們兩人是不會參加的，因為我們有一個身份衝突，這是民主黨很清楚的立場。

但是，議員現在討論的事情我們當然也很有興趣聆聽，最終看看大家如何決定。我們亦留意到，有些當值的議員原來並非這樣建議的，我也希望弄清楚，即是一個甚麼的建議呢。同時，是否會大家覺得原則上現時這項建議都是會出現問題，這點我們會很留心去聽，我亦明白。其實以前，主席，你和我贊成增加其權力的，你和我也記得，你有一次還在哭，你說我們是牛，不過，牛做事也要有尊嚴的。但是，不支持就不支持，我們也接受了。但是，現時又建議一次過給它，那當然所以便扯起了有些同事條"筋"，這點我們是明白的。在這方面，我們聽聽大家的看法，即不同意見，我們是尊重的。

但是，我想問一問秘書處，因為其實很多事情經常收到投訴，就今次的做法，即為甚麼會這樣做，或者秘書長或秘書處告訴我們，因為以往很多事情你也收到數十宗投訴的。那麼，是否收到投訴，然後便找那個星期當值的議員召開一個會議，便決定拿到這裏，抑或這個是特別為這件事而召開一個會議的呢？秘書處也給我們解釋一下，因為我們很希望那個做法是很公正、公開及公平，以往的那些做法是怎樣，今次又是怎樣，即想大家知道，今次這個做法是跟以往一向一式一樣的做法，向我們解釋一下，我想瞭解一下。因為我做了當值議員很久，我不曾看見這種情況，所以，或者秘書長也解一解釋。如果稍後最終大家覺得是有一個公平的制度，我再說民主黨是會接受的。但是，如果議員覺得有某一種做法是很大問題，而第二種做法是很公道的，那麼，我相信大家也要聽清楚，哪一條路是最公開、公平及公正，但我想瞭解一下，秘書處今次選擇這樣做，是否其實每次收到很多投訴都是這樣做的，謝謝。

主席：秘書長。

秘書長：多謝主席。平時我們一收到一些市民寫來的信件或來電涉及議員的事宜譬如操守，因為當值議員的工作範圍原則上並不包括處理這些投訴；但是，因為我們也想這些意見議員能夠知悉，尤其是涉及立法會的譬如信譽或議員普遍的行為，所以我們便傳閱，每次一收到這些投訴，便給當值議員，即那個星期收到的投訴，便給該星期當值的那 6 位議員看，以往亦試過有議員就着某些的.....因為收到很多類似的信件要求我們作出一些分析，我們照做的，做完分析之後，便交回議員；有時候，當值議員就會說，

不如這些也給大家看，那麼，我們也按照當值議員的指示，把這些分析傳閱給大家看，亦有議員說.....

劉慧卿議員：主席，誰是大家？

秘書長：即所有議員。

劉慧卿議員：60 個？

秘書長：是的，也試過的。亦有議員認為，不要只得 1 個星期的那些去分析，而要求接着連續數星期的那些也做分析，我們亦按照議員的要求，亦有這樣做。至於是否開會，視乎當值議員有沒有要求開會，今次我們有兩位，即那 6 位議員中有兩位是要求開會的，所以我們便召集了今次的會議。由於當中涉及這些機制，所以我也通知了我們的同事特別做一份文件，就着剛才提過的這麼多種，譬如議員個人利益監察委員會、議事規則委員會，甚至第 49B 條的那些程序，我們全部寫出來的，提供給那 6 位議員參考，然後可作出討論，這個就是我們平時的機制。我們其實在剛才所說的機制以外，我們現時也有一些安排，假如當中涉及譬如他在說.....因為市民未必懂得分別我們的委員會，譬如議員個人利益監察委員會，他未必懂得寫，或者議事規則委員會，他也未必知道，如果我們知道是與某個委員會相關的話，我們都會把收到的投訴交給相關的委員會去看。

劉慧卿議員：主席，我想問清楚秘書長，因為依我記憶，這麼多年來，今次好像是第一次，是嗎？

秘書長：是的，要求開會是第一次。

劉慧卿議員：有些議員要求開會，甚至開完會要返回內務委員會，甚至有些建議去做，這是我做了十多二十年，第一次是議員提出這個要求。

秘書長：就着議員操守，這是第一次。或者我講一講，其實或者葉劉淑儀議員，都可以補充一下。其實昨天討論的時候，有議員覺得想問，當值議員可否自己去瞭解多點那事件，但我們亦向議

員解釋，因為這個當值議員的制度，是立法會內非正式處理申訴的一個制度，所以議員即使他們 6 位走在一起，是沒有一個調查權的，所以我們覺得當值議員如果自己想自己進行調查的話，似乎不是太恰當，這是我們向他們提供的一個意見。

主席：好的，黃毓民議員。

黃毓民議員：我是新丁，我又經常犯事，我又想問一下，即我有些疑慮，我要問一下，第二次犯事的時候，便要小心一點。(眾笑)
第一，申訴部是可以接受市民關於立法會議員的投訴，是嗎？

秘書長：主席，我可以回答嗎？

主席：秘書長。

秘書長：我們申訴部的職員收到所有市民的投訴，我們是會處理的。

黃毓民議員：我試過有些市民投訴我，但結果是沒有處理的。

秘書長：因為當值議員沒有要求。

黃毓民議員：是，當值議員為何不處理呢？(眾笑)

主席：秘書長答不到你的。

黃毓民議員：我已很多宗了，不是說"掙蕉"那些，"掙蕉"當然有的，他們發動了 70 多封，後來我又發動了 200 封，是嗎？回應他，接着……

主席：說回今次事件，好嗎？

黃毓民議員：……你做了分析，支持我"掙蕉"是多過反對我"掙蕉"

的，是嗎？那件事便沒事了，那些是政治的事情，大家都知道，對嗎？但是，亦有些人不滿意我做事情的作風，便到申訴部投訴，我也向申訴部及秘書處解了畫。譬如我試過有一宗個案，這個人已經很多次的了。我有一名職員處理一些業主立案法團的事情，OK？當然這些全部都是利益衝突的事情，所以社民連我們的職員每個都怕被人斬的，因為那些裝修的開不到工，又入你的帳，對嗎？這些其實很多議員也處理過，業主立案法團的主席已三番四次去投訴我，OK？我想你也知道，你們說不成立，我們無法處理投訴議員那些事情，於是便把那封信交給我，我寫回一些東西去解釋為甚麼我們即.....我們回應他所謂的投訴，就此而已，是嗎？但是，如果按照這個標準，為甚麼那些人不"搞"我的呢，對嗎？已經這麼多次了。

主席：沒有人答到你這個問題，黃毓民議員。

黃毓民議員：是嗎？接着我便要說了，是嗎？現在甚麼事呢？你現在是要求擴權，而且這個擴權可能是一次，但有一次便有第二次的了，你這個建議，在第 11(c)段說："由於議員個人利益監察委員會的調查權並不適用涉及議員操守的投訴個案，當值議員建議立法會通過決議，賦權予議員個人利益監察委員會，就此事件展開調查，並向立法會提交報告。"這個是擴權，也是一次過擴權，那好了，開了這個例，以後也可以的，對嗎？今日吾軀歸故土，他朝君體也相同，是嗎？如果你覺得是可以，那便行了，這是一個問題，大家要考慮清楚，是嗎？你是否可以通過一個這樣的做法，然後一次過擴權。反而吳靄儀議員提出的那個意見我覺得值得支持，那你便在那裏做一個機制，那個做起點，是存在的，是嗎？我們如果給人.....上次是不夠數而已，民主派不夠"薑"，不然我已 out 了，被人罷免了，對嗎？30 位建制派議員譴責我，而他們這些又不敢簽名，如果他們也簽名的話，便變成一項動議，我便"瓜得"，3 個已經不在這裏，不過補選回來的，對嗎？即有一個機制存在的，是嗎？

還有，現時你收到 6、7 名市民的投訴而已，然後他們的投訴全部是根據報章的報道而已。根據報章的報道，之後他作出判斷，接着便投訴你為何不處理這件事而已，請問為甚麼我們可以這麼粗疏呢？是嗎？這是很重要，是大家要考虑的問題，是嗎？我和他也沒甚麼親戚關係，很少來往的，是嗎？如果一個男人溝不到女，又反面，即與鄉間惡少沒有分別，是嗎？如果查明是事實，公眾自然有一個判斷，但現時沒有一個具體罪名的指控，"老兄"。性騷擾便去平機會，平機會成了案，我們便譴責他，接着罷免他，是很簡單的。誠信有問題，說話前言不對後語，哪一句前言不對

後語，找全部證人出來，是嗎？求愛和表示好感的差別在哪裏，便找專家、語言學家來證明一下，對嗎？老實說，你的指控何在、具體罪名何在，希望大家弄清楚，如果你不弄清楚，便很浪費時間，本來我剛才打算今天不發言的，你明不明白？就走了出去，因為我覺得"噉氣"。

主席：我想也要在時間上有點控制，好嗎？現在我手頭上還有1位、兩位、3位、4位議員未曾發言，有兩位要發言第二次，是3位發言第二次，我想討論也差不多了，因為我們要再決定，就是接着如何.....5位，也寫下劉江華議員第二次發言、葉偉明議員第一次發言、陳偉業議員第一次發言，OK，我在這裏劃一條線，好嗎？還有，梁劉柔芬議員第一次發言。那麼，我們便劃一條線，好嗎？因為也要再討論，究竟是哪個模式，要有一個取決的。全部寫下了嗎？接着是梁美芬議員。

梁美芬議員：多謝主席。我想首先講一講，我剛才聽到馮檢基議員再三用建制派、泛民來看今次對這件事的討論，我認為是絕對沒有邏輯的，而且也表現出他們非常缺乏安全感。我希望其實真的在這件事中，絕對不會分建制派或泛民。我覺得更加不同意湯家驊議員所說的，特別因為他是直選議員我們更加要認真，是否直選議員或功能組別的議員都一樣要這般認真。我反而覺得，事實上在這個問題上的看法，男性與女性的看法，可能是有不同。正正在上星期，我才與我們議會內的某些男同事說，我說你們說笑，你有時候要注意一下，我自己在大學便處理過不少性騷擾的案件，眼神也可以中招，眼神就中招了。所以我提過，我想有些男議員聽過我說，我說最要緊的是看那個受眾的感受，如果我自己看這個判斷，其實我一直我是沒有怎樣發言，直到昨天，我接到數個電話，說："梁議員，我怕你明天不發言，因為我在報章還未看到你的發言。"我通常在這些情況，我不是隨便發言，我覺得對所有人也要公道。但是，他們說很怕你們立法會，就是因為怕你們大家也怕日後自己也如是，大家總之"為威畏"，便不會再調查，是要求我表達。所以，我亦是受我的支持者所託，我是表達我的意見。我認為在這件事當中，真的不是政治分歧，男性和女性看這問題是有分別的，但是否一定調查出來就是有問題呢？可能有，可能沒有。不過，我自己也嘗試很公道去看這個問題，看報章我倚重現時僅有披露的消息，主要都是其實對泛民友好的報章，以及民主黨自己在收音機，或者甚至甘乃威議員自己講出來的，有幾點我覺得是認為女事主的反應，我覺得值得瞭解：第一，她認為是非常之反感，因為我處理過這些案件，當那個女子非常反感，甚至採取行動去投訴，這件事相對來說，分量是重過就這樣說笑的，這個是說我的經驗；第二，這個真是上司與下屬的關

係，這個女事主不是一般的人，她可能是一位成熟、工作、甚至在傳媒有一定經驗的人；第三，這個我完全不知道——都是披露出來——就是說真的牽涉到解僱的時候有補償，而那補償是用作一個和解。那麼，如果是牽涉到性騷擾，是否可以這樣呢？這些我真是……我自己在觀察中，我認為當中的確是有一些疑點，我亦盡量聽了能夠獲取的資料。而事實上，我相信反而我們立法會能夠調查，給公眾的印象，我們是正面一點，他們就是……我收到的電話就是，估計我們最後談完一輪，是會找一些藉口、程序，便不作聲。我亦一直真的沒有高調談論過這件事，直至現在，所以我自己認為……我也不是很熟悉，我想聽秘書處和法律顧問的意見。

第一，其實在這個階段，我不是……即是我自己都不覺得這件事是否一定查了出來，便要去到取消議員的資格。但這件事的真相，尤其是女事主，她其實應該出來將這件事勇於說出真相。而該真相未必一定要公開，可以是 *in chamber*，即是閉門會議，去相信調查的人是公道。

第二，我們立法會要表現出來，我們對這件事都是要公道，即是如果你找個難度如此高，要三分之二，甚至剛才我聽到，(1)用直選及功能組別來分大家的看法；(2)用建制及泛民來分這個看法，我認為這樣根本是非常不理性地討論這個問題。我認為大家其實要面對的就是，可能如果一般這件事在我們大學，我們不會這樣做，或者在一間機構，牽涉到上司和下屬，你始終都要去處理。但是，現在因為已經討論到全部張揚出去的地步，甚至香港看着我們怎樣處理。我認為我們應該正視這個問題。所以，我想瞭解一下，如果那兩個委員會，譬如說不去到取消資格那個程序，又或者不是現時委員會可以做。我們是否可以在內會，特別成立一個委員會去調查這件事。我想請問一下而已。

主席：秘書長。

秘書長：好的，主席。在早上的當值議員會議中，是有看這方面的，就是除了議員個人利益監察委員會之外，還有沒有其他委員會可以做。其實當時亦有考慮過專責委員會或在內務委員會轄下成立一個小組委員會，其實這些全都是考慮過的。當時的看法就是，如果你是要……因為這始終都要到大會做一個授權，尤其是如果涉及到需要調查的話，或許可能要取一個傳召權的話，那麼，你更加是要……就算是內務委員會轄下的小組委員會，都可能要這樣。不過，昨天也有議員提到，也不一定需要，即你可以只是調查，也未必一定要取傳召權。但是，我們當時為何……議員都會有

一個共識呢？就是議員個人利益監察委員會都會是一個適當的委員會去承擔這工作，那主要是說，如果你要成立另外一個委員會時，可能它的工作範圍會與一個現時已有的委員會的工作範圍內容有重疊的地方。再加上，議員個人利益監察委員會以往亦就着幾宗議員操守事件作過一些討論。因此，將現時的指引更改、更新。如果是透過一些調查的話，亦有可能幫助日後在寫指引的時候，也可以作適當的修改，即這是說相關的問題。所以便覺得，還是交回內務委員會，讓內務委員會決定議員個人利益監察委員會會否是一個最適當的處理機制呢？但是議員是知悉，如果要這樣做的話，是要取得一個特別權力，而當時亦說就算如此，也只能可以是一次性而已。

梁美芬議員：我可不可以問清楚少許程序上的事宜。如果我不放在這個委員會，我們內會建議成立一個委員會調查這件事，是可以的吧？

秘書長：可以，可以。

梁美芬議員：是的。

主席：張國柱議員。

張國柱議員：主席，昨天我也有份一起討論。我想基本上，其實我們昨天也有提過，就是如果議員個人利益監察委員會擴大了權力，雖然是一次過，也會引申下一次又一次過，再下一次又一次過。不過，因為昨天我們是沒有真真正正討論過《議事規則》第49B條，原因是大家可能沒有細緻地看，"嘩！那個是取消議員資格"。我們是否要去到那個地步呢？其實很多謝吳靄儀議員今天提出，其實她帶出了一個我們比較少關心的，就是嚴肅處理的問題。既然這件事是整個社會也在討論，也看着立法會怎樣做。如果我們在議員個人利益監察委員會裏擴大權力，而引申到日後有很多爭論的時候，為何我們不可以在《議事規則》第49B條這處作一個處理呢？雖然大家都有一個想法，就是"這是取消議員資格啊"；但是，如果這件事是容易帶出.....所謂調查委員會，就算剛才梁美芬議員提到在內會成立委員會做調查。但是，到最後我們都是有結論的。那個委員會做不到任何的.....即是懲罰或其他的事情，只是搜集資料而已，那你始終都返回來，用另外一些機制去處理。那為何不用第49B條這個處理方法，既然又可以有一個正正式式

的調查委員會，但當它有結論的時候，我們也要處理。所以在這裏，我很多謝吳靄儀議員提出這一個.....我們忽略的其中一項《議事規則》，那我便覺得我今天會贊成這做法。

主席：梁耀忠議員。

梁耀忠議員：主席，今次的當事人議員及該政團，其實都公開說了很多次，就是他們不介意做調查的。所以，不是大家害怕這個問題，而同時，剛才馮檢基議員和湯家驊議員所說那些，也不是基於現時的建制派或泛民主派，以至功能組別或非功能組別的存在，而是擔心將來自己會受打壓。

我想他們全部都不是由個人的問題出發，而是想怎樣能有一個良好的機制，來處理我們議員的所謂行為操守問題。我們是想有一個這樣的機制，而不是說會促進到一種所謂政治打壓，並針對個人的一些行為操守而已。所以，我希望大家明白一件事，是沒有人會害怕的，而我們身為公眾人物及參與公共事務的話，大家便要面對公眾的評價。如果有問題出現的話，大家都要面對，而不是逃避。但在今天我們的討論當中，究竟我們在議會中有沒有一個較為適當的機制處理這問題。所以，這問題才是我們今天要討論的。

剛才梁美芬議員或劉江華議員也好，他們都是有一個問題，就是究竟是否需要去到、討論到這樣高層次，就是取消議員的職務。我覺得.....我不知道你們可以想到有甚麼樣的結論？如果調查到事件是屬實的時候，會怎樣呢？如果你不是解除職務，你想是怎麼樣呢？即是你想達到甚麼的結論或目的呢？那即是怎樣，只是調查完便算了？即是我覺得就這個問題來說，我看不明白為何要調查。反而，如果是有一位同事，有議員同事真的出現了行為不理想的時候，我覺得我們的責任並不是調查這麼簡單，即如果別人會問你"調查成怎樣？"，你回答"沒甚麼的，只是調查而已"。那麼我覺得，對公眾來說，反而還有一個問題存在，那你浪費這麼多精力來做這件事是為了甚麼呢？我覺得這樣是有問題存在的。

況且，我們議會的工作，是否要這樣做呢？而我覺得我們不是不需要做，但需要怎樣做呢？就是做了出來有結論才行。如果是證實了該同事真的行為不檢，而又值得我們大家同意作出譴責的話，那便應該要解除他的職務。我看不到邏輯是怎樣，就是我們要找到真相出來，而事實上亦有問題存在，那便就此結論，就此終結，那我覺得就這個問題來說，我覺得對市民大眾來說是交

代不了的。

主席：OK。

梁耀忠議員：所以，我覺得今天吳靄儀議員提出這個第 49B 條的做法，這做法其實是達到你們的效果的，它既有調查，也可以找出真相；而找到真相出來之後，還有結論，這個才是重要的。邏輯理論一定是這樣的，任何人都是這樣的，你怎樣調查，調查完之後，你會否控告他？如果他是有事，便一定要控告他，這個是結論來的，現在說的是，對嗎？所以，我覺得這個問題是一定要處理的。我覺得吳靄儀議員所說的話，真的是恰當的做法。我看不到為何不恰當。

另外就是，譬如梁美芬議員最關心的問題——所謂性騷擾問題——其實現在，客觀上來說，是有機制處理的，就是有平機會，你可以到那裏投訴，如果它查明真相的話，那處便可以處理這個問題，它是會進行調查的。所以，我覺得如果我真的要處理、面對這個問題的時候，我真的覺得，我不相信甘乃威議員，以至民主黨議員是逃避或害怕這件事；甚至我們泛民主派，都不是害怕這件事。我們只是希望有一個良好的機制，而在這個機制中，是有結論的機制。而在結論中，得到大家能向市民交代的機制，而不是只作調查便算了。

主席：葉偉明議員。

葉偉明議員：我沒有舉手，主席。

主席：你沒有舉手，不好意思，秘書寫了你的名字。陳偉業議員。

陳偉業議員：多謝主席。主席，即是簡單兩點而已。第一點就是，有關申訴部議員的意見和文件出入的問題。如果申訴部處理這宗個案的有關議員，與文件中所提出的建議，其實有部分成員都說：“喂！當初我沒有支持這個建議。”。那我便很希望負責申訴部那 6 位議員，應該大家再回去重新談談。因為該份文件如果是有誤導性的話，對負責處理申訴的職員……議員是不公平的。因為似乎那 11(a)、(b)、(c)那 3 點，好像完全代表那 6 位議員的共同建議般。據我瞭解，有部分的議員，即他們說有討論到，但沒有作出這個建議，似乎當中是有明顯的出入。所以，我很希望這份文件應該

發還給申訴部那 6 位議員，再回去談談。如果該份文件是充分代表他們 6 位的意見，那便交回來大家再作討論。如果該份文件是有誤導性的話，我們在誤導性的文件下討論，那結果必然會 —— 在誤導之下作出的話 —— 絕對是不恰當的。

第二，我們要很小心任何組織的擴權，或者就某一些事例做出先例，特別是關於議員的操守問題，對嗎？操守有很多方面的，即是你的政治承諾，答應了又沒有做，欺騙選民不嚴重嗎，對嗎？有些議員只顧着做生意不開會，對嗎？顧着處理私人事務，不做公職，那些又如何處理呢？即是你要處理議員操守，請先制訂給我看，是否只有涉及到男女關係才要處理呢？是否以權謀私或借助某些職位去做某一些事情的時候，又不作處理呢？究竟哪一個嚴重，哪一個應該處理，哪一個不應該處理呢？如果是這樣的話，便請作一個廣泛的諮詢，重新訂立。過去的傳媒雜誌也曾報道不少議員有些問題，對嗎？那是否每當傳媒報道某些議員，我們便要處理，開這個委員會，引用權力及特權條例，接着便要開聆訊去傳召人呢？

所以，請大家要談清楚，規規矩矩清楚訂明機制，訂清楚模式，好像我們剛才所說，即用立法會名義考察一樣，對嗎？你是主席便"大晒"呀？一個人指一下鼻子便決定，這樣是不行的。那便訂清楚機制，對嗎？如果你說現在是大多數人控制議會，我是"話晒事"的話，那你們講清講楚吧，對嗎？所以，我覺得最好是規規矩矩，訂清訂楚，不是現在羣情洶湧般，作了先例的時候，我覺得這樣是很危險的，對嗎？即是歷史上有很多次有.....即是冤獄，都是在一些羣情洶湧的情況之下，"掙石頭掙死人"都是這樣，對嗎？所以要很小心地處理這個問題。

主席：好，梁劉柔芬議員。

梁劉柔芬議員：主席，我想我們今天，或許可能拉得很遠，我都是剛剛下飛機。但我.....最要緊是看回昨天的會議都是說，因為有這麼多市民來投訴，那他們就.....即幾位議員集合了他們的智慧，便說出那個建議。我知道，so far 只有兩位議員作聲，包括副主席，你也未說究竟怎樣。那我便不好意思，抱歉我昨天沒有出席，但我覺得建議都是，你說是羣情洶湧也好，甚麼也好，都是想很公正地處理市民的關注點，究竟我們是否對自己很寬鬆，調查別人便調查到底那種呢？我想這個.....我想我們各自議員都要面對這種看法，那我就很不同意馮檢基議員剛才所說，即是.....我明白很多議員都說不應該為了一次而擴權，我都是理解的。如果你說把責任交給我們做，這個議員個人利益監察委員會，那我們便會很

戰戰兢兢，很嚴肅地處理，我相信我們各黨派代表，因為這個會各黨派代表都有人在此，我剛才也跟梁家傑說了，我們是否應該要說清楚："我們的委員會不是用來迫害人的，對嗎？"但是，我想不要說成那麼偏差，我覺得任何委員會是會迫害人，其實是否多少有點自我特別對號入座這樣的情況呢？我想我們不需要在這方面討論。但是，主席，我想看回第 49B 條那裏，剛才吳靄儀議員提過，我也同意的。如果你採取(1A)的程序，那麼下面提及(2A)那裏，就說要根據(1A)，如果動議了之後，辯論就要中止待續，這項議案所述事宜就須交付一個調查委員會，那即是會有一個調查委員會即時成立，我也同意的。但是，我也想問，總要有人去啟動這個(1A)才可。如果你說現在就去啟動這個(1A)，是否民主黨或吳靄儀議員打算都應該會做這件事，大家到時又你推我卸，大家又覺得不大好意思，或者未必因為不好意思，而是你叫我做，我就做不出，因為我根本不知道整件事底蘊如何，我有這種擔心。謝謝主席。

主席：謝謝，稍後再談。接着是黃國健議員。

黃國健議員：謝謝主席。

主席：因為我們稍後都會討論的，我們其實稍後都有幾項事情要決定的，第一，我們會否需要再作進一步調查，這是我們第一項要決定的。如果我們否定了這項，便無須談模式了。接着如果大家決定要做，那便要選擇甚麼模式，就吳靄儀議員的建議及當值議員的建議，我們都會一併作出選擇，OK？先聽完所有議員說。請黃國健議員。劉江華議員，你有機會說第二次，不是現在說。

劉江華議員：我知道，不是，我想跟進 Sophie 她問的那件事是重要的，可否請吳靄儀議員先回答？

主席：稍後吳靄儀議員會有機會說，或者吳靄儀你記着稍後回答這方面的問題，好嗎？黃國健議員。

黃國健議員：我可以說吧？

主席：是，可以說了。

黃國健議員：多謝主席。其實今天我們這個會議，是回應市民對事件的關注。本來的討論都頗.....很多人都說了應該不是甚麼兩派之爭，大家都關注那事件。但我又比較遺憾，剛才有些議員發言，說成好像兩派之爭，尤其剛才我不大舒服，見到梁耀忠議員說話時加上手勢，即完全符合你們的要求了，即你們.....這樣就轉了過來，意思是否好像我們想"做他世界"這樣呢？我覺得不是太好，其實我們是正在討論一件正經事項。

主席，說回這方面，我們很簡單而已。本來我們亦是.....我們瞭解到市民對這事件的關心，希望知道真相，亦是看一下立法會如何處理這件事。當然，我們亦尊重昨天當值議員討論所得的一些事項。但是，在這件事上，我們工聯會就覺得暫時未能支持他們的建議，因為我們覺得很重要的一點是，似乎那名女受害人——即叫做受害人，或者叫作女事主——女事主直至現在都未曾出來，說過任何說話，若果我們強行調查，會否違背她的意願呢？或者她覺得已經收了錢，不想再說話，錢的意思即補償，即解約補償，即收了錢，這件事已經 settle 了，就不想再出來。若果我們強行要她出來調查的話，會否再在她的.....或者是勾起一些不愉快的回憶呢？所以，在這問題上，我們覺得除非女事主自己再出來要求立法會進行調查，我們便會支持，在現階段，我們覺得對這幾個建議，暫時我們是持棄權態度。

主席：OK。

余若薇議員：是規程問題。

主席：規程問題，OK。

余若薇議員：我的規程問題是針對剛才你說的那件事情，因為你說稍後我們要表決，就是說先表決是否去調查，如果接着決定了不調查，那就不用跟進；如果決定要調查的話，才決定用甚麼方式調查。主席，對於這個做法，我有保留.....

主席：嗯。

余若薇議員：我覺得，主席，你應該叫我們表決是以甚麼方式去調查，當然如果決定不去調查，那一定反對這點，但我覺得你不可以就這樣叫我們就是否需要調查來表決，因為事實上，如果我們看回這份文件，主席，第 11 段那裏，即在我們桌上的那份文件，譬如第 11(a)段，剛才葉劉淑儀也說了，便是交由立法會的內會作出跟進，即今天我們已做了這件事，這個不用表決了。

第 2 點那裏，主席，如果我們是要表決這項，即是說將這件事交由利益監察委員會去跟進較為適當，這方面.....主席，如果就這樣，我是沒問題的，為甚麼呢？因為譬如你說那個利益監察委員會，它可以看完這件事之後，制訂一些指引，訂明關於這類事件應該如何做，或者去調查一下，即是說是否符合它的職權範圍，因為例如就這件事來說，有些人說牽涉公帑，但其實可能真是完全不牽涉公帑的，因為根本有關賠償完全沒有由.....任何一毫子都沒有由公帑支付的，可能那個利益監察委員會看了之後覺得："這個根本不是我們的職權範圍，於是就交回一份報告給內會吧。"所以它說："我不可以跟進，但可以做一些指引。"那可能它便有一些指引給我們。所以，如果是(b)，我沒有問題的，但如果你說(b)其實與(c)有關，即(c)就是那個擴權了，即是說要就這一次特別有一個調查權，然後賦權它.....我們要.....當然了，主席，這我就反對。但是，譬如你說有其他建議，譬如好像梁美芬，我不知道她是否會作一個建議，譬如她說在內會下，是否應該成立一個調查委員會，這是另外一個建議。你可以提出來，我們可以表決，但我不希望是一個.....即是空泛的.....說我們應否調查，因為你是否調查是與機制有關係，因為我代表公民黨說，我不是說反對立法會調查，但一定要秉公辦理，一定要依循我們現在的機制，如果我們現在有機制調查，有工作要做的，我不反對，但如果你說你突然間擴權，或者導致一些很"怪胎"的東西，特別是為這件事去包裝、去做，我們是很有保留的。所以，主席，你稍後表決的時候，我希望你說清楚，你的決議案或建議是怎樣。

主席：現在有幾位同事已舉手，我想徵詢一下大家想怎樣處理，因為其實我們討論這課題已有一個半多小時，現在李國麟議員你之前已說過了，劉慧卿議員你又說過了。

李國麟議員：是規程問題，我不是想說.....

主席：你要跟進規程問題，不如先談規程問題吧，好嗎？或者我剛才是表述得不太好，其實 11(a)是說要求立法會的內會研究一下去跟進的，我要有一個決定是怎樣呢？是否調查，或者如何跟進，

因為今天亦有同事很清楚說不應該跟進.....他們的發言，我一定要處理，是否我們整體議員有多少說不應該跟進。如果不跟進，就沒甚麼要做的了，我們便散會，OK？如果跟進，是如何跟進呢？就是我接着下來要處理的。或者如果是程序問題，李國麟議員說吧。

李國麟議員：我想跟進余若薇議員的規程問題，因為與討論基礎有關係，好像我剛才.....我開始第一次發言所說，就是說其實我的記憶中建議的寫法是，在第 1(a)裏，在立法會應該討論.....立法會的內會應該討論如何跟進，這是我記憶中的寫法，並不是交由它跟進，是由交它如何跟進，第一點。

第二點，在(b)那裏，我們是說在 CMI，我們覺得這個可能是較為適當的其中一個選擇，就此而已，我記得是這樣。要表決的時候，我相信我不知道就是.....

主席：現在未到表決，還有很多議員發言。

李國麟議員：所以，是否按這個基礎去表決呢，如果按現時.....不是我剛才說的那個寫法，而是文件現行這樣的寫法，就不是我記得的建議，但如果是.....

主席：你說過了，不用重複了。

李國麟議員：我希望同事清楚這點而已，謝謝主席。

主席：嗯，清楚的了。

吳靄儀議員：主席，仍然是規程問題，我很簡短說。如果是李國麟議員對的話，那建議就是由內會討論如何跟進，那我們支持還是反對呢，都是支持是否由內會討論如何跟進，就不是說應該用甚麼方法跟進，因為有很多人說跟進與否，最主要是想知道你用甚麼方法去跟進，所以你那個議題要清楚。如果你說要討論，是否應該由內會去討論如何跟進，可能內會會說需要時間徵詢更多意見，因為似乎當值議員沒有考慮到第 49B 條的問題，議員亦沒有討論過，這是大家可以討論的事。但是，如果你將第 11 段的那

些議題分開 3 方面去談，我覺得議員投票是有問題的。

主席：OK，或者我們稍後才處理如何投票。劉慧卿議員。

劉慧卿議員：主席，如果你稍後叫人投票，是讓人選擇，說就這事項投票，其中一樣是第 49B 條，要求人選擇採不採用這做法呢？我覺得很倉卒了，因為秘書處那份文件都沒怎麼提的，你要列出.....如果第 49B 條是如何做，各式各樣嘛，有些人剛才才聽到第 49B 條，你就叫人家投票，我相信你不會叫人就第 49B 條投票的，我想你弄清楚這點而已，主席。

主席：會的，因為如果.....

劉慧卿議員：你會？你憑甚麼呢，第 49B 條？

主席：問題是，如果.....因為現在未去到投票，因為有不同意見提了出來，有議員個人利益監察委員會要擴權的問題，有吳靄儀議員提出的第 49B 條，如果大家認為暫時不去處理，或者需要多點時間，這方面我們稍後投票的時候，或者準備投票的時候，大家可以提出來，對嗎？或者不需要今天作一個決定，或者我們可以在下次的內會才作一個決定也行，但這個也是由大家去提出意見，這些意見是大家談過的，我都需要處理。

劉慧卿議員：不是，主席，我不覺得談過一件事就要投票。

主席：那如何處理呢？

劉慧卿議員：要求在文件上寫得清清楚楚第 49B 條是怎樣的。

主席：這又是一個建議，這個建議是可以處理，我們有一個建議.....有建議出來，我才可以處理，對嗎？你現在提出一個建議，就是第 49B 條要有一份文件，我們亦可以說今天不處理這事，待文件交來我們才再處理吧，好嗎？

劉慧卿議員：主席，我相信我們每件事都是很嚴肅的。

主席：是。

劉慧卿議員：我們希望每件事都很嚴肅。我再說，民主黨不是反對去做，但清清楚楚寫下來，那個原則、那個安排是如何做，要很清楚，你沒理由突然有些人提出一些事情，大家都未聽過或不知道的，你又說去表決，表決了甚麼，大家也未必知道。

主席：明白，如果大家認為需要多點時間，我沒有說……但如果大家說無須多點時間，當然有些建議提了出來，我也要有所取向。如果大家認為需要多點時間、多些文件……我們昨天才收到這個要求在今天處理，所以如果今天不處理，我相信下星期處理，或者再下一個星期處理都沒問題，我們要多些資料也沒問題。

吳靄儀議員，你舉手，不過你正在輪候，你有機會發言的，不如我現在先讀一讀，就是……現在程序問題已處理了，有 3 位議員，我希望第一次發言的在此劃一條線。第二輪發言，我讀完 3 個名字出來之後都劃一條線，好嗎？因為真的討論了很久。吳靄儀議員、劉江華議員，然後最後葉劉淑儀議員。吳靄儀議員，爭取時間。

吳靄儀議員：多謝主席。主席，其實都是一樣的，因為今天這個擴權建議與我那個按照既定機制的建議，可能議員都未曾經過很詳細考慮，或者沒有很深入的資料，所以，如果議員想多點時間考慮，我是沒有問題的。但是，我想提醒大家，第 49B 條是議事規則委員會經過深思熟慮，諮詢過全部議員一起討論通過的，通過亦已有一段時間，這是一個既定的機制。剛才劉江華議員說，是否需要一步去到如此重要呢？考慮這個機制時，是說任何指控議員操守有問題，已經是很嚴重的事件，譬如我今天指控湯家驊或葉國謙或劉江華議員行為有欠道德，操守有問題，這個必然……你不可塞天下悠悠之口，人家是有權去指控你的，但當這人一提出指控時，其實你的名譽已經蒙受陰影了，因此你有權要求這件事立刻得到嚴正處理，就是將那個指控很清晰地提出來，然後經過很公正的調查。如果真的有這樣的事，而經議員三分之二通過的話，這個議員便要離開議會，這是很公道的。為甚麼呢？因為我們為何將這件事提出來呢？大前提是這會影響整個立法會的公信力。所以，如果一個名譽已經受損的議員的問題不解決，立法

會的公信力是會繼續受到影響的，這絕對不是中間落墨、不中間落墨的問題，如果大家看回那個指控，即第 7 段是說甚麼呢，是說涉及有人懷疑甘乃威議員對前女助理作性騷擾，這是嚴重的事情，怎可以說如果真的成立，的確是會有一個理據，要這個議員免除一切職務。所以，但這第 49B 條的做法，就是有開頭、有調查，以及調查的結果是立即有結論的，那個議員應該離職，還是應該還他一個清白，這件事是有了斷的。梁劉柔芬議員剛才問由誰動議呢？如果是這樣，是否我們不採用第 49B 條，是因為沒有人敢出頭說這件事呢？但凡任何人覺得這些市民的投訴有其實在的地方，也應該可以挺身而出的，這樣我們才可以有一項議案。然後任何提出議案的那個人，當然他只是說.....他做到的，是啟動這個調查機制，可能經過調查之後，這名提案的議員也覺得查實並無其事，我們可以有兩種方法去做，或者按照 —— 或者秘書處研究一下，看看我對這個規則的理解是否正確 —— 提出一項動議，說這件事要終止了，譬如你已經沒有可以調查的地方便可以終止，又或者當你提交報告的時候，大家可以看到查實並無其事，或者查出來的事，跟你所想的有很大距離，你亦可以投反對票的。但是，這裏重要的地方，是一定要有了斷，不可以說我們查卻不知道查甚麼，先查出來，然後看看情形而定，這個無論是對受調查的人或者對立法會也是不公道的。

我們行第一步，就要知道最後一步是怎樣，第 49B 條是經過非常深思熟慮，不單經過議事規則委員會考慮妥當，也是在大會上通過的一個程序。現在你有這樣的一個程序，你說不要，而要另外尋找一個中間落墨、不用有人出頭的方法，這是不妥當的。主席，我不覺得第 70(a)條那些.....第 7 段(a)、(b)、(c)項那些是小事。

主席：OK，劉江華議員，請劉江華議員。

劉江華議員：主席，我有些擔心，我們今天有些議員似乎有少許轉移了視線，如果用甚麼"政治打壓"這些字眼，又或者用甚麼"擴權"這種字眼，便令到這件事好像是有人在"搞搞震"，其實事情不是這樣的，我們的希望是，既然公眾如此關心一件事，現在當事人本身也願意在立法會有一個公開、公平、公正的調查，他本身也願意，政黨也願意的，而今天有些人不同意，也是說可以做調查的，不過在會議上，可能技術上有很多問題，所以不同意。在這樣的情況下，我們比較擔心這件事會不了了之。公眾會有些質疑，立法會議員究竟是否有兩把尺，如果是對一些政府官員.....如果有一位政府官員發生同類事情，我相信今天在座很多.....剛才說的話，將會完全不同，是完全相反的。在這樣的情況下，我們

兩把尺，對不對呢？

所以，其實……我很不幸，剛剛是當值議員，所以要處理這件事，這是抽籤的。當然，當值議員討論的事情並不是最後決定，這是大家也知道的。但是，如果交到內會上，有這樣、那樣的技術性去排除這件事，再不了了之的話，我覺得對於公眾的期望落差太大。

主席：沒有人建議這件事。

劉江華議員：吳靄儀議員、吳靄儀議員……

主席：吳靄儀議員，先讓劉江華議員說完。

吳靄儀議員：主席，你不可以有一個人含混其辭的。

劉江華議員：……和梁耀忠議員的分別在哪裏呢？與我的分別在哪裏呢？

吳靄儀議員：我的分別便是……

劉江華議員：很清楚。

吳靄儀議員：要你按照一個建制……

主席：吳靄儀議員，請你先讓劉江華議員說完，你如果認為他有提及你，你可以澄清。

劉江華議員：沒錯。議員一方面不可以有兩把尺，也不可以不讓別人說話。吳靄儀議員和梁耀忠議員跟我的分別就在這裏，如果用第 49B 條，其實就是說每個人可能已經有一個結論，梁耀忠議員可能說要先有一個結論，沒有結論怎知道查甚麼？基本上，這便是他們過往的一些做法，就是先有結論，再做調查。我本身——即使是調查梁展文的時候——我亦公開說得很清楚，我說任何人做調查，特別是如此嚴重的指控，我不會先帶結論去。

做調查，一定是先有調查，才作結論，是不是要取消資格呢？這要下回分解。所以，能夠有一個機制——現有機制——這個所謂利益監察委員會有經驗進行這個調查，我認為是非常恰當的事情。我不知道今天最後的投票結果是怎樣，但大家要向公眾有一個交代的，公眾期望立法會有一個獨立的調查，這件事如果是不了了之，我會非常失望，所以我希望議員能夠很小心、三思考慮這件事。

吳靄儀議員：主席，由於……

主席：劉江華議員提到吳靄儀議員和梁耀忠議員，你兩位有權回應。

吳靄儀議員：主席，我絕對沒有說過不了了之。我第一句說話是說，對於跟進調查，我沒有問題，但我要依循程序來做，所有……如果按照你所說，我是沒有先有結論的，但有一個很清晰的指控，要你有一個清晰的指控，即是說任何人要告一個人，法庭要判一個罪，也要有一個清晰的指控，如果你說有清晰的指控，即是已經有了結論，這樣我們法院所有的審訊也只不過是一個形式而沒有實質的東西。所以，最主要是你要指控任何人，要說清楚這個指控，然後就這個指控作出調查。我今天沒有說不了了之，請你不要含血噴人！

梁耀忠議員：主席，如果有了結論，又何須調查呢？即是沒有特別的……我想不出這個邏輯理論，如果我已經覺得他行為不檢，我還要查些甚麼呢？自打嘴巴嗎？沒可能這樣做的，主席，我想說清楚些甚麼呢？我說結論就是調查之後，有結果之後，應該有一個了斷，有一個清楚、清晰的方向的意思，即不可以查完之後好像你說的不了了之，我反而不想這樣子，我想清楚有結論怎樣做，想告訴大家，清楚地做這件事。

因此，我們期望……我相信吳靄儀她要求第 49B 條就是想查清楚這件事，因為查清楚之後，如果真的有問題出現，你們自己再行判斷。你說覺得查清楚結論，不至於嚴重至要解除他，你可以反對結論，無須解除他的職務，對嗎？那個調查本身已經告訴市民大眾，原來他有犯事，但罪不至於要解除職務，這做法是最清楚了，而不是好像你剛才說的一跳便跳步至要把他解除職務，不是的，你不要誤解這件事，因為你還可以有一個最後階段，就是投票會否支持解除他的職責，所以我們做的這個方法，我也不想不了了之，我也想有清楚的調查，我們是同意的，我們同意。而

且還有更好的是甚麼呢？一個良好的機制、一個恰當的機制去調查而已。

主席：因為我剛才已經說過，第二輪的發言，我已經劃了條線。規程問題？甚麼規程問題？

梁美芬議員：因為我剛才一直聽各位發言，去到第 49B 條，好像似乎……

主席：那不是規程問題。

梁美芬議員：不是，但我們要問……

主席：那不是規程問題，其實大家也很有興趣討論，如果說了，我想……

梁美芬議員：不是，我想問一問第 49B 條是否……

主席：你不可以插入……我又要再徵詢大家，因為我剛才已經劃了一條線，葉劉淑儀議員是最後一位第二次發言的議員。湯家驊議員你又舉了手……

湯家驊議員：如果議員可以簡單地處理……

主席：對了，不如簡單吧，好嗎？

湯家驊議員：可以簡單處理。

主席：簡單吧，好嗎？簡單處理吧，先是湯家驊議員，然後梁美芬議員。

湯家驊議員：主席，我想……

主席：很簡單地，好嗎？

湯家驊議員：……我想說清楚的是，我們大家也是說制度上的問題，從來沒有人說過兩把尺或者是不了了之，我希望提醒各位同事，如果有第 49B 條的程序，去到最後是需要透過一個公開的辯論的。當你投票之前，你是要辯論的，如果你覺得一個結果是不符合要辭退該位議員，你可以在辯論時譴責他，或者強烈批評他，但最終你可以投票不去辭……不去取消其職位。但是，同樣道理，如果你到時覺得需要通過動議，取消其資格，你到時亦可以在辯論時說清楚的，為甚麼不可以公開進行一個辯論呢？

主席：清楚，梁美芬議員。

梁美芬議員：我真的不是表達意見，我只是想問一問，以往曾有涂謹申議員在經過調查後最後是受到訓誡的，是否……我們當時沒有參與……

主席：不是在這個……

梁美芬議員：是否第 49B 條？

主席：不是第 49B 條。

梁美芬議員：不是？那他是甚麼形式？可以給我們參考一下嗎？

主席：是議員個人利益監察委員會的。

梁美芬議員：對了，他是議員……

吳靄儀議員：是議員利益的。

梁美芬議員：但如果現在他是牽涉到公帑，便可以……

吳靄儀議員：沒有擴權、沒有擴權的。

主席：OK，現在真的最後了，把時間給回原倡議人葉劉淑儀議員。最後了，好嗎？不要再辯論了，大家作一個決定是如何處理。

葉劉淑儀議員：主席，我也不知是有幸還是不幸，當了昨天的召集人。不過，其實我們昨天的討論是很平和及客觀的，沒有人對甘議員作任何指責，也沒有人說過要譴責他等等，言之過早，跳得太遠了。我們只不過是作為當值議員，收到一些投訴，共識也是正如吳靄儀議員說的是嚴重的，我們要正視的，雖然當值議員通常是處理政府的投訴，較少處理同事的投訴，但我們也應該一視同仁，這些李副主席在這裏，你也記得吧？我們昨天談得很好的，對嗎？我記得李副主席是很公道的，他到最後表決時表示，他是民主黨的人，他不投票，但我們一直的討論，其實我們 5 位議員也很融洽，沒有提出甚麼異議。

當然，我們大家也明白，既然提交至內會，內會當然可以有不同的意見，但我亦考慮到，內會有些不同的處理方法，我們當時想也沒有想到第 49B 條，只不過是內會可以成立一個專責小組，好像梁展文事件般，也可以……大會可以成立專責小組，內會可以成立一個小組，好像雷曼事件，也可以用議員個人利益監察委員會，但我們最終的意見，綜合了的意見是只推薦一個，我記得很清楚，秘書處也記得很清楚，否則也不會這樣寫了，對嗎？我們在(c)項聚焦到建議讓議員個人利益監察委員會調查，這是我們的共識。雖然李華明議員——我記得你很大方，你沒有投票——我們當然也有……因為我自己是一個很新的議員，只做了 1 年，秘書處和法律顧問也告訴我們，這個 CMI 過往也處理過類似議員……類似的問題，議員操守問題，例如學歷事件和"中指"事件，也是討論過的，所以符合其職權範圍。只是如果要調查，就要立法會有一個決議案，而且法律顧問亦指出，由於 CMI 是常設委員會，有特權及權力，它可以傳召證人，但不是……而且其實這個權力是保護了證人的。所以，我們便把這個建議以第 11 段(a)、(b)、(c)項提出來。所以，我要澄清一下。

即我覺得沒有可能 —— 我個人認為 —— 沒有可能是事實尚未知道便說譴責，只不過我們一個最基本的責任，作為一個負責任的議員，無理由收到這麼多市民的投訴，連跟進調查也沒有，我們覺得一個合理的委員會便是議員個人利益監察委員會，就是這樣而已。

主席：或者這樣吧，我知道第 3 點那裏，似乎李國麟議員剛才也說過，他說好像沒有一個共識，李議員剛才也有些表示……但我想在這個階段，我們無須執着，因為這始終是一個可能建議，未必一定是大家所採納的，只是一個可以考慮的方式，不是一定要採用。我想討論到此為止了，好嗎？我們要件一些決定。

首先，我想處理劉慧卿議員剛才說的，今天不夠資料，對嗎？要有多些文件……不是，是否投票決定今天不處理？要押後處理……

劉慧卿議員：不是，我想先知道你想我們處理些甚麼？

主席：處理的就是這件事應該如何處理。要處理的是如何處理，因為你現在不能決定如何處理，就是因為你剛才投訴說不夠資料，所以我現在要先處理這件事，我們會否需要秘書處準備更多文件，譬如下星期或大家可以提出建議何時再討論這事項，這便是劉慧卿議員的建議，這是否正確？這是否你的建議？

劉慧卿議員：不是，主席，我主要是說第 49B 條，因為你新加入一個事項，稍後你可能會要求議員就第 49B 條投票嘛，對嗎？

主席：但如果……是的，這是處理的方法，現在你首先投訴未有……

劉慧卿議員：不是投訴，我是詢問你，主席。

主席：是詢問，OK，詢問第 49B 條事實上沒有文件，我當然已經打開了《議事規則》。如果大家認為看過《議事規則》，不需要再有文件闡述的話，我們可以進行下一步，就是究竟如何處理呢？這方面我們要有一個決定。如果劉慧卿議員覺得《議事規則》本身已經很清晰。或者我簡單介紹一下 —— 如果法律顧問或秘書長有甚麼補充 —— 按照第 49B 條，題目其實是"取消議員的資格

"，如果認為議員行為不檢的話，可以在大會上——我簡單概述而已，當然我不是逐項讀出，梁議員——可以在大會上提出動議，而這項議案須要三分之二通過。這項動議提出後，可以按照第 73A 條成立一個調查委員會，然後也規定了調查委員會要如何組成。當然，如果調查完成後，便會交回……最終該動議會有一個表決，如果大家認為有甚麼要提出，便可以在動議中說出來，然後再作一個決定。

梁耀忠議員：主席。

吳靄儀議員：我想澄清一下，就是這項譴責動議，是調查議員的方法，不表示已經有結論，決定了譴責他，然後才調查他，並不是這意思的。譬如要討論一位法官的操守，同樣要有一個譴責的動議作為一個啟動的機制，這一點似乎我無辦法令議員明白，這不是一經啟動便要成功的。如果要去……

主席：已經清楚了。

吳靄儀議員：……如果要質疑一位議員的操守，只可以採用一項譴責動議的方式來進行。

主席：太多手舉起，現在要表決了。劉慧卿議員，你那個是否需要更多時間呢？

劉慧卿議員：不要緊，我明白你說甚麼了。

主席：不需要更多時間……

梁耀忠議員：我具體建議。

主席：是，具體建議甚麼呢？

梁耀忠議員：具體建議我們今天可以通過一個處理方法，便是採用第 49B 條來處理這事件。

主席：OK，大家是否同意先採用第 49B 條？因為其實有不同意見，因為由當值議員建議，或起碼曾提出我們考慮這個議員個人利益監察委員會，當然，如果選擇這個模式，便要有一連串的行動，包括要賦權它進行調查。大家是否同意用第 49B 條作為基礎，我們是否選擇以這個模式來處理？

梁美芬議員：如(b)是 vote down 了，即投票否定了，我們可否再提出在內會成立小組，是否還可以這樣做呢？

主席：其實沒有規定的模式，這是可以的。

梁美芬議員：我也寫了一個……

主席：如果你是……

梁美芬議員：隨便一個，譬如 3 個選擇，逐一投票可以嗎？

主席：除了內會之下成立一個小組委員會，正如雷曼事件般，還有沒有其他建議？不如一併選擇和討論。劉江華議員。

劉江華議員：主席，我支持梁耀忠議員的看法，他有正式建議提出來。

主席：正式的建議是採用第 49B 條，是嗎？

劉江華議員：其實最重要的是，我認為今天的結果要告訴公眾，我們有一個結論，我們要進行調查，這是最重要的。

主席：OK，陳偉業議員。

陳偉業議員：主席，我想問劉江華議員要調查甚麼？請清楚提出你的焦點是調查甚麼？

黃毓民議員：當然是處理這件事。

劉江華議員：那麼你問梁耀忠議員吧，是梁耀忠議員提出的。

主席：梁耀忠議員，請你解釋一下。

梁耀忠議員：主席，我想解釋一下，我覺得處理這事件，是採用第 49B 條來做，那麼採用第 49B 條要如何做呢？便是應由一位議員，他覺得有實質證據及理據的話，使用這個內容提出來，才可以做到，我不想用其他方式來做。因此，如果將來有議員想做這件事，便透過第 49B 條的方式來做，意思便是這樣。

主席：OK。太多手舉起了。

劉江華議員：主席。

主席：首先是梁美芬議員，然後才是劉江華議員。

梁美芬議員：我想問梁耀忠議員，因為他剛才的說法更抽象，不知道他想怎樣具體跟進。我自己可以提出，如在 3 個選擇中擇其一，我們可以提出.....即具體的，就甘乃威議員解僱女助理一事，可能 —— 我們一定要可能 —— 涉及 —— 剛才我提到的 —— 可能有性騷擾；解僱助手的時候，可能涉及公帑；有否誠信問題進行調查。你難道現在說"是"？難道你現在想說"是"？

黃毓民議員：直接說"是".....

梁美芬議員：我不會直接說"是"，一定要經過調查。

主席：各位同事.....

黃毓民議員：你說得出便說 —— 可能！

主席：各位同事……

黃毓民議員：可能性騷擾我呢！

主席：黃毓民議員，現在會議進行當中。

湯家驊議員：主席，有人提出一項動議，我們不如先投票。

梁美芬議員：不要用"short short 地"這等字眼，請你收回。

黃毓民議員：怎樣是可能的呢？

湯家驊議員：如果議案不獲通過，可以再討論其他方法。為何不投票處理呢？

主席：黃毓民議員……劉江華議員已舉了手。

劉江華議員：主席，梁耀忠議員剛才提出的，他為甚麼提出呢？我以為由他提出這項動議，我會支持他。但他剛才說"不是"，其實他是不會提出來的，他只不過說方向，有人提出的話，到時才算吧！這正正是我剛才擔心的事。即是你高高舉起，慢慢放下，原因是甚麼呢？(其他議員插話聲)……主席，可否讓我發言？

主席：當然，應該……我提醒各位同事，議會的《議事規則》是每位議員發言的時候，其他議員不要騷擾，好嗎？劉江華議員。

劉江華議員：對。即是我發言的時候，特別多……

主席：你惹火嘛。

劉江華議員：我的擔心便在於此，主席。我最初說與吳靄儀議員及梁耀忠議員的分別便在於此。我現時未有結論要取消這位議員的資格，我未去到這個地步，或者譴責，我也未去到這個地步，

因為我主張要先作調查，但到時會有辯論的，如果任何一位議員提出這項議案。如果去到是否值得譴責呢？是否有事實根據呢？反反覆覆，直至最後來說，亦是一事無成，所以，我仍然希望能夠先作調查，在一個適當的地方、適當的委員會，這是我所希望的做法。

李華明議員：主席，可否容許我.....

主席：我也要解釋一下，因為.....

李華明議員：澄清一下，劉議員可能有誤解。

主席：《議事規則》第 49B(2A)條，便是你動議了這項.....當然動議的字眼亦要斟酌如何寫法，但一經動議，便會中止，中止待續，因為要 refer to，即是會轉介予調查委員會，由它進行調查。調查完成才交回來進行辯論。不過，問題是這項動議的字眼應該怎樣寫，我想現在都要.....

吳靄儀議員：主席，我可否提出多一項意見？關於這動議應怎樣寫，文件第 7 段(a)、(b)、(c)項那裏.....

主席：即你同意以此為基礎？

吳靄儀議員：以那裏.....

主席：建議以此為基礎？

吳靄儀議員：你要.....那裏有一個表格，大家看看 49B(1A)條有一個表格。要說"鑒於某某某議員行為不檢.....如附表所說"，然後在附表中列出指控是甚麼，接着即時便沒有辯論，即時由內會成立一個委員會。該委員會便就這項議案的附表，逐項調查，調查完成後便作出報告，大家聽了報告後.....在現階段並無定論，因為並未調查。調查完成，說不定到時大家的結論可能十分一致。

主席：所以，其實附表也要列出所謂"行為不檢"的指控是甚麼。

吳靄儀議員：對，說明他有何不檢。

主席：所以這個範疇便要斟酌了。

劉江華議員：我知道，主席，這點沒有問題了，但剛才梁耀忠議員提出的一點，我比較擔心我們今天支持這個方向的人，到時又問如何確定行為不檢，於是便不支持，不了了之。我便是擔心這一點。

所以，如果今天大家支持這方向的話，到時無論哪位議員提出也好，你都會繼續支持，這便沒有問題了。

吳靄儀議員：是的，是的。我只是說機制，只是說機制的。

主席：或者我想澄清《議事規則》。《議事規則》就是.....我再次向各位澄清，法律顧問，如果我有錯，請你更正我。我的理解，《議事規則》訂明這項動議提出後便沒有辯論，立即中止待續，所以不須投票決定調查委員會是否繼續，而調查委員會由這項動議提出後便必然會產生。大家要斟酌的是，這項動議的附表是要陳述對這位同事的指控，如何行為不檢，這是大家可能要斟酌的。

吳靄儀議員：對了。

主席：OK，大家是否清楚？還有沒有.....

梁耀忠議員：主席，我要澄清。

主席：你澄清甚麼？

梁耀忠議員：因為劉江華議員的誤解，我希望向公眾說一下。我建議有一個機制處理這個問題。

主席：明白，可以了，你已澄清了。

梁耀忠議員：不是我參與.....不是我制訂機制。

主席：你的 body language 已澄清了。

梁耀忠議員：很多人都指責我不做這件事。

主席：OK。李國麟議員。你想自動請纓嗎？

李國麟議員：不是，主席，我想清楚地說說，我們現在要投票的是甚麼，整個 statement 在說甚麼？因為我會擔心，這是一個公開會議，我們現在談第 49B 條，名為"取消議員的資格"，如果我們在投票中，這個寫法或說法不清晰，便會令公眾.....因為稍後要投票.....

主席：吳靄儀議員會再提醒你，這是一個手段來進行調查。

李國麟議員：沒錯，我只是說我擔心，就是我們會給公眾一個錯覺，以為今天的內會決定採用"取消議員資格"這個手段來調查甘乃威議員事件。我們是否已經這樣呢？所以，我要弄清楚我們稍後要投票決定的手段是甚麼，一定要清晰的，否則我們會在公眾形象上，覺得內會已經定調，這是我擔心的。謝謝主席。

主席：好了，我綜合.....盡我自己所能，現在放在大家面前的是一項建議，就是運用《議事規則》第 49B 條，在議會中提出一項動議，然後這項動議提出一項指控，就是某議員行為不檢，列出一些資料，然後這項動議一提出後，立即會中止待續，而事件會交付一個調查委員會，去調查該等指控是否成立。當調查完成後，這個調查委員會便會提交報告，而這項動議也會交回議會進行辯論，我們會手持一份調查報告來辯論的。到時如果認為有關議員不應該被取消資格，便投反對票；如果認為值得取消資格，便投贊成票。最終如果三分之二的議員贊成取消資格，贊成動議的話，該議員亦會被取消資格。大家是否清楚？完全清楚嗎？我們進行這樣的一項投票.....請法律顧問。

法律顧問：主席，我想澄清你剛才所作的敘述，便是提到現在的投票決定是否提出這項議案，接着進行這個……

吳靄儀議員：投票決定是否按照第 49B 條的程序？

主席：第 49B 條的 motion。

法律顧問：……採用這個機制。我聽到主席說，提出一項議案的，但這個基本上……

主席：motion 嘛。

法律顧問：……這裏根據第 49B(1A)條，是要由議員，任何一位議員都有權……

主席：對，對，對。清楚，清楚。

法律顧問：如果……即使根據這個機制，亦不是啟動，直至有議員……

主席：對，對，對。我們現時……第一個決定便是，是否採用第 49B 條？OK？如果大家同意，然後再決定找誰，如何找，或者抽籤，或者如何，來決定由誰提出這項議案。OK？大家很清楚現在投甚麼票了。現在便是要決定是否按照第 49B 條在議會裏提出一項議案？贊成的請舉手。

(議員舉手)

主席：好，37 人。反對的請舉手。

(沒有議員舉手)

主席：棄權的請舉手。

(沒有議員舉手)

主席：沒有。即是 37 位贊成，0 反對，0 棄權，OK？這項議案……這個建議獲得通過。接着下來還有工夫要做，就是哪一位議員會代表去提出這個動議呢？

葉國謙議員：請內會主席。

主席：不是抽籤啊？(眾笑)

葉國謙議員：沒有抽籤呀。

主席：是，吳靄儀議員，你是這個建議的倡議人，其實你是最恰當的。(眾笑)

吳靄儀議員：主席，我覺得……大家都覺得輕鬆了，解決了怎樣去做的機制問題，但這是一件嚴肅的事情。主席，我可否請你成立一個小組，去研究究竟議案的附表是怎樣。如果你有一個這樣的小組，大致上把市民質疑的地方提出……其實我真的想由內會主席去提出這項議案，因為如果是由內會主席提出這項議案，便會是一項中立的議案，是維護立法會尊嚴的議案，不是一個黨派之爭的議案。

主席：好，好，謝謝。其實我正有此意，就是希望首先由大家決定由哪一位議員提出這項動議；但動議的字眼我覺得需要回到內會由大家同意後才去提出，因為當中是有指控，也有附表列出的細節，這方面我是正準備這樣做的。但現在有建議想由內會主席去做——不一定是我的，因為稍後還要選舉——所以，大家是否同意應該由內會主席去做？OK？有沒有人反對由內會主席去做？有沒有？

(沒有議員示意反對)

主席：OK，如果沒有的話，就由內會主席去做，我們會通知內會主席——不論是哪位都好——這位內會主席需要去擬備……我想徵詢大家意見，小組在決定那些字眼的時候，大家有沒有建議應該怎樣做？會否每個黨派都派一位成員出來討論？

劉江華議員：其實很簡單，你按那些字眼寫就可以。

主席：我恐怕將來回到內會又會出現很多爭拗，好像今天般討論了3個小時，葉國謙議員。

葉國謙議員：OK，OK，即是可以……

主席：葉國謙議員，我認為在事前討論會較好。

葉國謙議員：我支持這做法。

主席：每個黨派或獨立議員都推選一兩位出來參與，好嗎？沒有事情了吧？梁美芬議員。

梁美芬議員：我們三人……

主席：同意？OK，OK，好。那麼我們準備好後便再回到內會，好嗎？OK？好了，我們就這樣處理吧，多謝。3個小時……兩個半小時。是，對，同意的，亦有好的結果。接着是議程第 XIII，即 2009 至 2010 年度會期內務委員會主席及副主席的選舉。

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**Verbatim transcript of the proceeding of agenda item II(b)
of the 1st House Committee meeting
in the 2009-2010 Legislative Council session
held at 2:30 pm on Friday, 16 October 2009**

出席委員 Members present :

- | | |
|------------------------------|--|
| 劉健儀議員, GBS, JP
(內務委員會主席) | Hon Miriam LAU Kin-ye, GBS, JP
(Chairman) |
| 李華明議員, SBS, JP
(內務委員會副主席) | Hon Fred LI Wah-ming, SBS, JP
(Deputy Chairman) |
| 何俊仁議員 | Hon Albert HO Chun-yan |
| 何鍾泰議員, SBS, S.B.St.J., JP | Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP |
| 李卓人議員 | Hon LEE Cheuk-yan |
| 吳靄儀議員 | Dr Hon Margaret NG |
| 涂謹申議員 | Hon James TO Kun-sun |
| 張文光議員 | Hon CHEUNG Man-kwong |
| 陳鑑林議員, SBS, JP | Hon CHAN Kam-lam, SBS, JP |
| 梁劉柔芬議員, GBS, JP | Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP |
| 梁耀忠議員 | Hon LEUNG Yiu-chung |
| 黃宜弘議員, GBS | Dr Hon Philip WONG Yu-hong, GBS |
| 黃容根議員, SBS, JP | Hon WONG Yung-kan, SBS, JP |
| 劉江華議員, JP | Hon LAU Kong-wah, JP |
| 劉慧卿議員, JP | Hon Emily LAU Wai-hing, JP |
| 譚耀宗議員, GBS, JP | Hon TAM Yiu-chung, GBS, JP |
| 石禮謙議員, SBS, JP | Hon Abraham SHEK Lai-him, SBS, JP |
| 李鳳英議員, BBS, JP | Hon LI Fung-ying, BBS, JP |
| 張宇人議員, SBS, JP | Hon Tommy CHEUNG Yu-yan, SBS, JP |
| 陳偉業議員 | Hon Albert CHAN Wai-yip |
| 馮檢基議員, SBS, JP | Hon Frederick FUNG Kin-kee, SBS, JP |
| 余若薇議員, SC, JP | Hon Audrey EU Yuet-mee, SC, JP |
| 方剛議員, SBS, JP | Hon Vincent FANG Kang, SBS, JP |
| 王國興議員, MH | Hon WONG Kwok-hing, MH |
| 李永達議員 | Hon LEE Wing-tat |
| 李國麟議員, SBS, JP | Dr Hon Joseph LEE Kok-long, SBS, JP |
| 林健鋒議員, SBS, JP | Hon Jeffrey LAM Kin-fung, SBS, JP |
| 梁君彥議員, SBS, JP | Hon Andrew LEUNG Kwan-yuen, SBS, JP |
| 梁家傑議員, SC | Hon Alan LEONG Kah-kit, SC |

梁國雄議員
張學明議員, GBS, JP
黃定光議員, BBS, JP
湯家驊議員, SC
詹培忠議員
劉秀成議員, SBS, JP
甘乃威議員, MH
何秀蘭議員
李慧琼議員
林大輝議員, BBS, JP
陳克勤議員
陳茂波議員, MH, JP
陳健波議員, JP
陳淑莊議員
梁美芬議員
梁家騮議員
張國柱議員
黃成智議員
黃國健議員, BBS
黃毓民議員
葉偉明議員, MH
葉國謙議員, GBS, JP
葉劉淑儀議員, GBS, JP
潘佩璆議員
謝偉俊議員
譚偉豪議員, JP

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

缺席委員 Members absent :

李國寶議員, 大紫荊勳賢, GBS, JP
劉皇發議員, 大紫荊勳賢, GBS, JP
鄭家富議員
霍震霆議員, GBS, JP

Dr Hon David LI Kwok-po, GBM, GBS, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP

列席秘書 Clerk in attendance :

內務委員會秘書
甘伍麗文女士

Mrs Vivian KAM
Clerk to the House Committee

列席職員 Staff in attendance :

秘書長 吳文華女士	Ms Pauline NG Secretary General
法律顧問 馬耀添先生, JP	Mr Jimmy MA, JP Legal Adviser
助理秘書長1 李蔡若蓮女士	Mrs Constance LI Assistant Secretary General 1
助理秘書長3 林鄭寶玲女士	Mrs Justina LAM Assistant Secretary General 3
助理秘書長(特別職務) 馬朱雪履女士	Mrs Percy MA Assistant Secretary General (Special Duty)
高級助理法律顧問1 馮秀娟女士	Ms Connie FUNG Senior Assistant Legal Adviser 1
高級助理法律顧問2 張炳鑫先生	Mr Arthur CHEUNG Senior Assistant Legal Adviser 2
署理首席議會秘書(申訴) 曾慶苑小姐	Miss Erin TSANG Acting Principal Council Secretary (Complaints)
公共資訊總主任 黃永泰先生	Mr Simon WONG Chief Public Information Officer
總議會秘書(2)6 梁慶儀小姐	Miss Odelia LEUNG Chief Council Secretary (2)6
總議會秘書(3)1 梁紹基先生	Mr Arthur LEUNG Chief Council Secretary (3)1
助理法律顧問1 李家濶先生	Mr Kelvin LEE Assistant Legal Adviser 1
助理法律顧問2 曹志遠先生	Mr Timothy TSO Assistant Legal Adviser 2
助理法律顧問5	Miss Kitty CHENG

鄭潔儀女士	Assistant Legal Adviser 5
助理法律顧問9 譚淑芳女士	Ms Clara TAM Assistant Legal Adviser 9
高級議會秘書(2)3 余蕙文女士	Ms Amy YU Senior Council Secretary (2)3
議會事務助理(2)8 簡俊豪先生	Mr Arthur KAN Legislative Assistant (2)8

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II. 續議事項

Matters arising

- (b) 根據《基本法》第七十九(七)條對行為不檢的議員作出譴責的機制

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

(內務委員會於2009年10月9日舉行的第三十二次會議的紀要第55至110段)

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

(立法會CB(3)46/09-10號文件)

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

[先前發出的文件：

當值議員會議召集人葉劉淑儀議員於2009年10月8日致內務委員會主席的函件(立法會CB(2)2616/08-09(01)號文件已於2009年10月8日隨立法會CB(2)2616/08-09號文件發出);及

立法會CP1479/08-09號文件已分別於2009年10月9日及14日隨立法會CB(2)2620/08-09及CB(2)26/09-10號文件發出]

[Previous papers:

Letter dated 8 October 2009 from Hon Mrs Regina IP LAU Suk-yee, 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]

主席：接着是"根據《基本法》第七十九(七)條對行為不檢的議員作出譴責的機制"，這是跟進上一次我們討論機制而提出今天繼續討論的。事源上次我們作出了一個決定，就是希望採用這個機制來進行調查，但由於不可直接進行調查，所以一定要有一個動議等等。秘書處就議員的意見擬備一份文件，向大家簡介如果要運用這個機制時，詳情是怎樣，以及所涉及的程序是甚麼。這份文件是CB(3)46/09-10號文件，或者我將時間交給秘書長，好嗎？

秘書長：多謝主席。主席，在文件中，我們概述了《基本法》第七十九(七)條，對行為不檢的議員作出譴責以取消其議員資格的機制，包括有關程序和背景資料的詳情。或者議員也有機會看過這份文件，我現在很簡單地將一些原則和程序重點地概述。

首先，在第3段提出，當初在設計第七十九(七)條的程序時，考慮到這程序的後果是相當嚴重的，所以當時花了很多時間作出討論。當時的議事規則委員會參考了外國一向在這方面的機制，我們參考了他們的一些原則，也採納了一些原則，就在第3段的最後部分寫出來。當時，覺得甚麼行為才可被認為是第七十九(七)條所指的行為呢？應該是由當時的立法會去決定的。而那把尺應該怎樣用呢？就是要判斷究竟有關的行為是否會令立法會的聲譽受損。當時，這項原則在立法會獲得通過。我接着向大家解釋的是，我們因此制訂了一個機制，而這個機制是我們透過修改《議事規則》的幾項條文來實施。

關於程序方面，為了方便大家容易參考，在大家桌上有一個表，這個表其實已載於文件附錄3，但由於電腦印出來的字體效果不太清楚，所以我們讓大家可以清楚地按照這個表的內容來討論。主要的程序是，一位議員如果認為有任何一位議員的行為，令到立法會聲譽受損的話，他可以提出一個動議，而這個動議是起碼有另外3位議員附議的，那他便可以作出預告。在作出預告後，由於我們認為該項動議應是很具體的，而當中提出的指控是能夠調查得到的，所以認為應該將詳情以附表的形式夾附在一個已經有指定字眼及格式的議案當中。當動議人在會議席上提出該項議案後，接着該議案的辯論會自動中止待續，將事件交付一個調查委員會。這個調查委員會會就這個議案中所寫的具體詳情，確定究竟指控是否成立，而它亦就着該指控，是否能證明屬實而提出意見。之後，它會向大會作出報告。在報告之後，在一個最早舉行的、討論一般議會事務的立法會會議中恢復辯論，然後由議員辯論和投票，以決定是否支持該項譴責議案。當然，根據《基本法》，如果有三分之二的出席議員贊成，通過該項議案的話，立法會主席便會宣布該名被譴責的議員會喪失議員的資格。

在過程之中，議員在上一次內務委員會會議上已認為採用我們稱為第49(B)條的途徑，是一個適合的做法，我們便在過去這個星期內，就着這安排提出幾點給議員考慮。我剛才亦提過，這項議案是需要有1位議員再加另外3位議員簽署預告才可以提出的。而我們的《議事規則》亦有說明，這3位議員，即任何簽署這項動議預告的議員，不可以加入該調查委員會，以便不會出現角色衝突，亦對各方面的人士比較公平。所以，上次內務委員會會議已同意，請劉健儀議員做動議人，當時未有提到另外的幾位議員是哪幾位。上次亦有提過，不如組織一個小組委員會去考慮該些字眼，即措辭應怎樣，但我們想提一提，由於我們有這樣的規定，就是有一個角色衝突的問題，如果任何議員想參加日後的調查委員會，而他又同時參加這個小組委員會來草擬這項動議措辭的話，可能會出現角色衝突。所以，我們在文件第23段提出(a)、(b)、(c)三點，希望各位議員可以在今日這個會議上作出討論。主席，你希望我講這三點，還是由你帶領？

主席：或者由我帶大家去討論，很多謝秘書處擬備了這份文件，現在大家都看得清楚一點，究竟整個程序牽涉到哪幾方面的。

首先，第一點我想講的就是，很多謝大家在上次之內會推舉了我做動議人。我想弄清楚，向大家交代清楚，我的身份就是，上個星期我以為我是代表大家去做這件事，但現在看完之後，我只是便利這個動議可以提出。所以，我的責任就是我做了這個動議的倡議人，我是facilitate，即便利這個動議可以提出來，而責任去提出這個動議就在倡議人即動議人，再加3名議員，這樣我們便成為這個小組去倡議這個動議、這個決議案。所以，責任就是由這4位人士一起去草擬字眼，所有的責任去草擬字眼就在這4個人身上。然後，所以第一，在第23(a)段，第一，大家要決定這3位附議人去協助倡議人草擬字眼那點，是否應該由內會指定，還是由個別議員自願去做，這個就是秘書處請大家討論的第一點。

第二點大家要討論的就是，因為倡議人亦是提出那些字眼，換句話說，亦是提出那些指控的。但是，我們在說上次是成立一個小組，那個小組應該與這4個——倡議人和3個附議人——是不同的。如果剛才的安排是這樣，該小組的工作是如何呢？首先，它是否應該參與那個調查委員會呢？這個就是秘書問大家的。因為它亦是有參與籌組這個動議的辯論，即有一些過程它是參與的，雖然這個小組不是負責草擬那些字眼，但它都有參與的。那麼，這些小組的人士是否應該、可否加入那個調查委員會呢？

第三個建議就是說，如果小組委員會不參與議案的草擬，那麼，小組的工作是甚麼呢？小組的工作應該是草擬譴責動議字眼之外的事宜，那方面也有些工作要做的，秘書處亦在(c)段寫了出來，有個建議是小組會做這工作。但在(a)、(b)段方面，大家要決定如何處理；在(c)段，大家就要決定是否接受秘書處的建議去這樣做。但是，就(a)、(b)段而言，秘書處就不替我們做決定了，亦不提出任何建議，這個大家自己決定去怎樣做。

或者我先處理(a)段，好嗎？葉國謙議員。

葉國謙議員：多謝主席。其實，就這個問題的討論而言，在上一次的內會會議，大家已經充分發表意見，即已經去到現在(a)、(b)、(c)段問題的考慮點。民建聯也有傾談過，我們覺得(a)段其實是用一個.....不要用立法會指定的方式，而是大家在這方面可以報名，這方面可能會比較適合一點，我們大家之間希望都可以有一個協商的方式去做。至於是哪些人，就1加3來說，因為民主黨說過不會參與，我建議或者可能是公民黨，或者是還有我們其他泛民的朋友之中有多過1個，而在這方面，主席你本身已經是其中一個了。我們從民建聯的角度，我們都覺得可以有人參加的，這樣便可解決這問題了。

第三點那個問題，我們的看法就是，我們都同意的，就是那個小組，其實剔除了起草之外的工作，便由那個小組去考慮。

主席：那麼，(b)段呢？(b)段又如何，即小組是否應該參與調查那點？

葉國謙議員：如果小組沒有.....即不是做提名的，那麼，這已經是納入(c)段那裏，已經是這樣。

主席：不是的，這個因為是否參與..... (c)段是提及那個小組的職權而已，做甚麼而已。

秘書長：也相連的，是相關的。

葉國謙議員：它不做提名，已經變成是(c)的嘛，我們的看法就是這樣。

主席：即可以參與？

葉國謙議員：可以參與。

秘書長：即是說如果當該小組委員會的工作是不包括草擬動議措辭的話，其實他們已經不會出現角色衝突的問題。

主席：OK，好的。吳靄儀議員。

吳靄儀議員：主席，我明白葉國謙議員的意思，即是說如果是1加3這4位議員去……因為由於是他們的動議，由他們去草擬這個指控，就不需要我們自告奮勇出來，由那個所謂小組去做草擬指控這件事，其實(b)段就自動消失的了，因為沒有那個小組。剩下來的(c)段，我覺得其實亦不需要該小組，雖然就是好像……我其實都覺得很詫異，為何忽然變了一個小組委員會，還要籌備小組委員會，因為秘書處在(c)段那裏提出來，剩下來的工作就是如何、用甚麼程序去委任將來可能成立那個調查委員會呢？這個我們其實沒甚麼特別的，即如果我們知道要一個希望有各黨各派都參與的調查小組，那我們便按照平時一樣的委任方法，即一如專責委員會那樣，大家協商、提名，然後在內會上決定，再交由大會主席去委任。所以，我覺得這個小組亦沒甚麼必要繼續下去。

主席：秘書處就在(c)段也講了，這個小組是有工作做的，或者秘書長，請你解釋一下，好嗎？

秘書長：是，主席，多謝主席。這個當然是由內務委員會的成員決定，究竟是否需要這個小組委員會。我們提出來主要就是說，它是不適宜去草擬那些措辭的。但是，如果認為有一個小組委員會存在的話，因為從未做過這個調查委員會，我們都有一些機制，以前在其他的委員會都有用的，那是由秘書處自己去建議一個在內會的選舉機制，因為未曾試過、討論過，這個是採取甚麼機制呢？例如會否即場在這裏提名，然後接着大家舉手，這也是一個機制，即一個選舉機制。就目前來說，以往譬如說政府帳目委員會，或者議員個人利益監察委員會，已經有一個機制的了。那麼，如果議員認為不需要另外再討論選舉機制的話，便由秘書處按照其他的做法，建議一個機制在內務委員會通過。

主席：好的，秘書長說其實有小組亦有其作用，如沒有小組，秘書處都可以……

秘書長：都可以做得到。

主席：是，就這方面，大家有沒有其他意見？不如我們先處理(a)，好嗎？

吳靄儀議員：主席……

主席：是。

吳靄儀議員：如果是這樣，我就會建議，既然已經有人報名，稍後亦可能會開會，屆時讓該小組自己決定是否需要繼續存在，這樣好嗎呢？

主席：是的，我們稍後再談一談，因為如果現時大家同意，小組不會有草擬職能的話，將不會影響有關同事將來想加入這個調查委員會，OK？那麼先討論(a)項，(a)項的3位附議人的選出或出任模式是自願參與、協商還是由內會處理？葉國謙議員說自願，透過協商就……

葉國謙議員：自願……

主席：不如這樣，我作為你們大家付託為便利動議的倡議人，我看看找不找到3位。

葉國謙議員：你去找人吧，因為你是動議人。

主席：我都希望找到不同黨派的人加入，好嗎？但要記着，這3位將來是不能夠，我重複是不能夠加入這個調查委員會的，即如果有意加入調查委員會，便不要做附議人了。

葉國謙議員：我自願。

主席：OK，那麼我找少一位。是的，謝偉俊議員。

謝偉俊議員：談到找人我想瞭解一下，究竟現時在調查的過程中，我們找到原告了嗎？原告是否願意出席作證？如果不出席的話，我們這個調查又會如何？

主席：是，其實做了工作的，一直在背後也做了工作，剛剛在午膳前，收到這位當事人的律師給我們的回覆，或許我以英文說出來，好嗎？當事人"is willing to assist in the wording of the schedule to the censure motion"，OK？因為收到的是英文信息，我就.....

謝偉俊議員：是否就是這麼而已，只是 wording，但那個 investigation process 呢？

主席：對不起，我只可以把收到的信息向大家交代，因為也經過一段來來往往，是由她的律師——當事人的律師給予我們這個信息的，OK？何秀蘭議員。

何秀蘭議員：主席，我想進一步問，當事人是否願意就她的指控提出進一步資料呢？

主席：.....在現階段，我們收到的信息，我再重複一次，因為我不想加加減減。

何秀蘭議員：是的。

主席：給我的信息是英文的，當事人" is willing to assist in the wording of the schedule to the censure motion "，我加減也不敢的，OK。

何秀蘭議員：主席，我可不可以請這個小組進一步與當事人接觸，請她幫忙提供更多資料。

主席：是的，我們會跟進，因為這個信息，我也是剛剛午膳前收到的，OK？是否還有問題？葉劉淑儀議員。

葉劉淑儀議員：如果找人協助，我自願吧，因為當天我擔任當值議員，也有份處理投訴。

主席：是的，你是建議做草擬的人？

葉劉淑儀議員：是的。

主席：那麼你便不能參與未來的調查。

葉劉淑儀議員：我知道。

主席：OK，那麼，只需多找一位，不過，找不找哪位就.....

謝偉俊議員：主席，我舉手不是做第三個，不過，我想說的是，你剛才讀出那封信，那個wording.....

主席：不是信，是一個口頭的communication。

謝偉俊議員：OK，一個口頭的communication，這是不足夠的，我認為如果沒有一個當事人的承諾會提出指控，甚至幫助.....

主席：或許在現階段.....

謝偉俊議員：對不起，請先聽我說畢，因為我認為這個過程只會令立法會浪費時間，是一個farce，簡直是笑話。我上次沒有參與這個辯論，但如果有需要.....如果當事人不肯決定會否協助調查，我會根據《議事規則》第49B(2A)條動議取消這個委員會，因為這樣做會浪費納稅人公帑及沒有結果，令我們只是徒勞做很多工作，到時只是一個笑話，結果完全不可以predictable，不知發生何

事，這一點我覺得大家要慎重考慮，即使我們上次太倉卒，通過一項議案而成為笑柄，我們還有機會可以更改這笑柄，但我們不應該繼續浪費時間、浪費公帑做一些無謂的事情，除非當事人很願意提出她的指控為何，以及願意充分協助這個委員會去調查，否則我們不應該繼續，多謝主席。

主席：我想你的意見我們會記錄在案，因為我們剛剛收到這個信息，我們不可以當是……我只可以視為她在現階段向我們提供這樣的信息。吳靄儀議員。

吳靄儀議員：主席，如果大家瞭解清楚《議事規則》的程序，這個根本不是內會整個會議的事，而是當有一位倡議人加3位附議人時，這是他們的動議，他們在草擬時，如果他們向當事人探討過程期間，發現根本沒有甚麼可以跟進或有甚麼可以跟進，由他們自行決定。當他們決定後寫了一項動議，如果有任何議員覺得這項動議，看表面已經沒有可以跟進之處，當然可以提出結束整個程序。所以，主席，我想不如大家留給那1位倡議人及3位附議人，讓他們決定最佳方法是怎麼做。

主席：謝議員，你暫時的想法我都尊重的，不過，可能就急躁了一點，我們先看一看再進一步如何吧。

謝偉俊議員：不是我現在的動議急躁，因為我覺得這做法是本末倒置了。

主席：梁美芬議員。

梁美芬議員：我自己都想講，其實我上一次都不是特別支持採用第49B條的，我當時亦建議了第三條路，就是說在內會成立一個委員會。但是，在上一次的討論，既然這麼多同事都覺得可以採用第49B條，我自己便尊重同事的意見。我覺得當時亦一直有提到，為甚麼未必……即我自己當時的看法是，未必一開始便引用第49B條呢？因為第49B條的題目似乎是一個很重的啟動機制。所以，通常來說，我們就有一個叫做 *prima facie hearing*，即表面證供的一個……通常會先調查少少，這樣有兩個階段。但是，我今天再聽，即是說，即現在具體的運作……即如果是由那個動議人加3個和議人，他們如果是能夠接觸到……即如果這位女事主願意協助，其實

那個變相都可以算是一個.....就是大家看完所有之後，是否有一個充分的表面理據，令這4個人提出在立法會辯論，我覺得有這一步行了都是好的。我們相信這4位同事，因為這一位女事主願意協助他們，即是說她一定會與他們有溝通的嘛。

主席：好了，我想今天這個討論其實是言之尚早，留待我們先進行了工作一段時間，如果我有困難，或者我動議，始終我都要回來向大家交代的。到時候，不知道一兩個星期之後是怎樣的情況，你們大家的意見可以保留至那時，看看那個情況發展至哪個階段，才提出你們的意見或建議，好嗎？OK？那我們的討論今天到此為止了。那3位議員我就會去找，現在找到兩個了，有哪位自動請纓呢？

黃宜弘議員：我會是第3位。

主席：你是第3位，對嗎？你做第3位吧。啊？你反對嗎？

葉國謙議員：不是，不是，我剛才說報名.....可以考慮.....

主席：或者這樣，我做倡議人，我絕對有權，我都有權去選擇的，OK？另外那個小組，我們在今天內會會議之後，我們會繼續開會，再談一談我們這個小組是否需要.....不要？啊，在這裏決定不要.....因為剛才有一個建議，就是說那個小組既然今天都call了一個會議，大家談談那個小組是否需要存在；如果是存在，便按秘書處所提供的意見繼續去做了；如果不是，我們便回來取消這個小組，都是可以做的。 法律顧問。

法律顧問：主席，這個講法是對的，不過，因為上星期就設立這個小組委員會是有一個職權範圍的，今天的討論似乎就該職權範圍，已經作出了一些根本性的變更。

主席：是的。

法律顧問：我想是否已經有一個明確的決定，稍後這個小組委員

會的討論範圍是甚麼呢？是否包括它會在下一次會議向你們就其存亡作建議呢？

吳靄儀議員：主席。

主席：吳靄儀議員。

吳靄儀議員：法律顧問，請你放心，第一件事一定會是談這個了，對嗎？我相信議員對這些事都很熟習的。首先，如果他的瞭解是不同了，第一件事很可能我們就要向內會說，就是上一次加入的人或不加入的人，是因為一種錯誤理解，現在是否應該重新考慮哪些可再開放，是否有些人想加入呢，還是這個小組有否存在需要呢？我想我們都會在那個會議上商談。

法律顧問：主席，因為小組委員會是由內務委員會設立的，既然現在是內務委員會進行會議當中，那當然，如果你們覺得在這個時間有需要處理一些直接相關事宜的話，我想你都可以決定由這個委員會去作決定。

主席：我當然可以將稍後擬議與小組委員會講的事情都可以現在提前去講，再決定究竟大家認為這個小組委員會是否需要存在。如果不需要的話，稍後就根本無需要開會，我想法律顧問的意思是，現在一併解決這問題，大家對這個建議有甚麼意見？梁劉柔芬議員。

梁劉柔芬議員：我的理解就是，我們這個內會是決定……上一次決定是說這樣、那樣，你成立一個這樣的小組就做這件事。現在既然是這件事已經改變了，那我們應該是收回成命，這個小組不存在呢？抑或是收回，說不是了，現在不是煲飯，是煲粥，麻煩你們再做。即應該是這樣的嘛，就不是說，啊，原本是叫你弄飯的，然後你們一羣人坐在一起就說，咦，剛才好像聽見那些"大佬"說不用了啊，現在又說煲粥啊，那我們又怎麼樣呢？我覺得很奇怪！我覺得我們應該由這個內會去決定究竟你想成立一個甚麼的小組，這個小組是做甚麼？應該在這方面談，就不是說，橫豎都是做了，到時你去做吧，你們一羣人就自己去代自己決定，那變成不是mandate由內會給予的，即很奇怪了，我覺得。

主席：不如我重複一次，上星期我們成立一個小組，當時秘書處未有詳細列出程序。當時的構想是，這個小組是負責草擬字眼。好了，秘書處就提供了文件，原來根據《議事規則》，這項動議由1個倡議人、3個附議人是要負責所有工作，包括草擬字眼，包括到時候推動這項動議，所以不存在應該有小組的。但是，秘書處同時間亦說，在草擬動議之外，其實這個小組都有些職能可以做的，原先如果成立那個小組，除了草擬字眼外，這些職能都是會有的。今天亦call了一個小組會議在緊接這個內會之後進行。所以，剛才有一個建議就是，不如由我們草擬字眼，就一定不需要這個小組了。但至於其他職能，既然這個小組已經召開了會議，不如都談一談這些其他職能是否需要由這個小組繼續去做，還是說不做了，發回給秘書處去做，就是這麼簡單而已。剛才有人舉了手，謝偉俊議員。

謝偉俊議員：多謝主席。兩個問題：第一，我想秘書處與法律顧問澄清，在文件的第8段，任何議員可以動議，在任何階段是不滿意的話，是可以動議撤銷這個過程的，這個是否包括今天都可以作這項動議？

第二，就是說我們整件事是一個好像是傳媒逼我們去審訊般，我們完全根本連原告最先講甚麼，任何簽署的報案，甚麼也沒有做的情況下，我們這麼做其實是一個很危險，以及完全不恰當的做法。我不知道為甚麼，背後有些甚麼政治原因；不過，這樣做法，我不是理會任何政治目的，或者任何政治立場，純粹從個人對於公義的立場，對於任何.....保障任何人的權利立場來說，我覺得這樣做法是非常不恰當，整個立法會就好像小兒科、"柴娃娃"在玩般，怎成體統呢？我們可以做甚麼呢？浪費納稅人的金錢，浪費大家的時間。我想弄清楚這件事情究竟有沒有原告，肯定commit了，肯定承諾作為一位投訴人，我們才要處理，否則我們不應該再浪費任何一分鐘去進行這過程，我會動議取消這項調查。

主席：法律顧問或秘書長。

秘書長：主席，剛才所說一個無經預告，不需要把議案交付給調查委員會的動議，是要待譴責動議已經在大會上作出後，再在那兒提出該議案，所以不存在可以在內務委員會上處理的問題。

主席：OK，法律顧問有沒有補充？

法律顧問：也許我補充一點，這機制是當年立法會及議事規則委員會刻意把其加入……是當年立法會及議事規則委員會，就此機制刻意加入所謂"無需預告，即時動議，不需要再處理此譴責議案"的條文，就是用來防止有議員濫用這個機制，造成一些不必要及無可挽救的傷害。但今次……就着剛才謝議員提出的關注點，當然，因為這程序本身帶來的後果非常嚴重，所以大家都適宜謹慎及嚴肅地去處理，所有我們熟悉的自然公義原則亦應該盡量符合。

不過，整個機制由《基本法》所規定，立法會當年是按《基本法》的授權制定了《議事規則》。《議事規則》就着剛才所說，一些先前可能其他專業團體亦會有的如初步調查等程序，亦是經過一個非常審慎的研究，是刻意覺得在立法會這類立法機關的組織有這類程序，所帶來的無可補救的傷害可能會更加嚴重及不值得進行。所以最後決定了，文件亦有交代，把草議譴責議案的責任加諸於自覺認為有需要提出這譴責議案的倡議人，即是現在所謂的"1加3"。究竟他們會採取怎樣的步驟，或者獲取怎樣的資料，才能夠草擬此譴責議案，就完全在他們手上。當然，他們進行的措施，像我剛才所說，責任是超乎一個法律責任或程序責任的，多謝各位。

主席：OK。吳靄儀議員。

吳靄儀議員：主席，"菩提本無樹，明鏡亦非台，本來無一物，何得染塵埃"。上次根本並沒有成立小組委員會這回事，只不過主席說"無喇喇"怎樣去草擬一個指控出來，因此我們數位議員才說不如由我們幫你吧，因為在這個階段，你無非都是從申訴中去找出來。誰不知，倒過來突然會成立了一個名為"籌備小組委員會"的東西。所以，主席，我們現在可以言歸正傳，去看回今天文件中第23段(c)部分，看看既然大家都決定要"1加3"，所以上次提出要幫助主席及其他附議議員去草擬些甚麼，已經不需要了。但既然無樹也好，非台也好，都已經成立了一個小組，究竟這小組可否移花接木做(c)段所述的事情呢？就由內會去決定。故此，我剛才已開宗明義，說秘書處指出這個小組可以做其他事情，我認為都不是很需要，但之後又說可能會有其他事情要處理，會否有個小組會較好呢？就出現了現時這個討論。

主席，我們不如先決定，在(c)段中是否有需要用已報名的所謂小組去進行這些事情，還是我們乾脆當這小組不再存在，如果我們要籌備一些事宜，一是由秘書處提出，或者在秘書處提出後，如議員認為需要進一步討論及研究，我們再看看需否成立一個小組，這做法會否較好呢？

主席：好，我聽畢其他同事的意見後才作決定，葉國謙議員。

葉國謙議員：主席，我以為剛才提的(c)段應該已經很清楚，我基本上同意剛才吳靄儀議員所提出的，其實未必與最初要成立一個調查小組是兩回事，但能夠有一個這樣的小組，因為該小組各黨各派都有人在內，倒不如由他們談一談，怎樣組成該7人的.....即進行某些研究，可以有些提議、一些建議，可能比只是由秘書處去做更好。所以，我認為現在有一個這樣的小組，名稱是怎樣我不作研究，可幫幫手提出建議，其實已經完成了工作，所以我建議跟着(c)段去做這件事，而這也不是叫籌備小組。

主席：稍後大家決定要不要吧，好嗎？從來也沒有叫籌備小組的，不知為何有這個名稱。劉江華議員。

劉江華議員：主席，我也同意實質的工作是重要的，不過，剛才有議員提到，我們整個過程好像很倉卒、很匆促，但我卻不覺得，事關我在當值的時候，大家5位議員也反覆討論過很多個方案，然後再交予內會。主席，你也記得經過兩個半小時大家反覆討論、推敲，以37票同意這個方向，是這樣進行的。而秘書處則按我們的指示去進行，不可以說為甚麼秘書處會有些東西出來。所以，我覺得既然走到這一步，有幾個人去看看那字眼，這裏也是一個關卡來的，不是太容易的。如果在過程當中，大家看過，喂，沒有問題的，那便沒有問題吧，可以不提的。如果要提，便要交上來，要給我們看看，然後動議辯論，還要投票等等。我相信是有這樣的過程的，我相信可能這個機制是首次使用，我想我們要審慎去做，但不等於完全不動，我想這樣便不太理想了。

主席：劉慧卿議員。

劉慧卿議員：主席，我相信我們要對秘書處公道一點，上次做的事情和今天這些事情，都是上次的決定來的。當時是叫大家加入

的，剛才法律顧問亦都說，如果有新的事情要做或其他，是要我們內務委員會決定的，我不是說"煲粥、煲飯、煲甚麼"，但我覺得是要清楚的，這不是說誰人弄錯，秘書處是聽到議員這樣說，便去做，如果有議員有東西要轉，那便由我們這個委員會去改變，轉了之後再重新做。主席，你剛才的建議好像與法律顧問的說法有少許出入，或者你講講給我們聽，你現在的理解和結論是怎樣的？主席。

主席：沒有，剛才可能有少少出入，但其實我是絕對願意將這個課題再放出來與大家討論，讓大家作一個決定。聽完謝偉俊議員發言後我便會處理。謝偉俊議員，你第四次發言了。

謝偉俊議員：多謝主席。多謝剛才秘書長解釋了，要等動議開始了過程，才可以有我剛才所提出的問題。但看文件，似乎根據秘書處的介紹是分3個階段，第一階段是動議；第二階段是調查委員會；第三階段是恢復辯論和決定。現在我們在甚麼階段？是否在零階段？我們現在是否根本還沒有動議，沒有motion，未有任何事做，這是否不應由內會作討論呢？由有關當時個別議員，他們想做任何動議，請他們自己去做，找3個人支持他去做。因為這不是正式入了議程的一個正式.....一個formal process的動議過程，我想瞭解這個過程究竟是怎樣？現在我們在甚麼階段，是否在零呢？

主席：我們現在是討論的階段，在討論的階段，所以不是動議的階段。

謝偉俊議員：那便不應花內會的時間去討論，商討應成立那一個委員會，搞這麼多事，這是否應是由個別議員去做的事呢？

主席：梁美芬議員。

梁美芬議員：我相信由於謝偉俊議員上次沒有出席，上次我們其實有3個方案，只不過一投票便投了第49B條的方案，然後大家都同意了。如果不是，又可能有另一些方案提出來，所以，我希望謝偉俊議員不要否定所有人的工作，覺得大家是"柴娃娃"。

主席：我希望不要討論這方面，OK。

謝偉俊議員：不要一錯再錯，我知道你們決定了甚麼，不過……因為我不在席，所以我需要更努力尋求發生了甚麼事情，現時在甚麼階段？是否需要浪費內會的時間去做這件事，我們現時在零階段啊！

主席：我們已有一個決定，上一次已有了決定。

謝偉俊議員：根本不應在內會決定，如果是這樣的話。

主席：你不同意決定是另外一回事，OK？我想我們要處理了。我要處理的是小組的身份，上次我們決定了小組其中一個工作，就是要草擬字眼，但這個草擬字眼，現在已經不會再在此小組的範疇之內。就是說，因為這個小組已不再有草擬的工作，所以，我們可以不要這個小組，OK？這個可以是一個決定。另外一個決定是，可以是說，既然已經成立了一個小組，亦定了今日開會，這個小組亦按秘書處的文件顯示是有職能的，那是否繼續這個小組，讓它執行這些職能呢？這方面大家可作決定，這就是唯一我們現在要決定的事情，便是這個小組是否仍然有需要？如果不需要，秘書處說這個小組可以承擔或背負的職能可交予秘書處去做，OK？很簡單的，如果不是的，繼續成立的話，這個小組會繼續開會，除了該些職能，包括葉國謙議員剛才所說的，討論一下將來調查委員會的組成，提出一些建議等等，這些工作可由這個小組處理。那麼，現在大家決定是否需要這小組？林大輝議員。

林大輝議員：我加入了這個小組，當時我的想法是加入這個小組，就是有份參與措辭的事項。如果把這項工作剔除，我現在先表態，我是會退出這個小組的。

主席：OK。

林大輝議員：如果不是講措辭，講其他事項便不關我事了。

主席：對、對。現在先決定這個好嗎？決定需不需要這個小組，大家都要決定是否需要這個小組。梁劉柔芬議員。

梁劉柔芬議員：主席，我當時的瞭解是，加入這個小組並非只是處理措辭，而是要看整個機制，因為這裏沒有講到有任何機制，只是提到將來有一個調查委員會。當時我自己也覺得，要草擬一個措辭，我便不參與了，因為我覺得非常困難，正如謝偉俊議員所講，只是有一些第三者的投訴，不過，也不要緊，現在有人願意負起這個如此重大的責任，但我覺得這小組如果要成立的話，小組必須弄清楚，由內會有一個"mandate"告訴它，它實實在在要做甚麼工作。你可以在一個框框內再加入所有related的東西，那麼我們便清晰了，好嗎？謝謝。

主席：現在其實也清晰的了，這個小組是處理其他職能，除了草擬之外的其他職能。

梁劉柔芬議員：即是甚麼？

主席：這就是包括剛才秘書長所說的東西，剛才梁劉柔芬議員妳自己都說過其實有很多工作要做的，有很多其他職能。

梁劉柔芬議員：那你要講給我聽嘛。

主席：是的，所以這個小組初步要坐下來談一談究竟如何做，但這些職能全都可由秘書處透過其他模式.....如果有需要的話回到內會解決。但是，當然，亦可以由我們先前成立的小組去做這些工作，現在要決定了。劉慧卿議員。

劉慧卿議員：主席，我建議由某些議員去做，不要放這麼多責任在秘書處，否則又可能出現一些誤會，議員自己幫手主持。

主席：劉江華議員。

劉江華議員：主席，我也同意由幾位議員去做。如果有些議員參加了，但現在不願意的話，可以退出來，沒所謂的。

主席：不如這樣吧，這個小組，如果聽了數位同事所說的，我掌握的意見就是說，這個小組讓其繼續處理其他職能，有沒有反對意見，有沒有強烈反對意見？你有，是嗎？

石禮謙議員：你要說明其他職能是甚麼職能。

主席：這些其他職能不包括調查。

石禮謙議員：請你讀出來。

主席：不包括調查，秘書處已在(c)段寫明，你有沒有文件啊？或者請將一份文件給石議員。是，秘書長。

秘書長：主席，我想如果我們真的要在內務委員會之下成立一個……或者將已經成立的那個小組委員會的職能改變的話，一定要很具體將其職能是甚麼說明出來。其中一點是，我們曾經在這裏也提過，就是日後那個調查委員會是透過一個甚麼方式來組成，或者會否它亦考慮日後調查委員會內的運作。如果是談到這些事情的話，似乎這個委員會是不適宜讓倡議人和附議人加入的，因為可能會出現日後的角色衝突問題，所以或者這一點請議員留意一下。

主席：法律顧問。

法律顧問：主席，有少許補充，亦希望謝議員關注到正當性，即那個due process。就着這個小組委員會，其實是說內務委員會在這方面其職能、其角色是甚麼，《議事規則》第73A(1)條是界定了，亦委託了內務委員會就着這個調查委員會的組成方法作一個決定的，我相信這個是最正當，而且最清楚，《議事規則》是有的。至於其他有沒有一些附帶的職能，在這方面《議事規則》並沒有明確的，這個就真的要比較謹慎一點去看。我提供這個意見以供參考。

主席：吳靄儀議員。

吳靄儀議員：對不起，主席，我在看法律顧問所說的那點，主席，法律顧問提到第73A條，或者大家看附件1，是否即是說："成立的調查委員會由一名主席、副主席及5名委員組成，全部均須為立法會主席按內務委員會決定的選舉程序任命的議員。"其實，這些字眼是否好像與我們專責委員會的委任一樣，即經內會推舉出來的人，再由主席去委任？但是，至於如何推舉，這件事情是否應該由一個小組去做，還是屬於規則的事情呢？如果不屬於規則的事情，又只不過是怎樣做而已，那麼，我真的覺得很難由一個小組委員會去做。主席，但是我想提醒議員一件事就是，第一，我們"十劃未有一撇"，這個未曾動議的，但如果一旦動議，便會立刻着手成立一個調查委員會，該調查委員會的程序是由調查委員會自己決定，而不是由內會任何一個事先成立的小組去推薦，或是甚麼的。

主席：秘書長。

秘書長：主席，或者再跟進剛才所說組成程序的安排，我們都習慣是，如果一旦在內務委員會決定了就着某一件事成立專責委員會，我們也有成立一個小組委員會，就着那個組成作出討論的。即是現在其實我們.....

主席：吳靄儀議員先讓秘書長說完。

秘書長：所以為何我在這裏說，如果真的有一個小組委員會在內會之下成立，去討論關於組成這個調查委員會，想作一個初步的討論亦可以的，當然到最後都是內會推薦一些議員讓大會主席委任。

主席：吳靄儀議員。

吳靄儀議員：不好意思，因為這個是.....我真的不想講太多，但你牽涉到原則問題，秘書長，因為當我們成立一個專責委員會的時候，是以內會的決議去成立的，但這項譴責動議是由1加3這4位議員自己自動決定的，這個不是內會的議決，所以不由內會去說如何成立將來任何的會議。

秘書長：對不起，主席。

主席：秘書長。

秘書長：因為剛才我想法律顧問已說出來，內會就着這個調查委員會的成員組成是有角色的，就是大會主席會按照內會的推薦去委任哪7位議員加入這個調查委員會，而我們以往如果就着這種做法，的確在內會是有討論的，是有選舉的，而選舉的形式亦透過這個內會通過的。

主席：OK，謝偉俊議員。我想我們也要作一些決定，因為我們討論了差不多1小時了。

謝偉俊議員：主席，聽吳靄儀議員所講的說話，似乎她間接支持了我的說法，就是我們在零階段根本就不應該牽涉內會，在這裏作了很多掣肘、很多預先的決定，而是當有1個議員加3個議員和議提出了動議之後，才invoke那個process，才開始按鈕，而之前我們不應該浪費內會的時間，去做這些預先設定的很多機制。

主席：謝偉俊議員，我不想再要討論兩、三小時，大家如果你上星期有在這個內會討論，我們討論了將近3小時，這個決定……

謝偉俊議員：不等於對的。

主席：是要實行第49B條，是一個內會的整體決定，不是我劉健儀一個人，我現在要提出這個動議，所以我不可以覺得現時去到這個階段，便變成劉健儀自己提出來的動議，我相信這個對我、對大會都不公道，對內會整體議員都不公道，OK？

謝偉俊議員：主席，我不是怪責你個人，亦不是怪責內會，而是我們有機會再反省，以及在秘書處給予我們意見之後，我們可以有機會再想想這是否一個正常的操作呢？還是想過之後，覺得是有機會更正自己呢？

主席：我想在現階段，我是會實行，我有一條路去行，我最終要

回來向大家說我這條路是否行得通，OK？葉國謙議員，然後是陳茂波議員，我接着便要終止這個討論的了，因為大家要有一個決定，不可以光在這裏說。葉國謙議員。

葉國謙議員：多謝主席。其實，剛才謝偉俊議員所提及的，我覺得當然你有這樣的看法，但那個已經在上次會議上作了決定，你如果要將這個決定推翻，我想又要另一個程序才能做到。現在只是怎樣去實現上一次會議所決定的事。我具體說說，我覺得這個小組——正如秘書長所提及的——我覺得很清楚可以按照第23(c)段，這個小組就是負責草擬譴責議案以外的事宜，這個可以包括調查委員會的成立和初步工作，例如調查委員會成員的組成的建議、草擬調查委員會的工作方式及程序等，我覺得具體就是這麼多，因為這些事項完全要返回內會最後通過。我具體地這樣建議，多謝主席。

主席：陳茂波議員。

陳茂波議員：多謝主席。主席，兩個會議我也在場，我全程都坐在這裏留心聆聽，包括剛才吳靄儀議員引述六祖慧能的詩句。其實，吳靄儀議員引述的詩句正正亦反映了我們上次為甚麼會討論這件事情。慧能的師兄，不過不及慧能那般能幹，他說："身似菩提樹，心如明鏡台，時時勤拂拭，莫使惹塵埃。"我們就不是無中生有的，我們上次是因為有不少市民向立法會申訴部提出投訴，由當席的議員考慮之後，轉介到內會，我們大家在這裏很冷靜地討論了一個相當長的時間而得出來的一個結論，是打算這樣做。

當時我們考慮，由於掌握的資料和情況未完全足夠，到今天我們回頭看應該如何做好一點，我覺得這是另一個問題，但不會去到我們將這件事完全推翻，立法會不去處理這件事，如果是這樣的話，我覺得不公義的。主席，我覺得我們這個小組仍然有其功能及存在價值，包括既然已經接觸當事人的律師，是否也可以在這個小組裏作出一些跟進，令到……譬如解決一些剛才大家擔心的，通過某些程序與當事人接觸，她是否真的會提出投訴呢？她投訴的內容是甚麼呢？她會否配合調查呢？我覺得這個小組可以作出一些合適的討論，然後返回來大會建議我們怎樣做，總好過我們每次幾十人在這裏一小時、兩小時，很可能也沒有甚麼大的進展。多謝主席。

主席：好，多謝。我們稍後即將就要決定我們是否繼續存在一個

小組去處理草擬該動議字眼以外的事，亦包括秘書處剛才在文件中第(c)段所寫的。不過，就陳茂波議員你剛才建議事主那方面的問題，我亦只是想說，事主直至現階段是願意協助有關我們這項譴責動議的字眼.....

陳茂波議員：是，主席，不過我想如果.....

主席：只是協助我們，但是我要說，字眼是由1加3那個組別去處理，小組不會處理字眼，所以你不會接觸到當事人。

陳茂波議員：主席，我明白你的意思。主席，我的意思就是說，如果那位事主有聽到我們今天在這裏的討論，知道我們是關注到這個會否演變成一個無頭公案，抑或不是只有被告、沒有原告，是需要她去協助的時候，可能她給回你的信息亦未必一樣。

主席：是，如果有新的信息，我當然會向大家報告。好了，你現在要決定了。我剛才聽了那麼多位同事，似乎是絕大多數的同事也覺得這個小組應該繼續存在去處理草擬動議以外的事，包括將來如果成立那個調查委員會，其組成的程序應該如何，還有其他的事項，秘書處的那份文件已寫得清楚。大家是否同意我這個observation，我這個觀察，大家是否同意？如果同意便不需要再投票，好嗎？這個小組稍後便會繼續，但因為我是草擬人之一，剛才幾位也表示了願意做草擬人。如果你想做草擬人或想協助做草擬人，你便不要加入這個小組，你不要加入這個小組，你們自己之間，秘書處會協助大家的了，你們自己去選主席，你們自己去處理各方面，OK？多謝大家。接着下來，謝偉俊議員還有.....

謝偉俊議員：我想聲明我反對這個過程。

主席：好，你可以.....秘書或者可以.....

謝偉俊議員：因為你剛才說所有人有沒有人反對，我想提出我是反對的。

主席：你反對成立那個小組？

謝偉俊議員：我反對現在繼續進行這些不應該做的事。

主席：我剛才問大家是否同意，是在說那個小組而已，亦可以記錄在案，寫明謝議員是反對調查，是嗎？對不對？OK。

謝偉俊議員：即用這種方法、這樣做法，我覺得是兒戲的方法。

主席：用這種方法調查。是，梁美芬議員。

梁美芬議員：主席，我其實想問清楚，即是說稍後的小組不會參與草擬的，其成員將來可否再加入調查？

主席：可以，可以。

梁美芬議員：即是沒有問題。

主席：因為你沒有牽涉在草擬譴責動議之內。OK，如果大家沒有問題，我便要回到議程，議程III：立法會先前會議的續議事項。

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**Procedure for the election of Members for appointment
by the President to the Investigation Committee**

1. An election of Members shall be held at a meeting of the House Committee, the date of which (“election date”) shall be appointed by the House Committee.
2. The Legislative Council Secretariat shall issue a circular and a nomination form to the Members of the Legislative Council at least seven clear days before election date, inviting nominations to be made.
3. Each nomination form shall be for the nomination of one Member and shall be signed by one Member as the proposer, one Member as the seconder, and by the nominee Member to signify his consent to the nomination.
4. Duly completed nomination forms shall be delivered to the Legislative Council Secretariat at least three clear days before the election date.
5. In cases where the number of nominations received by the Legislative Council Secretariat by the deadline for nomination is less than seven, further nominations may be proposed, at the House Committee meeting at which the election is conducted, by any Member and seconded by another, with the proposed nominee signifying his consent to the nomination.
6. In the case where the number of nominations received under paragraphs 4 and 5 is equal to seven, the Chairman of the House Committee shall declare the nominees duly elected.

7. In cases where the number of nominations received under paragraphs 4 and 5 is more than seven, a poll shall be taken at the House Committee meeting at which the election is conducted; voting at which shall be by a show of hands, whereby a Member may vote for seven times and no more and the nominees who get the highest numbers of votes will be declared elected.

8. In cases where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes, a separate poll shall be taken in respect of that nominee and such other nominee(s) in accordance with the manner of election provided in paragraph 7.

9. If, after a separate poll is held under paragraph 8, there is still a nominee who would have been elected but for there being one or more other nominees having been given the same number of votes, lots shall be drawn by the Chairman of the House Committee among such nominees to determine which of them will take up the remaining place/places.

10. Immediately after the election of Members for appointment to the investigation committee, the meeting of the House Committee shall be suspended for 10 minutes to enable the elected Members to elect amongst them the two Members to be nominated for appointment respectively as Chairman and Deputy Chairman of the investigation committee by the President.

11. The meeting of the House Committee will then resume and House Committee will be asked to endorse the results of the election of the Chairman and Deputy Chairman of the investigation committee.

**Extract from the Progress Report
of the Committee on Rules of Procedure
for the period July 1998 to April 1999**

* * * * *

The procedure for the censure of a Member under Article 79(7)

2.39 Article 79(7) provides for the censure of a Member for misbehaviour or breach of oath by a vote of two-thirds of the Members of the Legislative Council present, and has the same effect as Article 79(6) of disqualifying a Member from office. However, unlike the case of Article 79(6) the application of which depends on existence of a conviction and sentence to imprisonment for a criminal offence, the circumstances under which Article 79(7) may be triggered off depend on an evaluation of whether the condition of either “misbehaviour” or “breach of oath” is satisfied.

2.40 In view of the serious and complicated nature of the subject, the Committee has conducted its study in two dimensions:

- (a) what behaviours should be regarded as falling within the meaning of “misbehaviour” or “breach of oath” and which are serious enough as to justify the censure of a Member and his disqualification from the office of a Member of the Legislative Council; and
- (b) what mechanism should be established to deal with an allegation of such behaviours.

In the course of its studies on the procedural rules for implementing Article 79(7), the Committee has made reference to practices in overseas

legislatures and local professional bodies. A consultation exercise among Members was also conducted.

Defining “misbehaviour” and “breach of oath”

Misbehaviour

2.41 In determining the scope of “misbehaviour” in the context of Article 79(7), the Committee has examined the relevant provisions in the Legislative Council Ordinance, Legislative Council (Powers and Privileges) Ordinance and the Rules of Procedure of the Council, and discussed whether such “behaviours” should be confined strictly to the conduct of Members in their capacity as such and which has brought the Council into disrepute.

2.42 The Committee notes that by virtue of section 15(3) of the Legislative Council Ordinance (Cap. 542), the kind of “misbehaviour” for which a Member may be censured under Article 79(7) includes, but is not limited to, a breach of an oath given under section 40(1)(b)(iii) of the Legislative Council Ordinance (Cap. 542). Section 40(1)(b)(iii) requires a person, when nominated as a candidate for election to the Council, to give a promissory oath to the effect that, if elected, he will not do anything during his term of office that would result in his:

- (a) becoming a prescribed public officer, or an officer of the Legislative Council or a member of staff of The Legislative Council Commission;
- (b) being sentenced to death, convicted of treason or corrupt practices;
- (c) being disqualified from being elected as a Member at an

election because of the operation of Cap. 542 or any other law;

- (d) becoming a representative or salaried functionary of a government of a place outside Hong Kong;
- (e) becoming a member of any legislature outside Hong Kong (other than a people's congress or people's consultative body of the People's Republic of China) or a member of the armed forces of the Central People's Government or any other country; or
- (f) in the case of a Member elected for a functional constituency, ceasing to have a substantial connection with the constituency.

2.43 In the course of deliberation, however, some members of the Committee have expressed doubt on the appropriateness for classifying breach of the promissory oath as a kind of "misbehaviour" for which a Member may be censured under Article 79(7). This view has been referred to the Legislative Council Panel on Constitutional Affairs, and the Administration has subsequently advised that the matter will be taken up in the context of the Legislative Council (Amendment) Bill 1999.

2.44 As regards the Legislative Council (Powers and Privileges) Ordinance, while the Ordinance provides for certain powers, privileges and immunities for Members in the conduct of Council business, such as the freedom of speech and debate and immunity from legal proceedings for words spoken before the Council, Members are on the other hand expected to behave at a certain standard so as not to bring discredit upon the Council.

2.45 In the Rules of Procedure, there are provisions which govern the conduct of Members during meetings and set out the requirements of

certain conduct of Members the non-compliance of which may attract some form of penalties. Sanctions for certain “misbehaviour” are provided for, for example, under Rule 45 (Order in Council and Committee), Rule 81(2) (Premature Publication of Evidence) and Rule 85 (Sanctions relating to Interests). However, such “misbehaviour” may not necessarily fall within the ambit of “misbehaviour” under Article 79(7).

2.46 In view of the unprecedented nature of the subject, the Committee has also studied the practices in overseas legislatures, including UK, Australia, Canada and the USA. In these places, the conduct of Members of Parliament (MPs) is set out in one form or another to provide a framework against which acceptable conduct should be judged, e.g., a Code of Conduct/Official Conduct, resolutions of the House, statements of the Speaker, or in a Parliamentary Act. In general, the requirements for MPs’ conduct are for them to act in the interests of the nation and conduct themselves creditably as MPs. MPs should not abuse their privilege or act in such manner as to bring the Parliament into disrepute.

2.47 In none of the overseas legislatures has it been possible to draw up an exhaustive list of misconduct, or indeed the types of sanction which may be imposed. Each case is judged by the House according to the degree of seriousness involved. Two general features of these cases are, firstly, that such acts are related invariably to the conduct of MPs in the performance of their duties as Member of the legislature and, secondly, the sanctions applicable range from apology to denial of right, fine, reprimand, censure, suspension of service or expulsion. The major consideration is whether the misbehaviour has brought about such serious disrepute to the House as to constitute a contempt. It is also noted that these overseas legislatures uphold the guiding principle that the House should exercise its penal jurisdiction as sparingly as possible and only when satisfied that it is

essential to do so in order to provide reasonable protection for the House and its Members.

Breach of Oath

2.48 The Committee considers that the “oath” referred to in the context of Article 79(7) is the oath/affirmation taken by Members of the Council at the swearing-in ceremony. The same principle has also been applied by overseas legislatures. Nevertheless, the Committee notes that while the oath itself is explicit, how an act of a Member will constitute a breach of the oath requires consideration.

2.49 After deliberation, the Committee has come to the view that it would be more appropriate for the Council of the day to make a decision on the kind of behaviours which would be regarded as a “misbehaviour” or “breach of oath” leading to the disqualification of a Member from office under Article 79(7). It is, therefore, not necessary for the scope of behaviours to be pre-determined or for a Code of Conduct to be drawn up for the purpose of the Article.

2.50 However, having regard to the serious consequence of an allegation made under the Article, the Committee considers it essential for a mechanism to be established for investigating and assessing such an act upon a motion being moved in the Council. This mechanism should be kept separate from that for handling a complaint against a Member which may lead to a lesser form of punishment.

Mechanism for dealing with alleged cases

2.51 In drawing up the mechanism for dealing with an allegation made under Article 79(7), the Committee has agreed on the following

principles:

- (a) A motion moved under Article 79(7) will not be debated or voted upon before the matter which is the subject of the motion has been investigated. If it is decided by the Council that no investigation is required, the motion will not be proceeded with; and
- (b) The investigation process should be fair to both the Member moving the motion and the Member under complaint; a committee given the responsibility to investigate the matter should only be required to establish the facts and give views on the behaviours under allegation. The decision on whether the Member should be disqualified under Article 79(7) should be made by Members of the Council in accordance with the requirement of the Basic Law.

Moving of a motion under Article 79(7)

2.52 For the moving of a motion under Article 79(7), the Committee considers it necessary for a more stringent requirement to be laid down so as to deter frivolous allegations against Members. The Committee takes the view that the motion should be sponsored by three other Members of the Council apart from the mover of the motion. This requirement is similar to the arrangement in the former Legislative Council before July 1995 when a motion moved by non-Government Members of the Council required the signature of no less than four Members. The Committee considers that the requirement for a total of four Members to initiate the motion is appropriate, as it should deter abuse of the mechanism, and at the same time would not bar minority Members of the

Council from initiating action under Article 79(7).

2.53 As for other procedures, the Committee considers that the normal rules governing the giving of notice and the debate of a motion in Part G (Motions) and Part H (Rules of Speaking) of the Rules of Procedure should apply. However, to avoid ambiguity over the intention of the motion, the Committee deems it appropriate for the wording of the motion to be prescribed in the Rules of Procedure. Particulars of the reasons or circumstances to support the censure proposed in the motion should be given in a schedule attached to, and which forms part of, the motion. The motion is not subject to amendment.

2.54 The Committee is aware of the restrictions on the handling of the motion once it is moved, and has examined the possibility of referring the matter to a committee immediately upon the receipt of the notice of the motion. However, to avoid abuse of the mechanism, the Committee considers that the motion should be moved before any formal proceedings are taken on the matter.

2.55 The debate on the motion, once moved, will stand adjourned in accordance with the proposed Rules of Procedure and be referred to an investigation committee to be appointed by the President. Any Member who disagrees with the referral may move without notice that no investigation is required. If this motion of not referring the matter to an investigation committee is agreed to by the Council, the original motion will not be proceeded with. The reason for not proceeding with the original motion is to ensure that no motion for the censure of a Member under Article 79(7) is debated without an investigation into the allegation being undertaken. The provision to dispense with the investigation is to allow the Council an opportunity to dispose of frivolous allegations.

Formation of investigation committee

2.56 The Committee considers that investigation committees should be established on an ad hoc case-by-case basis, and the scope of investigation will be confined to the particulars set out in the schedule of each motion. Unlike other jurisdictions in which major parties have controlling influence in the parliament and where there are well established practices to deal with disciplinary matters, it would not be easy for Members in the Hong Kong Legislature in the present setting to agree on the membership of a standing committee responsible for investigating into the conduct of individual Members. Nevertheless, in view of the ad hoc nature of the membership of the investigation committee, the Committee considers it necessary to stipulate the manner in which the committee is formed and the way it conducts its business.

2.57 The Committee is of the view that the investigation committee should have seven members, including a chairman and a deputy chairman, appointed by the President who will take into account the recommendations of the House Committee. To avoid conflict of interest, the Members moving and sponsoring the motion and the Member alleged of misbehaviour or breach of oath should not be appointed to the investigation committee. The size of the investigation committee should, however, be subject to periodic review to allow for a fair representation of different political groups or interests in the Council. The investigation committee may have the power to determine its own procedure for conducting the investigation subject to the Rules of Procedure.

2.58 To encourage maximum participation in meetings of the investigation committee, the quorum should be five members including the

chairman or the member presiding at the meeting. Provision should be made in the investigation committee's own procedure to enable the chairman to adjourn a meeting whenever there is no quorum.

Investigation process

2.59 The functions of an investigation committee are to establish the facts of the case and to give its views on whether or not the facts established constitute grounds for censure. In the absence of definitions for "misbehaviour" and "breach of oath" within the context of Article 79(7), it may also be necessary for the investigation committee to also give its view in this respect having regard to, among other things, the circumstances of individual cases and the standard of behaviour expected of a Member by the community. However, the decision on whether or not the Member should be censured, hence disqualified from office, should rest with the Council, by a two-third majority vote of the Members of the Council present.

2.60 The Committee is aware that in other jurisdictions as well as local professional bodies, preliminary investigation is usually conducted to establish whether there is a prima facie case before undertaking a full investigation. As the process of and the publicity attracted by preliminary investigations are no different from that of a full investigation, the Committee considers that once the motion is referred to an investigation committee, full investigation should be undertaken immediately.

2.61 The Committee considers that the investigation committee should, by resolution of the Council, have the power to summon persons to testify or give evidence and to call for papers and documents. Having regard to the need to maintain fairness in the investigation process, the

Committee considers it appropriate for the hearing of witnesses to be conducted in camera. Upon an election made by the Member being accused at the beginning of the investigation that hearings should be open to the public, the hearings shall be conducted in public throughout the entire investigation. However, the investigation committee may decide on sufficient reason, upon a request made by a member of the committee or an application made by a witness, to conduct any part thereof in camera. Internal deliberations shall always be held in camera. Irrespective of whether hearings are conducted in public or in camera, the transcript of evidence should be published in full as far as possible and form part of the report of the investigation committee.

Proceedings following completion of investigation

2.62 Upon completion of the investigation process, the investigation committee should table its report in the Council. As the report contains the investigation committee's views on which of the facts in the motion are established and whether the facts established constitute grounds for censure, there is no need for a separate motion to endorse the report. The report only serves as a reference for Members to decide whether the Member concerned should be disqualified from office under Article 79(7). The investigation committee will be dissolved upon the tabling of its report in the Council. However, if further matters arising from the motion have to be considered, the investigation committee could be revived.

2.63 To ensure that the debate on the motion will be resumed without delay, the Committee considers that it should be written into the Rules of Procedure that debate on the motion will be resumed automatically upon the tabling of the committee's report in the Council,

irrespective of the findings of the Committee. The debate should take place at the earliest meeting of the Council at which normal business is transacted next following the tabling of the investigation committee's report.

2.64 During the resumed debate, all Members including the Member alleged may speak on the motion. The Member alleged should be allowed to speak more than once, if the Member so requests, as in the case of a motion moved under Article 79(6). As to whether the Member alleged has the right to vote, present rules already provide that any Member with a direct pecuniary interest should not vote; but if he does vote, there is a mechanism to disallow his vote. The Committee is of the view that the Member alleged has a direct pecuniary interest, but there is no need to make any special provision in this respect.

2.65 After Members have voted on the motion and if the motion is passed by two-thirds of the Members present, the President shall immediately declare the Member disqualified from office.

Rules

2.66 The Committee has prepared amendments to the Rules of Procedure to put in place certain specific rules to deal with a motion moved under Article 79(7). Other related procedures, for example, those provided in Rules 80 (Attendance of Witness) and 81 (Premature Publication of Evidence), should continue to apply. As for voting, the Committee considers that, with the exception of the motion moved under Article 79(7), all other motions moved in relation to the motion should be decided in accordance with the Rules in Part J (Voting) of the Rules of Procedure.

* * * * *

Our Ref.: 08050/2010/SW/L

Your Ref.:

Date: 21 January 2010

**Investigations Committee established
Under Rule 49B(2A) of the Rules of Procedure
in respect of the Motion to censure
the Honourable Kam Nai-wai ("the Committee")**

Legislative Council
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By hand

Attn: the Honourable Mrs. Sophie Leung Lau Yau-fun, GBS, JP - Chairlady

Dear Sirs,

Re: The Honourable Kam Nai-wai

We act for the Honourable Mr. Kam Nai-wai.

We are given to understand that the Committee held a meeting on 18th January 2010 for the purpose of establishing the rules and procedures in respect of the Motion to censure the Honourable Kam Nai-wai for his alleged misconduct ("the Motion").

Our client has instructed us that he would like us to be legally represented at the hearing of the Motion which will be held on a date to be determined by the Committee. In order to ensure that the investigation be held in a fair manner and compatible with the rule of natural justice, we respectfully request the Committee to recognize our client's following rights :-

1. right to be represented by solicitor and/or counsel at the hearing and to address the Committee whenever appropriate and permitted to do so;
2. right to have access to all materials related to the alleged misconduct whether used or unused and, in whatever form, which are in the possession of the Committee;
3. right to subpoena any witnesses which our client or we are of the view will assist the Committee in ascertaining the relevant facts of the case;
4. right to cross-examine all witnesses who shall give evidence at the hearing or whose evidence will be considered by the Committee; and

PRINCIPALS

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Lung Man On LL.B (Hons) 龍文安律師

CONSULTANTS

Yau Man Fai LL.B (Hons)
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ASSISTANT SOLICITOR

游文輝律師 Sum Kwan Ming Patrick LL.B (Hons) 岑君銘律師
陳淑琴律師

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS
SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

Our Ref.: 08050/2010/SW/C

Your Ref.:

Date: 21 January 2010

5. to be promptly and fully informed about the procedures, rules and the dates of the hearing as soon as the Committee has reached a decision on these matter.

We shall be obliged if you could revert your decision regarding the afore-mentioned points as to us at your earliest convenience.

Thank you for your attention. If you have any queries, please contact our handling solicitor Mr. Y. S. Lau or Mr. Stephen Wong at 2110 1899.

Yours faithfully,



Y. S. Lau & Partners

SW/cc



**Practice and Procedure
of the Investigation Committee
established under Rule 49B(2A) of the Rules of Procedure
in respect of the motion to censure Honourable KAM Nai-wai**

Terms of reference

The Investigation Committee (“IC”) is responsible for establishing the facts stated in the censure motion moved under Rule 49B(1A) of the Rules of Procedure (“RoP”), and giving its views on whether or not the facts as established constitute grounds for the censure of the Member who is the subject of the motion (Rule 73A(2) of the RoP).

The investigation process

Collation of information before hearings

2. The IC will first invite:
 - (a) the Members who initiated the censure motion (i.e. the mover and the three Members who jointly signed the notice of the motion) to provide in writing information in support of the particulars of misbehaviour set out in the schedule to the censure motion and any information which may assist the IC in carrying out its work; and
 - (b) the Member who is the subject of the censure motion (“Member under investigation”) to respond in writing to the censure motion and information provided under (a) above by the Members who initiated the censure motion, and to provide any information which may assist the IC in carrying out its work.

3. The IC will also instruct the Clerk to the IC to gather information relevant to the censure motion.

Meetings and hearings

4. For the purposes of this Practice and Procedure, meetings of the IC at which the Member under investigation or a witness or witnesses appear, whether by invitation or by summons issued under section 10 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) (“LegCo (P&P)O”), to give evidence or to produce documents, and whether such meetings are held in public or private, are referred to as “hearings”.

5. On the basis of the information and responses provided to the IC under paragraphs 2 and 3 above, the IC will decide if it is necessary to conduct hearings for the purpose of establishing the facts stated in the censure motion. If it is considered necessary, the IC will decide the persons to be called to attend its hearings to give evidence. These persons may include the Members who initiated the censure motion, the Member under investigation and any person whom the IC considers to be able to provide information which will be relevant and useful to the investigation.

6. Subject to paragraph 7, all meetings of the IC, including hearings at which the Member under investigation or a witness or witnesses appear, will be held in private (Rule 73A(4) of the RoP).

7. Only the Member under investigation may elect for hearings to be held in public, and the election must be made before the first of all the hearings. Where he makes such an election, all hearings shall be held in public throughout the entire investigation unless, upon an application by a

witness or a request from a member of the IC, the IC on sufficient reason decides otherwise (Rule 73A(5)(a) and (b) of the RoP).

8. Any witness and the Member under investigation may apply to the IC for any hearing or any part of it to be held in private where an election for hearings to be held in public has been made by the Member under investigation. Similarly, any member of the IC may request, throughout the investigation, that any hearing or any part of it be held in private (Rule 73A(5)(b) of the RoP). Such an application or request may be made after an election for hearings in public has been made by the Member under investigation and before or after the relevant person(s) attends a hearing, and during a hearing. In deciding whether or not to grant such an application or accede to such a request, the factors that the IC will take into account include whether the evidence to be obtained concerns matters of privacy and whether sufficient protection is accorded to the person(s) concerned.

9. Where appropriate, the IC may hold a hearing at a venue away from the LegCo Building.

10. Apart from hearings, meetings of the IC to consider the following matters are held in private: procedural matters, progress of its work, logistical arrangements for hearings, the evidence obtained, the draft report of the IC and any other matters relevant to or arising from the IC's work.

Witnesses

11. Witnesses are to be invited to attend hearings to be examined and to provide information to the IC. If considered necessary by the IC and authorized by the Council to exercise the power to summon under

section 9(1) of LegCo (P&P)O, the IC may order the attendance of witnesses by summons. Only witnesses summoned under section 9(1) to give evidence or to produce any paper, book, record or document at a hearing will enjoy the same right or privilege as before a court of law in accordance with section 14(1) of LegCo (P&P)O.

12. In determining whether witnesses should be invited or summoned, the IC will have regard to factors including the views of the witnesses, whether the relevant hearings will be held in private or public, and whether sufficient protection is accorded to the witness concerned.

13. The Member under investigation will be informed of the witnesses whom the IC has decided to call and he may propose additional witnesses for the IC's consideration.

Accompanying persons

14. The Member under investigation and witnesses appearing before the IC may be accompanied by a maximum of three persons, including no more than one legal adviser. During a hearing, the witness must not engage in discussions with the accompanying persons nor receive any prompting, whether oral or in writing, from such persons but he may, with the permission of the Chairman, seek advice from his legal adviser.

Conduct of hearings

15. The IC may ask the Member under investigation to submit a written statement to the IC before attending the relevant hearings. The IC may also forward the written statement and relevant information submitted by him, or relevant parts thereof, to the relevant witnesses, who may make a written response, to which the Member under investigation may respond.

16. Also, the IC may ask the witnesses to submit written statements to the IC before attending the relevant hearings. The IC may also forward the written statement and relevant information submitted by a witness, or relevant parts thereof, to the Member under investigation, who may make a written response, to which the witness may respond.

17. Hearings are conducted for the examination of witnesses by way of questions and answers in order to establish the facts stated in the schedule to the censure motion. Hearings are normally conducted in the following manner:

- (a) the Chairman opens a hearing by stating the purpose of the hearing and reminds the witness of the role of the accompanying persons;
- (b) where it is decided that the witness should be examined on oath, the Chairman will administer the oath under section 11 of LegCo (P&P)O before the examination starts;
- (c) the Chairman will first ask a witness to formally produce his written statement to the IC and if he has anything to add;
- (d) the Chairman will then ask the witness an appropriate opening question, giving him an opportunity to state his case;
- (e) the Chairman will then allow members to put questions to the witness; and
- (f) the Chairman will decide whether a question or evidence is relevant to, and within the scope of, the IC's investigation.

Attendance of non-IC Members

18. Members who are not members of the IC (“non-IC Members”) are not allowed to be present at the IC's meetings and hearings held in private unless they are summoned or invited to attend a hearing as witnesses. Where a hearing is held in public, non-IC Members may attend but they may not speak, either by way of addressing the IC or putting questions to witnesses.

Provision of verbatim transcripts

19. The relevant parts of the draft verbatim transcripts of the proceedings of the hearings containing the evidence of a witness or the Member under investigation are forwarded to that person for sight and correction, before they are incorporated into the minutes of evidence. For hearings held in private, before the verbatim transcripts are passed to such persons, they are required to sign an undertaking that they would not make copies of the drafts, make public use of them (including quoting from the transcripts at hearings held in public), use the transcripts in a manner prejudicial to the work of the IC and they would return the drafts to the IC before a specified date.

20. Any witness and the Member under investigation may also, on request, be provided with the verbatim transcripts of the proceedings of hearings held in public containing the evidence of another witness. He may also be provided, on his request, with the verbatim transcripts of hearings held in private containing the evidence of another witness, subject to his signing of an undertaking that he would not make copies of the transcripts, make public use of them (including quoting from the transcripts at hearings held in public), and use the transcripts in a manner prejudicial to the work of the IC, and that he would return the transcripts before a

specified date. The IC may, on sufficient reason, reject such requests for transcripts of hearings held in private.

21. If a hearing is held in public, members of the public may obtain a copy of the verbatim transcript for that hearing upon the payment of a fee prescribed by the LegCo Secretariat.

Preparation and publication of report

22. Those parts of the IC's report which set out the evidence, on the basis of which the IC has established the facts stated in the censure motion, will be forwarded to the Member under investigation and the witnesses concerned for comment. Such comments will be recorded in the IC's report and will be taken into account by the IC in finalizing its report.

23. Upon completion of its report, the IC will table it in the Council pursuant to Rule 73A(12) of the RoP. The report will then be made public on the same day. Shortly before the report is tabled, the Member under investigation and the witnesses concerned will be provided with an advance copy of the report on the condition that it will not be released to the public until the relevant Council meeting has begun. This arrangement is to enable the Member under investigation and witnesses concerned to prepare themselves for responding to the public and media enquiries.

Confidentiality requirement

Classification of confidential information

24. Evidence obtained in hearings held in private, written statements and other documents provided to the IC, information relating to other meetings of the IC and any related correspondence are confidential and remain so unless and until they are published or declassified by the IC.

Use of confidential information

25. The source of information obtained at hearings held in private may be disclosed at a hearing held in public only if it is necessary to do justice to the witness or to enable him to understand a question. Before such disclosure, the IC may consult the relevant persons who may be affected by the disclosure.

26. Information obtained at hearings held in private from a witness who is a party to pending legal proceedings shall be used with care so as to avoid possible prejudice to that person's interest in such proceedings, and where possible, the identity of the witness who has provided the information should not be disclosed.

Application for exclusion of confidential information from report

27. The minutes of evidence, which form part of the report to be submitted to the Council upon completion of investigation under Rule 73A(12) of the RoP, shall contain all evidence taken by the IC at hearings held in private and public. However, the IC may, upon a request made by a witness, decide to exclude confidential information from the report on grounds that such exclusion is necessary to protect privacy without jeopardizing the public interest in knowing the material facts on which the IC has based its views.

Communications between Members and members of the IC

28. Non-IC Members, the Member under investigation and Members who expect to be or have been called to appear before the IC as witnesses, should not, outside meetings of the IC, engage in communications by conversations or any other form with members on any matter relating to the work of the IC.

Communications with the media

29. With the consent of the IC, the Chairman or the Deputy Chairman may respond in general terms to enquiries from the media on the progress of the investigation. No member other than the Chairman or the Deputy Chairman shall be authorized to handle media enquiries on matters relating to the work of the IC.

Confidentiality undertaking

30. All members of the IC, the Member under investigation and witnesses as well as accompanying persons attending meetings or hearings of the IC held in private shall be required to sign a confidentiality undertaking that they will not publish, without the prior written authorization of the IC, any matter relating to the proceedings of meetings or hearings of the IC held in private, including evidence taken before the IC, documents produced to it, its deliberations and decisions, except such matter that has already been published or contained in any report presented by the IC to the Council. They are also required to take the necessary steps to prevent publication of such matter either before or after the IC presents its report to the Council, unless the confidential classification has been removed by the IC.

Premature publication of evidence

31. Rule 81 of the RoP provides that the evidence taken before the IC under Rule 80 (Attendance of Witness) and documents presented to it shall not, except in the case of its meetings held in public, be published by a member of the IC or by any other person before the IC has presented its report to the Council. Any member of the IC who fails to comply with this Rule may be admonished or reprimanded by the Council on a motion to that effect.

Other matters

Term of office

32. The IC shall be dissolved upon the tabling of its report in the Council (Rule 73A(12) of the RoP).

Chairmanship

33. All meetings of the IC are chaired by the Chairman or, in the Chairman's absence, by the Deputy Chairman. In the event of the temporary absence of the Chairman and Deputy Chairman, the IC may elect a chairman to act during such absence (Rule 73A(6) of the RoP).

Quorum

34. The quorum of the IC shall be five members including the Chairman (Rule 73A(3) of the RoP). The Clerk will draw to the attention of the Chairman the absence of a quorum as and when there is such absence.

Voting

35. Decisions of the IC shall be decided by a majority of the members present and voting, which is done by a show of hands. Non-IC Members attending hearings held in public are not allowed to vote.

36. Where a member claims a division, the Clerk shall take divisions by asking each member separately how he wishes to vote and record the votes accordingly (Rule 73A(8) of the RoP). Abstentions are not counted for the purpose of determining the result of the vote.

37. Neither the Chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided in which case he shall have a casting vote (Rule 73A(9) of the RoP). The casting vote shall not be exercised in such a way as to produce a majority vote in favour of the question put (Rule 79A(1) of the RoP).

Appointment of experts

38. Where appropriate, the IC may appoint experts to advise on any matter relevant to or arising from its work.

Verbatim transcripts and minutes of proceedings of meetings of the IC

39. Verbatim transcripts of the proceedings will be kept for all hearings and, on the IC's direction, for particular meetings. Minutes will be kept for other meetings, which are normally presented in a condensed form, recording the IC's decisions, follow-up actions required, procedural matters and declarations of interest made by members. Where a meeting or part thereof is for the consideration of the draft report of the IC, the minutes of proceedings of the IC will record all proceedings on the

consideration of the report and on every amendment proposed thereto, with a note of divisions, if divisions were taken in the IC, showing the names of members voting in the division or declining to vote (Rule 73A(10) of the RoP).

Reports of the IC

40. The report to be tabled in the Council pursuant to Rule 73A(12) of the RoP for the purpose of resumption of the debate on the censure motion shall be so stated when the report is tabled. Apart from that report, the IC may table reports in the Council on any matter relating to or arising from its work as and when it considers necessary.

Disclosure of interests

41. Rules 83A and 84 of the RoP relating to Members' pecuniary interest shall apply to the proceedings of the IC.

42. In addition, there may be situations in which a member wishes to declare non-pecuniary interests. In such a case, the member should write to the Chairman to declare such interests. Where appropriate, the Chairman may announce at public hearings of the IC the nature of interests so declared by individual members.

Revival of the IC

43. The IC may be revived to deal with any further matters arising from the censure motion by resolution of the Council (Rule 73A(12) of the RoP).

9 February 2010

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 11th January 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to the above matter and to the transcript of the testimony of Ms. Anita Lui given during the 8th hearing which took place on 16th November 2010.

We note from the said transcript that Ms. Lui had adopted an un-cooperative attitude during the hearing in that she refused to answer any further questions, and she also stated during the hearing that she would not answer any more questions which the Committee might ask her in regard to her testimony or her previous two written statements provided to the Committee. Hence, neither the Committee nor our client is able to verify and/or assess the truthfulness and/or correctness of her testimony or the contents as deposed in her statements made before the hearing.

We are of the strong view that the testimony and the two previous statements of Ms. Lui should have no bearing on the fact-finding task of the Committee, as they cannot assist the Committee in its investigation and in the compilation of the investigation report. To give any weight at all to the evidences of Ms. Lui, would be unsafe, unfair and prejudicial to our client.

In this regard, we respectfully request the Committee not to take into account of or consider the contents the testimony or the two previous statements of Ms. Lui when compiling the investigation report.

Yours faithfully



Y. S. Lau & Partners
SW/ec



PRINCIPALS

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Yau Man Fai LL.B (Hons)

龍文安律師
游文輝律師

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Sum Kwan Ming Patrick LL.B (Hons)

劉汝琛律師
陳淑琴律師
岑君銘律師

TO: 調查委員會秘書

本人希望在此報告內我的候詞
引述中也加上「甘汶直現在脾氣已
改~~善~~好了很多」。因我是最近在
Ⓜ

是這會候候，若沒有上述句子，會令人認為候
甘汶直現在脾氣也是和從前一樣是。
Ⓜ

Ⓜ

徐中

10/June/2011



敬啟者

Appendix 1.12

本人對就譴責甘乃威議員的
議案調查委員會在2011年4月13日
(星期三)上午9時33分至9時37分所
作的研訊內容結論表達有一
些澄清。本人在回應委員會主
席提問到當甘乃威議員對王
女士說“有好感的解釋”本人在
當時的回應並不是指有好感的
解釋而是“有好感”這三個字
的反應！本人當時聽到“有好
感”這三個字反應係是否甘乃
威議員真的有講過“有好感”
的意思，但並沒有其他的意思！

因本人在當日研訊已表明不記得女
議員的解釋及事件的詳情。

所以我在這想澄清，我
回答主席的問題，可能聽不清
楚是有好感的解釋，而當時
我理解問題係對“有好感”

三個字的反應！ 此致

調查委員會主席 暨 各委員

蕭成賢

2011年6月14日

雖然黃成智議員在他提交的《書面陳述書》中表示，他“已記不起甘議員解釋‘有好感’的具體詳細內容，但本人從沒有覺得甘議員與王麗珠女士有任何私人感情的關連”，但他在研訊上表示，當他聽到甘議員在黨團會議上就他~~的~~說“有好感”~~時~~，他的反應是“有一點兒懷疑是否‘真㗎’，為何說這些話呢？”這句話時！



劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS

Appendix 1.13

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 7th June 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to the above matter and your letter dated 2nd June 2011 with enclosure. Please confirm how many chapters in total will be included in your draft report and also let us know what issues/subject matters are set out in the chapters other than Chapters 2, 3 & 4.

Incidentally, our client notes the followings :-

1. The findings in Chapters 3 & 4 in your draft report are surprisingly similar to those reported by Oriental Daily and Hong Kong Economic Journal on 11th May 2011 and 17th May 2011 respectively; and
2. The Committee completes the compilation of such a lengthy draft report within 12 days from the last hearing which took place on 21st May 2011.

In view of the above, it is therefore a logical and reasonable deduction that the Committee had already formed a conclusion of the Investigation before hearing our client's summing up submission!

Notwithstanding our client totally disagrees with your unfair and unjust findings/comments in the draft report, our client requests for an oral reply/comments/clarifications on Chapters 2, 3 & 4 of your draft report before the Committee, kindly make the necessary arrangement.

Yours faithfully,



Y. S. Lau & Partners
SW/ec



PRINCIPALS

Lung Man On LL.B (Hons)
Yau Man Fai LL.B (Hons)

龍文安律師
游文輝律師

CONSULTANTS

Lau Yue Sum LL.B (Hons)
Chan Suk Kam Ida CPAACIS
Sum Kwan Ming Patrick LL.B (Hons)

劉汝琛律師
陳淑琴律師
岑君銘律師



立法會
LEGISLATIVE COUNCIL

來函檔號 YOUR REF :
本函檔號 OUR REF : CB(3)/IC/09/5
電 話 TELEPHONE : 2869 9203
圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

10 June 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("the IC") to respond to the requests made by your client, Hon KAM Nai-wai, at the hearing held on 21 May 2011 and the matters raised in your letter dated 7 June 2011.

Examination of evidence in the drafting of the Report

The IC attaches great importance to ensuring that its procedure is fair. It exercises great care in examining the evidence obtained during the investigation. The IC is just as mindful as Mr Kam of the need to complete its work as soon as possible. Nevertheless, that need should be balanced against the need to be fair, and seen to be fair, to all parties concerned. In light of that, the IC has taken all measures practicable to ensure that it should work without undue delay and that the rights and reputation of Mr Kam will not be prejudiced in any way during the course of the IC's investigation. Any suggestion that the IC had already formed a conclusion before hearing Mr Kam's summing up submission is unfounded. While Chapter 2 of the draft Report (which was sent to Mr KAM for comments on 2 June 2011) contains the evidence obtained by the IC in the course of its investigation, Chapters 3 and 4 of the draft Report set out its findings and views after examining all the evidence obtained and taking into account all submissions made by Mr KAM, including his summing up submission made on 21 May 2011. Upon receipt of the comments made by Mr KAM and/or witnesses on the relevant parts of the draft Report, the IC will

consider such comments before further deliberating its draft Report. It is still too early at this stage to say when the IC will form its conclusion on the investigation.

Mr KAM's request for giving oral comments on the draft Report

The IC's Practice and Procedure does not contain any provision which deals with Mr KAM's request for an opportunity to give an oral reply/comments/clarifications on the parts of the draft Report which have been sent to him, nor is the IC aware of any such practice adopted by previous select committees of the Legislative Council ("LegCo"). Nevertheless, the IC will seriously consider Mr KAM's request after considering the written comments on the draft Report to be submitted by him as required by my letter dated 2 June 2011. If the IC, having considered Mr KAM's written comments, decides to accede to his request, the IC expects Mr KAM to orally answer questions which members may have arising from his comments on the draft Report.

Mr KAM's request for exclusion of certain evidence from the Report

Paragraph 27 of the Practice and Procedure is relevant to Mr KAM's request that the written statements submitted by witnesses and their testimony at hearings, as well as the emails he provided to the IC, be excluded from the Report. That paragraph provides that the minutes of evidence, which form part of the Report, shall contain all evidence taken by the IC at hearings, and that the IC may, upon a request made by a witness, decide to exclude confidential information from the Report on grounds that such exclusion is necessary to protect privacy without jeopardizing the public interest in knowing the material facts on which the IC has based its views. The IC will consider Mr KAM's request in accordance with the said paragraph when finalizing the Report.

Contents of the Report

The IC is yet to finalize its Report. According to its current plan, there should be five chapters as follows: Chapter 1 on the general background and procedural matters; Chapter 2 on the facts of the case; Chapter 3 on the establishment of the facts as particularised in the censure motion; Chapter 4 on IC's views on the allegations contained in the censure motion; and Chapter 5 on IC's views on the mechanism for dealing with complaints against misbehaviour of LegCo Members. Chapters 1 and 5 will not be forwarded to Mr KAM for comment as they are not related to the facts detailed in the censure motion

against him. Having regard to the practices of other committees of the LegCo such as the Public Accounts Committee and select committees, the IC has decided that the part on IC's conclusion, which may be included at the end of Chapter 4, would not be forwarded to Mr KAM for comment.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line and a small flourish.

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 14th June 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to your letter dated 10th June 2011 and our letters dated 18th May and 7th June 2011.

We had stated in our letter dated 7th June 2011 that the findings in your draft report are surprisingly similar to those reported in the Hong Kong Economic Journal on 17th May 2011. In addition, we noted from your letter above that even the number of chapters in your draft report is exactly the same as those reported in the Oriental Daily back on 11th May 2011. These details cannot be made by mere speculations but from some reliable source. We cannot understand how the media managed to disclose such details which are strikingly similar to those as shown in the draft report of the Committee.

In the premises, our client is very concerned that whether the existing mechanism, if any, of the Committee is adequate or sufficient to avoid any further leakage of confidential information to the public or media before the formal submission of the report to the Legislative Council. We sincerely ask the Committee to exercise the utmost care to ensure that there would be no further leakage of any information in any way.

With respect to the request of our client for making his comment before the Committee, we do not agree with the Committee's view that our client has to submit written comment before the Committee decides to accede to our client's request.

We wish to refer you to Paragraph 22 of the Practice and Procedure, the said Paragraph 22 is quoted below for your easy reference :

“Those parts of the IC's report which set out the evidence, on the basis of which the IC has established the facts stated in the censure motion, will be forwarded to the Member under investigation and the witnesses concerned for comment. Such comments will be recorded in the IC's report and will be taken into account by the IC in finalizing its report.” (emphasis applied)

PRINCIPALS

Lung Man On LL.B (Hons)
Yau Man Fai LL.B (Hons)

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Sum Kwan Ming Patrick LL.B (Hons)

劉汝琛律師
陳淑琴律師
岑君銘律師

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 14th June 2011

It is crystal clear that there is no qualification in the said Paragraph 22 that our client has to submit written comment. We take the strong view that our client is entitled to make either oral or written comment of his choice. Further, it is not stated in the Practice and Procedure at all that our client is required to orally answer questions if the Committee allows our client to make oral comment.

And in view of the extensive findings as stated in the draft report our client so far had received, our client expects to have at least 4 more weeks from the date hereof to prepare his oral comments. Moreover, we consider that the decision of the Committee not to forward to our client "the part on IC's conclusion which may be included at the end Chapter 4" is unfair. This causes great concern of our client as the nature of this enquiry is not the same as those in the Public Accounts Committee and selected committees as these committees did not concern censure motion nor involve any serious consequence to disqualify any Member under investigation.

In the premises, we strongly request the Committee to provide our client with all the conclusion of Chapter 4 and to allow our client to make his oral comments before the Committee.

We look forward to your reply.

Yours faithfully,



Y. S. Lau & Partners
SW/ec





中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會

LEGISLATIVE COUNCIL

來函檔號 YOUR REF :
本函檔號 OUR REF : CB(3)/IC/09/5
電 話 TELEPHONE : 2869 9203
圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

22 June 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("the IC") to respond to your letter dated 14 June 2011 which was considered by the IC at its meeting held on 15 June 2011.

Mr KAM's request for giving oral comments on the draft Report

Please note that Paragraph 22 of the IC's Practice and Procedure ("P&P") referred to in your letter does not specify the manner in which comments on the draft Report should be given. It does not give a Member under investigation the right to make either oral or written comments of his choice. It is for the IC to determine, based on the principle of fairness, and with or without conditions, whether and how a Member under investigation should be given opportunity to make his or her comments.

As you may recall, the IC has acceded to the earlier request of Hon KAM Nai-wai, your client, for a hearing to make final submissions on the evidence even though neither the Rules of Procedure ("RoP") nor P&P has provided for such a procedure. In allowing Mr KAM to make final submissions orally, the Chairman of the IC indicated at the hearing on 13 January 2011 that she would allow Members to raise short questions to seek clarification from your client on matters arising from his oral submissions. In response, your client agreed that he had a duty to respond to such questions to

clarify matters arising from his oral submissions (see lines 57 to 67 of IC Paper No. V9(C)). This arrangement was reiterated in my letter to your client dated 14 April 2011. As it turned out, however, Mr KAM informed the IC of his unwillingness to answer such questions orally after he had finished making his oral submissions at the hearing on 21 May 2011. In this connection, the IC would like to remind Mr KAM of his pledge, made at the Council meeting on 9 December 2009 after the censure motion was moved and at the first hearing of the IC attended by him on 20 May 2010, that he would cooperate fully with the investigation. The IC encourages Mr KAM to continue adopting such an attitude.

The IC reiterates its position stated in my earlier letter dated 10 June 2011 to you that the IC will seriously consider Mr KAM's request for an opportunity to give oral comments on the draft Report after considering his written comments on the draft Report. The IC considers it necessary to have sight of Mr KAM's written comments to enable its members to understand accurately and comprehensively the points which Mr KAM wishes to make. If Mr KAM wishes to comment on the draft Report and would like to have more time to prepare his written comments, he may make a request to the IC for its consideration.

Mr KAM's request to have sight of the part of the Report on the IC's conclusions

The IC has yet to draw up its conclusions. The IC wishes to remind Mr KAM that according to Paragraph 22 of P&P, only those parts of the IC's report which set out the evidence, on the basis of which the IC has established the facts stated in the censure motion, will be forwarded to the Member under investigation and the witnesses concerned for comment. The IC does not consider it necessary or appropriate to forward its conclusions in draft to Mr KAM for his comment.

Yours faithfully,



(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 4th July 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

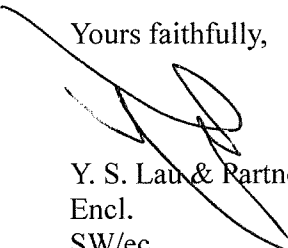
Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to your letter dated 22nd June 2011. We are in the course of taking our client's instructions and Counsel's advice on your reply and would give you a reply the soonest possible.

While the Committee has repeatedly assured our client they have taken appropriate steps to avoid leaking of confidential information regarding the investigation, our client notes the information was again leaked in the enclosed newspaper reporting of Sing Tao Daily of 24th June 2011. This is not the first time that our client raised his concern, and the same has been raised in paragraphs 2 and 3 of our letter dated 14th June 2011 concerning previous reporting in the various popular newspapers. We have not heard any reply at all from the Committee. Such astonishing detail and continuous reports of the progress of the inquiry of the Committee not only cause the concern of our client about the confidentiality of the inquiry, there is also inevitably undue pressure accumulating onto our client by such incidents.

Obviously, whatever efforts which the Committee had taken in the past is insufficient and ineffective. In this regard, kindly enlighten us what positive steps the Committee had taken in the past to ensure no leakage of confidential information and to enable to have a fair hearing. And more importantly, please also state what further steps or measures the Committee will take to assure that the same will not possibly take place again.

Yours faithfully,


Y. S. Lau & Partners
Encl.
SW/ec



PRINCIPALS

Lung Man On LL.B (Hons)
Yau Man Fai LL.B (Hons)

龍文安律師
游文輝律師

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劉汝琛律師
陳淑琴律師
岑君銘律師

調查報告指有追求女助理

誠信遭質疑 甘乃威提抗辯



甘乃威事件調查委員會經過一年半的調查，已經撰寫好報告，原擬在下月發表。據悉，報告不會對應否譴責甘乃威表態，僅陳述調查所確立的事實，交由立法會大會決定譴責與否。報告認為，甘乃威言論前後不一的指控成立；報告又肯定他有追求女助理，但有關求愛不遂而解僱女助手的指控則因證據不足而不成立。甘乃威閱讀報告後，提出抗辯，要求加開會議，有委員估計報告要推遲到九月方可發表。

記者：鄧栢想

民主黨甘乃威在○九年十月涉嫌求愛不遂解僱女助理，立法會引用《議事規則》第四十九（B）條動議譴責甘乃威，當中提出兩項指控，包括指甘的言論前後不一，誠信令人懷疑；以及甘對女助理王麗珠示好後，又將整體工作表現良好的王麗珠解僱，處事不公。調查委員會負責展開調查，就譴責議員的理據是否成立提出意見。

甘乃威事件調查委員會經過十次

閉門研訊及三十次內部會議後，已經擬好調查報告。據悉，由於女事主王麗珠一直未現身作供，證據有限，委員會只能確立部分事實。

解僱王麗珠指控不成立

其中一致認為甘的言論前後不一，誠信令人懷疑。報告肯定甘乃威有追求女助理，但因求愛不遂而解僱王麗珠的指控，則因證據不足而不成立。調查委員會報告對於否動議譴責

甘乃威，不會有明確表態。只會陳述調查所確立的事實，再呈交立法會大會，投票決定應否譴責甘乃威。根據《基本法》及《議事規則》，須經全體三分二議員贊成，方可通過譴責動議，一旦通過動議，受譴責的議員立即喪失議員資格。

報告或延至九月發表

調查委員會原定在七月發表報告，結束長約一年半的調查工作，不

過，委員會臨近「收工」生出枝節。據悉，調查委員會最近將報告交給甘乃威，讓他提出最後意見。甘乃威不同意報告部分內容及字眼，發信給委員會提出抗辯，但信件沒有提供新的證據。甘乃威要求委員會加開一次會議，有委員估計，報告無法如期在七月發表，會推遲到九月，即下個立法會會期。

本報昨日致電甘乃威，但至截稿前仍未有回覆。民主黨副主席劉慧卿表示，不知道報告內容，民主黨內亦未曾討論。被問及民主黨屆時會否為了避免利益衝突而不投票，劉慧卿說，民主黨從未表示過不投票，「甚麼也不排除」。

民建聯譚耀宗亦說，會根據報告內容決定是否提出譴責或批評。對於有指建制派不會放過甘乃威，譚耀宗強調，會以報告所提供的事實作決定。



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會
LEGISLATIVE COUNCIL

來信編號 SOURCE : CB(3)/IC/09/5
本信編號 SOURCE :
電話 TELEPHONE : 2869 9203
圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

14 July 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai


I am directed by the Investigation Committee ("the IC") to respond to your letter dated 4 July 2011 which was considered by the IC.

As I said in my previous letters dated 3 June 2010 and 19 November 2010, the IC considers it of utmost importance to ensure the confidentiality of its proceedings, which are crucial to enhancing the integrity and credibility of its investigation and for the protection of the interests and privacy of the parties concerned. Paragraphs 24 to 31 of the IC's Practice and Procedure set out the confidentiality requirements. The IC has also taken all practicable steps to ensure the confidentiality requirements are complied with by all parties who have access to the information of its proceedings and it takes a serious view on any possible leakage of information about its proceedings.

Whilst the IC does not generally comment on the accuracy of any newspaper articles, in view of the fact that information contained in the article that was referred to in your letter of 4 July 2011 bears certain similarities with parts of the draft report of the IC which was sent to Mr KAM on 2 June 2011, the IC considers it necessary to also draw Mr KAM's attention to his undertaking to keep confidential any matter relating to the proceedings of

meetings or hearings of the IC held in private pursuant to the confidentiality undertaking that Mr KAM had signed under paragraph 30 of the IC's Practice and Procedure.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a cursive 'NG' and a long horizontal flourish extending to the right.

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會
LEGISLATIVE COUNCIL

來函檔號 SOURCE : CB(3)/IC/09/5
來函檔號 CASE : 2869 9203
電話 TELEPHONE : 2810 1691
圖文傳真 FACSIMILE :

CONFIDENTIAL

By hand

11 August 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I refer to your letter dated 4 July 2011, in which you indicated that you would reply to my letter dated 22 June 2011 the soonest possible as you were in the course of taking instructions from your client, Hon KAM Nai-wai, and Counsel's advice. In this connection, I should be grateful if you could advise me of the latest position.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 24th August 2011

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**


We refer to your letter dated 11th August 2011.

We are instructed that our client maintains his stance to make oral comments before the Investigation Committee ("IC") after considered the legal advice from his legal advisers. We understand from our client that there would be a number of comments he would like to voice out to the IC in his oral comments. We reiterate that the right of our client to make comment arise from paragraph 22 of the Practice and Procedure of the IC. Such comments of our client pursuant to paragraph 22 "will be recorded in the IC's report and *will be taken into account by the IC in finalizing its report*" (emphasis applied). We have no doubt that such practice and procedure shall be strictly adhered to by the IC and we do not see any reason to depart from such practice and procedure as well.

In addition, we have consulted our counsel about the tentative date for our client to make his oral comments and we are given to understand that our council (who has all along been advising our client in this enquiry) will commence a long trial shortly which has been set down until mid-October 2011. To accommodate the diary of our counsel, we would propose to confirm the date of our client's oral comments in early October in that the progress of the trial of our counsel can be ascertained with certainty.

Thank you very much for your kind attention.

Yours faithfully,


Y. S. Lau & Partners
SW/ec



PRINCIPALS

Lung Man On LL.B (Hons)
Yau Man Fai LL.B (Hons)

龍文安律師
游文輝律師

CONSULTANTS

Lau Yue Sum LL.B (Hons)
Chan Suk Kam Ida CPAACIS
Sum Kwan Ming Patrick LL.B (Hons)

劉汝琛律師
陳淑琴律師
岑君銘律師



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



立法會
LEGISLATIVE COUNCIL

來函檔號 YOUR REF :
本函檔號 OUR REF : CB(3)/IC/09/5
電話 TELEPHONE : 2869 9203
圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

31 August 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

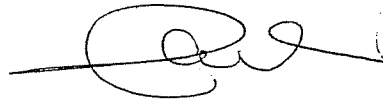
I refer to your letter dated 24 August 2011 to the Investigation Committee ("IC"), in which you reiterated the request of your client, Hon KAM Nai-wai, for an opportunity to make oral comments on the parts of the draft Report of the IC, which had been sent to him on 2 June 2011. In order to facilitate the IC in considering Mr KAM's request further, I should be grateful if you could advise me, in the event that the IC accedes to the request:

- (a) whether Mr KAM would be prepared to submit to the IC his written comments on the draft Report prior to the hearing at which he makes oral comments; and if so, how many days in advance of the hearing he proposes submitting his written comments;
- (b) how much time Mr KAM would need to make his oral comments;
- (c) whether, after making his oral comments, Mr KAM would be willing to orally answer questions which members may have arising from or in connection with his comments at the same hearing; and

- (d) whether Mr KAM would be agreeable to the hearing being conducted in one session if (b) and (c) are expected to take more than two hours; and if so, the longest duration of such session that Mr KAM would be prepared to attend.

I should be grateful for your reply by 14 September 2011.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a cursive 'NG' and a horizontal line extending to the right.

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉汝琛律師行
Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 16th September 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to your letter dated 31st August 2011.

We write to re-iterate our position on our letter dated 24th August 2011.

We have made it abundantly clear that it is the right of our client to make comment pursuant to paragraph 22 of the Practice and Procedure of the IC. The IC is required not only to record in its report such comment, but also to take such comment into account in finalizing its report. We fail to appreciate it why there are pre-requisites as stated in your letter dated 31st August 2011 for the IC to consider before acceding to the request of our client.

Nevertheless, we would take further instructions with our client on the various matters which are raised in the captioned letter once we receive definite reply from the IC that there will be a date fixed for our client to make oral comments before the IC. We would appreciate it that the IC would consult with us in the fixing of date for our client's oral comment as our counsel has already commenced her trial since 29th August 2011. We are more than delighted to liaise with your colleagues in the arrangement of diary so that all the concerned parties would be able to attend the hearing accordingly.

Thank you very much for your kind attention.

Yours faithfully,



Y. S. Lau & Partners
SW/ec



PRINCIPALS

Lung Man On LL.B (Hons)
Yau Man Fai LL.B (Hons)

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游文輝律師

CONSULTANTS

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中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China



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LEGISLATIVE COUNCIL

來函檔號 YOUR REF CB(3)/IC/09/5
本函檔號 OUR REF
電話 TELEPHONE 3919 3003
圖文傳真 FACSIMILE 2810 1691

CONFIDENTIAL

By hand

11 October 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I refer to my letter dated 31 August 2011 to you and your letter dated 16 September 2011 to the Investigation Committee ("IC") concerning the request of your client, Hon KAM Nai-wai, for an opportunity to make comments orally at a hearing on the parts of the draft Report of the IC which have been sent to him.

Under Rule 73A(13) of the Rules of Procedure of the Legislative Council ("LegCo"), the IC may determine its own Practice and Procedure ("P&P"). The purpose of the P&P is to enable the Member under investigation and witnesses to understand how the IC operates and what their respective rights and obligations are. However, the P&P is not meant to be exhaustive. In line with the practices and procedures of other committees of LegCo, it is for the IC to determine, based on the principles of fairness, how it should deal with any particular issue which is not expressly provided for in the P&P.

As I have stated in my letter dated 22 June 2011, Paragraph 22 of the P&P does not give a Member under investigation the right to choose the form in which he or she should comment on the IC's draft Report. However, the IC is willing to consider Mr KAM's request seriously. In deciding whether to accede to Mr KAM's request for a hearing, the IC would like to ensure that there

would be effective communication between Mr KAM and members during any such hearing. In that connection, members are tentatively of the view that they would be able to have a better understanding of the points Mr KAM seeks to make at any such hearing if he submits to the IC his written comments on the draft Report prior to the hearing. Members also consider that it would facilitate their understanding of Mr KAM's comments if he is prepared to answer members' questions orally at the hearing after making his comments. Your replies to questions (b), (c) and (d) of my letter dated 31 August 2011 will enable the IC to estimate the total time required for the hearing and thus determine the number of sessions required for the hearing.

In order to facilitate the IC in considering Mr KAM's request further, I should be grateful if you could reply to the questions in my letter dated 31 August 2011 by 19 October 2011. If the IC accedes to the request, I shall then proceed to follow up with you the logistical arrangements for the hearing.

Yours faithfully,



(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行
Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 21st October 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central, Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to your letter dated 11th October 2011.


While we maintain our client's position stated in our letters dated 24th August 2011 and 16th September 2011 to you, the views of the IC are noted but disagreed by our client.

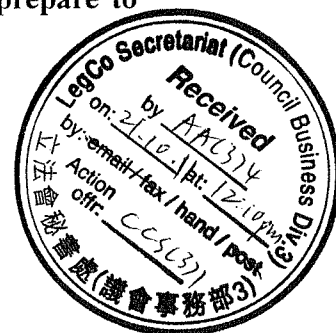
We have no dispute that under Rule 73A of the Rules of Procedure that the IC would determine its Practice and Procedure. Nevertheless, such determination must be exercised **fairly and reasonably**. Under the present hearing and given the seriousness of the allegations and the possible seriousness of the consequence, the importance of the right to comment by our client to the IC pursuant to paragraph 22 of the Practice and Procedure of the IC goes without saying. We do not understand why the IC demands firstly a written comment and secondly to answer questions raised by the IC before acceding to the request of our client to have his comments made orally.

We further do not agree without a written comment on the draft report from our client will not achieve an "effective communication" between our client and members of the IC. Our client had no difficulty in "communicating" with the members of the IC, nor does our client notice that some members found it difficult in "communicating" with our client in the past hearings!

Nevertheless, our client, to show his gesture to co-operate with the IC as in the past, would agree to provide a written skeleton of his comments to the IC prior to the hearing. In this connection, our client anticipates one session of 2 hours will be sufficient to make his comments on the draft report. **Kindly note that our client does not prepare to answer any questions from members after making his oral comments.**

Yours faithfully,


Y. S. Lau & Partners
SW/ec



PRINCIPALS

Lung Man On LL.B (Hons)
Yau Man Fai LL.B (Hons)

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立法會
LEGISLATIVE COUNCIL

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電 話 TELEPHONE 3919 3003
圖文傳真 FACSIMILE 2810 1691

CONFIDENTIAL

By hand

31 October 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("IC") to respond to your letter dated 21 October 2011, which was considered by the IC at its meeting held on 26 October 2011.

The IC maintains the view that paragraph 22 of the Practice and Procedure of the IC does not give your client, Hon KAM Nai-wai, the right to choose the form in which he makes his comments on the parts of the draft Report of the IC forwarded to him for comment under the same paragraph. In the IC's opinion, the principles of fairness and natural justice do not require the holding of a hearing for Mr KAM to make his comments orally. What is important is that Mr KAM be given an opportunity to make his comments.

The IC notes from your letter dated 21 October 2011 that if a hearing is held, Mr KAM is not prepared to answer any questions from members after making his oral comments. The IC considers that if Mr KAM's request for a hearing to make oral comments is to be acceded to, it is essential as a matter of fairness to all parties concerned that members also have the opportunity to orally seek Mr KAM's clarification on matters arising from or in connection with his comments. In the circumstances, should Mr KAM insist that he only makes his comments orally and would not respond to any questions from members after his oral comments, the IC considers that it would be more appropriate that Mr KAM makes his comments in writing.

In light of the above, the IC would be prepared to hold a hearing for Mr KAM to make his comments orally if he is agreeable to the following arrangements:

- (a) Mr KAM will orally answer questions from members for clarification on matters arising from or in connection with the comments he has made at the same hearing and the IC will allow a total of three hours for Mr KAM to make his comments and respond to members' questions at the same hearing; and
- (b) Mr KAM will submit a written skeleton of his comments to the IC no later than three working days before the hearing.

Details of the hearing to be held are as follows:

Date: Tuesday, 15 November 2011

Time: 5:00 pm to 8:00 pm

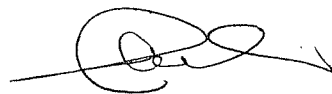
Venue: Conference Room 4, Legislative Council Complex,
1 Legislative Council Road,
Central,
Hong Kong

If Mr KAM is not agreeable to the above arrangements, the IC would be prepared to extend the original deadline of 13 June 2011 for Mr KAM to submit his written comments to 25 November 2011. The IC will proceed to finalizing its Report after that date.

I should be grateful if you would let me have your reply by completing and returning the attached reply slip by 7 November 2011.

The IC notes that it has been almost five months since the parts of the draft Report were sent to Mr KAM for comment on 2 June 2011. The IC urges Mr KAM to cooperate with the IC in its work. To be fair to all relevant parties, the IC considers that it must proceed expeditiously to conclude its investigation with or without Mr KAM's cooperation.

Yours faithfully,



(Ms Pauline NG)

Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

REPLY SLIP
(please return by 7 November 2011)

To: Ms Pauline NG
Clerk to Investigation Committee
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

Regarding the parts of the draft Report of the Investigation Committee ("IC") which were forwarded to me for comment on 2 June 2011 under paragraph 22 of the Practice and Procedure of the IC:

- I have no comments.
- I will submit my written comments by 25 November 2011.
- I would like to attend a hearing scheduled for 5:00 pm to 8:00 pm on 15 November 2011 to give my comments. I agree to orally answer questions from members for clarification on matters arising from or in connection with the comments I have made at the same hearing. I will also submit a written skeleton of my comments by Thursday, 10 November 2011.

(please ✓ one of the boxes above)

Signature: _____

Name: Hon KAM Nai-wai

Date: _____

劉汝琛律師行
Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 7th November 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central,
Hong Kong.

By Hand

Dear Sirs,

Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to your letter dated 31st October 2011.

Apart from maintaining our views as stated clearly in our previous letter, with greatest respect, we are not in the position to accede to the views of the IC and we are greatly disappointed that a reply slip with 3 options are provided to our client.

We cannot stress any more than we have all along been stated about the importance of the right to comment by our client to the IC pursuant to paragraph 22 of the Practice and Procedure of the IC. We do not understand why there should be pre-requisites before our client expresses his comment to the IC. We further do not understand why the oral submissions would in any way affect the consideration of the IC. Again, we do not understand why there is a **MUST** for him to answer further questions in relations to his comments. Above all, we do not understand why our client should not be given a fair and reasonable opportunity to express his comments directly to the IC by way of oral submissions.

Our client finds it there are material facts which the IC seems to quote incorrectly in the draft report. Our client also has various comments to make regarding the views of the IC in the draft report. It is therefore essential and in fact in the interest of justice that our client should be free to express his comments in a way he finds most comfortable. And, we strongly believe such a way do not in any way affect the enquiry.

PRINCIPALS

Lung Man On LL.B (Hons)
Yau Man Fai LL.B (Hons)

龍文安律師
游文輝律師

CONSULTANTS

Lau Yue Sum LL.B (Hons)
Chan Suk Kam Ida CPAACIS
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岑君銘律師

Our Ref.: 08050/2010/SW/L

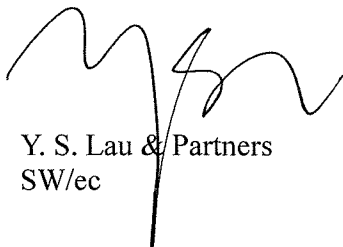
Your Ref.: CB(3)/IC/09/5

Date: 7th November 2011

We would humbly invite the IC to consider our client's request for an oral submissions be made by him, as we had indicated in our previous correspondence, our client is prepared to submit a written skeleton on or before the 11th November 2011 if the IC is minded to have the oral hearing on 15th November 2011. We still maintain our stance that our client is not answering to any questions from the IC in this oral submission.

We trust your earliest reply in the matter such that our client would prepare the hearing.

Yours faithfully,



Y. S. Lau & Partners
SW/ec





立法會

LEGISLATIVE COUNCIL

來函檔號 YOUR REF :
本函檔號 OUR REF : CB(3)/IC/09/5
電話 TELEPHONE : 3919 3003
圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

11 November 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

I am directed by the Investigation Committee ("IC") to respond to your letter dated 7 November 2011, which was considered by the IC at its meeting held on 9 November 2011.

The IC notes that it has been over five months since the relevant parts of the draft Report were forwarded to your client, Hon KAM Nai-wai, for comments on 2 June 2011.

The IC notes that Mr KAM insists that he will not respond to any questions from members for clarification of matters arising from or in connection with his oral comments. As such, and having considered the matter again, the IC is of the view that it would be more appropriate for Mr KAM to provide to it his comments, if any, in writing. Accordingly, it is not necessary to hold the hearing on 15 November 2011 as last proposed. Further, the IC would be prepared to extend the deadline for Mr KAM to submit his written comments to 25 November 2011.

In addition, as regards the indication in your letter of 7 November 2011 that Mr KAM had found certain material facts which the IC seemed to have quoted incorrectly in the draft Report, I have been directed by the IC to inform you that if Mr KAM wishes to draw the IC's attention to such matters or has any other comments on the draft Report, he should submit his written

comments to the IC on or before 25 November 2011, and that it is the IC's plan to proceed to finalizing its Report after that date, irrespective of whether Mr KAM's written comments have been received.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Pauline NG', written in a cursive style.

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉 汝 琛 律 師 行

Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 25th November 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central,
Hong Kong.

Confidential

By Hand

Dear Sirs,

Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to your letter dated 11th November 2011.

Our client is deeply disappointed by the unreasonable stance taken by the IC despite repeated appeals made by our client.

In order to prepare a throughout written reply/comments to your draft report, our client requests the IC to further extend the deadline for our client to submit his written comments to 2nd December 2011.

We look forward to receiving your early reply.

Yours faithfully,



Y. S. Lau & Partners
SW/ec



PRINCIPALS

Lung Man On LL.B (Hons)
Yau Man Fai LL.B (Hons)

龍文安律師
游文輝律師

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中華人民共和國香港特別行政區
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來函檔號 YOUR REF :
本函檔號 OUR REF : CB(3)/IC/09/5
電話 TELEPHONE : 3919 3003
圖文傳真 FACSIMILE : 2810 1691

CONFIDENTIAL

By hand

29 November 2011

Y.S. Lau & Partners
14/F, CMA Building
No. 64 Connaught Road Central
Hong Kong

Dear Sirs,

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

With reference to your letter dated 25 November 2011 to the Investigation Committee ("IC"), I am directed by the IC to inform you that the deadline for your client, Hon KAM Nai-wai, to submit his written comments on the relevant parts of the draft Report forwarded to him has been extended to 6:00 pm on Friday, 2 December 2011.

Yours faithfully,

(Ms Pauline NG)
Clerk to Investigation Committee

c.c. Hon KAM Nai-wai

劉汝琛律師行
Y. S. LAU & PARTNERS

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環干諾道中六十四號廠商會大廈十四樓
14/F, CMA Building, 64 Connaught Road Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 2nd December 2011

Investigation Committee,
Legislative Council,
Legco Complex,
1 Legislative Council Road,
Central,
Hong Kong.

Confidential
By Hand

Dear Sirs,

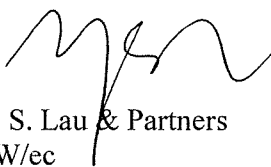
Re : **Investigations Committee established
Under Rule 49B(2A) of the Rules of
Procedure in respect of the Motion to censure
the Honourable Kam Nai-wai**

We refer to the above matter.

Please be informed that our client will submit his written comments of your draft report to the IC before 6 p.m. 5th December 2011.

Thank you for your kind attention.

Yours faithfully,


Y. S. Lau & Partners
SW/ec



PRINCIPALS

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陳淑琴律師
岑君銘律師

甘乃威議員對調查報告的整體回應

1. 調查委員會以既定的立場來處理動議

- 1.1 今次的調查委員會的成員雖然由建制派議員組成，甘議員冀望調查委員會能放開政見、偏見，以公平及客觀的立場作出調查，無奈事與願違，調查委員會在調查中早有既定的立場，認定甘議員曾向事主“示愛”；調查委員會對甘議員展開漫長的調查，透過對甘議員反覆的查問（共7次聆訊），聽取10位證人的宣誓下的證供，仍然選擇在沒有事主的證供下，認定事主的公開聲明就核心問題“絕對有參考價值”**“清楚顯示她覺得甘議員當時是向她示愛”**，明顯地反映出調查委員會在沒有實質的證據下，為了支持其結論而依賴該份聲明
- 1.2 事實上，動議今次議案的劉健儀議員也明確的在其2009年11月20日致立法會的信件中表示“由於該議案的措辭草擬，**並非取決於該名助理可能提供的任何意見或資料**”，調查委員會卻接納該份聲明，在漫長的聆訊中不向立法會申請行使權力及特權法傳召事主；在草擬的報告內更沒有片言隻字解釋為何不行使其權力、為何沒有需要事主的證供，以及沒有考慮在這個決定下剝奪甘議員就事件向事主作出提問的影響，在毫無基礎下便認定該份聲明“絕對有參考價值”
- 1.3 聽取多位證人的宣誓下的證供後，調查委員會只是選取支持其結論的部份，對於大部份支持甘議員證供的部份則沒有列出，也沒有解釋為何這些認供不予考慮或不予接納（詳情下述），委員當未有按行事方式及程序適當地履行其職責
- 1.4 更奇怪地，聆訊應在閉門及保密的情況下進行，但不斷有報章預先及詳細的披露調查委員會的結論：
*2011年11月24日星島日報報導“事件上言論前後不一，誠信令人懷疑

的指控成立，但因求愛不遂而解僱事主麗珠的指控則不成立”

*2011年6月24日星島日報報導 “言論前後不一的指控成立；報告又肯定他有追求女助理，但有關求愛不遂而解僱事主麗珠的指控則因證據不足而不成立”

*2011年5月17日信報已報導 “求愛不遂指控不成立”

- 1.5 在聆訊中即使甘議員要求調查委員會容許文件的副本給予甘議員的法律代表也不批准，但如此細詳及準確的結論已多番事先張揚地向公眾披露，也正正反映調查委員會有既定的立場，極有可能個別委員透過此等行為意圖抹黑甘議員

2. 沒有公平、公正的聆訊

- 2.1 本聆訊是立法會成立百多年以來，首次動用議事規則 49B(A)條的動議，即有可能遞奪甘議員的議席，有此嚴重的後果：調查委員會應更適當及合理地行使其酌情權以確保甘議員得到公平、公正的聆訊
- 2.2 立法會在 2009 年 12 月 9 日的會議，何俊仁議員也指出：
 - *調查委員會應先會見有助確立控罪相關事實的主要証人事主
 - *調查委員會不應接納書面口供
 - *不應採用漁翁撒網的搜証方式
 - *應容許甘議員列席向証人提問
 - *應容許甘議員法律代表發言
- 2.3 甘議員早於 2009 年 10 月 4 日表態協助調查，由始至終以合理合情的態度出席及協助調查委員會的調查，盡力配合調查委員會的提問，調查委員會不單在聆訊中對甘議員作出多次及長時間的提問，涉及很多不必要及無關的事項，但在重要及相關的事項上調查委員會則草率處理（詳請下述）
- 2.4 聆訊一直在沒有原訴人/投訴人的情況下進行，調查委員會也一直沒有明確

的態度，直到 2011 年 3 月 9 日，即年多後調查委員會才知會甘議員不會傳召事主作證

2.5 甘議員沒有得到足夠及適時的資訊

*甘議員一直沒獲知會調查委員會會傳召的證人名單

*甘議員從 2010 年 4 月 10 日星島日報及信報的報導才得知呂女士已經向調查委員會作供，經甘議員代表律師要求後才獲得呂的聆訊逐字紀錄本，才得悉呂已作証並拒絕回答調查委員會的提問

2.6 調查委員會沒有公平及公正地行使列明在行事方式及程序以外的酌情權:

*甘議員的法律代表沒有發言權，甘議員亦不能在聆訊其間即席向律師尋求法律意見

*甘議員不能親身出席其他證人的聆訊、不能觀察證人作供時的情況、更不能直接作出提問

3. 錯誤地考慮已有的證供

3.1 調查委員會在考慮動議時，錯誤地 “認為應該從客觀角度去看，才可以作出合理的結論”，在本聆訊所涉及的議案，議案(一) 是“甘議員向傳媒發表的言論前後不一，有所忍瞞”，重要的是甘議員前言不對後語，自己是明知而故意忍瞞傳媒，並非其他人角度去看，尤其是其他人的看法已有偏見的可能，已認定甘議員的說話有“示愛”的意圖，但調查委員會卻仍依賴事主及其他人的理解，即在第 3 章的 3.7 段所列出的 (b) 及 (c) 去判斷甘議員說有好感時是否就是向事主示愛，建基於這些考慮的結論，當然是不穩妥的結論

3.2 調查委員會的職權要確立議案所指稱的事項調查，究竟是否是事實

3.3 甘議員在結案時已清楚地指出事主沒有作證，調查委員會及甘議員均沒有機會就事件或事主在 2009 年 12 月 3 日發給立法會的聲明 - WW2(c)作了解，

在此情況下事主的聲明沒有證供上價值(evidential value)；調查委員會不應揣測文章背後的“事實”，調查委員會更不應予以考慮

4. 考慮及緩引不相關的資料

4.1 甘議員要求調查委員會刪除部份不相關的資料及有其他人士的姓名電郵內容 (見附件)

4.2 在聆訊期間委員要求甘議員提供 4 月至 9 月與事主的所有電郵，考慮後甘議員認為該要求不合理，亦與調查委員會要考慮的議案無關，事實上調查委員會亦在草議的報告內指出考慮到電郵可能的效用，決定不採用<立法會(權力及特權)條例>下的權力，正正反映調查委員會採用了漁翁撒網的搜證方式，但調查委員會在重要及核心的證供，即事主的證供，調查委員會從沒有解釋為何不採用<立法會(權力及特權)條例>下的權力，為何不傳召事主作証，及為何在沒有證人宣誓的情況下，接納及演譯事主該份聲明的內容

5. 鑑於以上種種不公情況，甘議員保留法律上所有追究的權利。調查委員會又拒絕甘議員提交大綱及口頭作出全面的陳述，只容許書面作出回應，鑑於甘議員的資源不足，在有限的時間下，未必能在這份整體回應書作全面的回應，甘議員在有需要的情况下，會提交補充的回應陳述書。

6. 甘議員要求調查委員會公平及公正的方法全面重寫此份調查報告。調查委員會根本沒有足夠的證據以確定動議的指控，有關的事實未得證實，故此兩項動議不應成立。

A.回應報告第 2 章 – 與譴責議案附表所載行爲不檢詳情有關的資料及證供

A.1 報告內容 2.9「甘議員向調查委員會表示，他覺得他與王女士總的來說是合得來的，而他認為在王女士受聘期間的首 6 個月(即 2008 年 12 月 15 日至 2009 年 6 月)的 “互相適應和合作中”，王女士的工作表現 “是可接受和滿意的”。」

A.2 甘乃威議員回應報告內容 2.9，甘議員指出內容未能夠準確反映甘議員對王女士工作表現的意見。以下為 2010 年 5 月 29 日 逐字紀錄內容比較準確反映甘議員對王女士工作表現的評價

A.2.1 2010 年 5 月 29 日 聆訊會議 逐字紀錄 154 段

「我想，如果以頭半年來說，我覺得她基本上是達標的，所以我一向給她的 comment 都是“良好”。當然，你見到 6 月之後，其實我對她的一些工作並不感到滿意，這些工作其實一向都在我的期望之內，但她做不到。」

A.2.2 2010 年 5 月 29 日 聆訊會議 逐字紀錄 1479 段

「應該是說 6 月之前，她是達到我的要求的，我給她的評語是 “良好”。作為一個新的、協助直選議員工作的職員來說，她達到一個我覺得可以達到的要求，在 6 月之前。」

A.3 甘議員認為事主首六個月作為協助一個直選議員的工作可達到基本要求，可以評為良好。但在 6 月份之後，其實甘議員對事主的工作並不感到滿意。甘議員要求調查委員會重寫報告內容 2.9。

A.4 報告內容 2.13 「.....加上他比較熟悉該商場(因為他與太太曾在該處接受訪問)....」

A.5 甘乃威議員回應報告內容 2.13，甘議員指出內容是錯誤的。甘議員與太太從來沒有

一起在該商場及餐廳接受任何訪問。只有甘議員曾在該餐廳接受訪問。甘議員要求調查委員會更正報告內容 2.13。

A.6 報告內容 2.20 「甘議員當晚把他與王女士喝下午茶一事告訴太太，由於他覺得自己向王女士表示好感可能是做錯了，因此向太太認錯。」

A.7 甘乃威議員回應報告內容 2.20，甘議員指出內容是錯誤的。

A.7.1 2009年10月6日左左大局逐字紀錄 435段 「我有跟她說……告訴她那個情況。我想她是完全知道……我的情況是怎樣，我有回去告訴她。」

A.7.2 甘議員是有向太太說明與王女士在餐廳會面的情況，由於王女士受到感情困擾，甘議員對王女士說了“有好感”一詞，甘議員向太太說明是希望開解王女士的情緒困擾，爲了增強王女士的信心，但當時王女士有所誤解。

A.7.3 在2010年5月29日的聆訊當中逐字紀錄 1890-1901段，甘議員已明確向調查委員會表示因「講錯嘢」令事主誤會，第一時間回去告訴太太，並向太太認錯。

A.7.4 甘議員向太太認錯是建基於在這場合說了“好感”一詞，令王女士感到誤解，因爲甘太常說甘議員經常用詞不當，甘議員沒有留意太太過去的提醒，而甘議員想太太內心有不舒服，所以甘議員向太太認錯。

A.7.5 甘議員並不是 “向王女士表示好感可能是做錯了，因此向太太認錯。”

A.7.6 2010年6月30日 聆訊會議 逐字紀錄 244段

「我已經說我曾與太太講述此事，但有關我與我太太的一些對話，又或她的表達，我覺得無需要在這裡向委員會講述，主席。」

A.7.7 當時調查委員會主席沒有反對甘議員的說法，而其他出席會議的委員亦沒有即時提出異議，即同意甘議員與太太的對話無需向調查委員會敘述，但調查委員會現時在草議報告內又將甘議員在左右大局訪問內的片言隻語作爲委員會的證供內容，更將該段訪問作爲確立事實之用，是完全不公正的處理方法。

A.8 甘議員認為調查委員會完全錯誤理解甘議員向太太認錯的原因。甘議員要求調查委員會重寫報告內容 2.20。

A.9 報告內容 2.60 「甘議員不願意向調查委員會透露該名黨友是誰,……………」

A.10 甘乃威議員回應報告內容 2.60, 甘乃威議員指出調查委員會不應考慮傳聞證供。

A.10.1 2010 年 7 月 14 日逐字紀錄 242 段

「……我講述該項傳聞的人士, 他/她是出於好意的; 第二, 他/她的私隱, 我覺得是需要受到保護的;……最重要一點是……? “傳聞證供” 是否屬委員會考慮的證供……」。

A.10 甘議員指出調查委員會不應考慮「傳聞證供」。甘議員要求調查委員會重寫報告內容 2.60。

A.11 報告內容 2.78, 「2009 年 10 月 2 日, 民主黨召開黨團會議, 討論甘議員解僱王女士的事件。……………」

A.12 甘乃威議員回應報告內容 2.78, 甘議員指出調查委員會完全不考慮涂謹申議員, 黃成智議員, 張文光議員, 及何俊仁議員就甘議員對事主說"有好感"時, 他們宣誓下的證供。包括:

A.12.1 涂謹申議員在 2011 年 3 月 28 日的陳述書中, 就甘議員與涂議員說明在特定的場合及背景向事主說及有關「有好感」的內容, 涂議員指出在 2009 年 10 月 2 日中, 涂謹申議員在陳述書中說明「我當時問甘議員, 是否因王女樣子不差及工作又能幹, 希望令她回復自信心而已。當時甘議員向我說他向王女士的說話正是這個意思, 希望她提高自信, 但現在卻被誤會。」

A.12.2 黃成智議員在 2011 年 3 月 2 日的陳述書中指出「本人從沒有覺得甘議員與王麗珠女士有任何私人的感情關連。」這段陳述書說明證人指出甘議員與事主沒有私人的感情關連。

A.12.3 何俊仁議員在 2009 年 10 月 5 日向調查委員會提交的書面陳述書中，何俊仁議員指出 2009 年 10 月 2 日的黨團會議上「他亦承認在數月前曾在一個場合向王麗珠說對她「有好感」，但強調他當時無意向對方示愛。」。在 2010 年 6 月 21 日的聆訊中，何俊仁議員指出甘議員在 2009 年 10 月 2 日黨團會議中，在逐字紀錄 231 段說明「他很清楚表明是兩件事，兩者沒有關係，也不是任何男女感情的問題。」這段逐字紀錄說明甘議員已向民主黨成員說明與事主不存在任何男女感情的問題。

A.12.4 張文光議員在 2011 年 1 月 28 日回應調查委員會的問題「甘議員有否及如何解釋他說「有好感」時想表達的意思.....?」，張文光議員回答問題指出沒有將「有好感」這句話連繫私人感情上。

A.13 甘議員指出涂謹申議員、黃成智議員、何俊仁議員、張文光議員均明確指出甘議員對事主說「有好感」是與男女之間的感情沒有任何關係。甘議員要求調查委員會重寫報告內容 2.78。

A.14 報告內容 2.97 「甘議員指出，他只是描述王女士談及自己的感情問題時的情況，實際上是用一些比較感性的說話，所謂“易地而處”，令對方有這種感覺，即：感情總有起伏，每個人也會遇到這種情況。他認為這個解釋與表示“有好感”是運用同理心的說法並無抵觸，無任何衝突。」

A.15 甘乃威議員回應報告內容 2.97指出在下午茶與王女士的會面中，甘議員有談及自己的感情問題的情況，即甘議員與太太二三十年的感情生活當中，有起有伏，有平淡的時間，當時有用一些比較感性的說話，以“易地而處”去說明事主有感情的困擾，

其實每個人包括甘議員也會遇到這種情況，這是人與人溝通時運用“同理心”的方法去處理問題。

A.16 甘議員在當日下午茶的聚會中提及“我對她有好感”在甘議員意念中，上述所提到的“好感”是一個概括的名詞，甘議員在意念上，認同事主的個人能力包括對她的工作能力、肯定事主對同事的相處或對聯繫傳媒等工作上的表現令甘議員滿意。“有好感”一詞只是甘議員向其同事或朋友表示友好的態度。

A.17 因此甘議員在該場合運用不同的說話技巧，是希望開解事主的情緒困擾，從而增強事主的自信。

A.18 甘議員要求調查委員會重寫報告內容 2.97。

A.19 報告內容 2.108「.....而在他印象中，他偶爾都會對員工說“有好感”，以“認許”他們的良好工作表現。甘議員向調查委員會表示，他未能找到任何紀錄顯示他曾經以“有好感”來肯定員工的工作能力。.....」

A.20 甘乃威議員回應報告內容 2.108指出正常的情況下都不會有任何與員工對話的紀錄，特別是讚賞員工的說話，因此調查委員會要求索取有關的紀錄，根本是強人所難及不合理。涂謹申議員在 2011 年 4 月 13 日的聆訊當中也說明他會用「有好感」來形容下屬在工作上做得好，認許員工的工作表現。這觀點與甘議員供詞是一致的。

A.21 甘議員要求調查委員會重寫報告內容 2.108。

A.22 報告內容 2.115「何議員向調查委員會表示，他在整個事件中聽到甘議員說的都

是"有好感"，從未聽過他說"有意思"。」

A.23 甘乃威議員回應報告內容 2.115 未能夠準確反映何俊仁議員在 2010 年 6 月 21 日聆訊會議中的意見。何俊仁議員的聆訊會議的逐字紀錄節錄如下，才能夠反映何俊仁議員的原意。

A.23.1 2010 年 6 月 21 日 聆訊會議 逐字紀錄 1271 及 1277 段

何俊仁議員在會議上明確指出「因為你知道我們當律師的，最重要是留意關鍵的事物，你當時說過甚麼話是很重要的。從頭到尾，我記得很清楚，甘乃威議員說的是“有好感”」及「如果他曾經說過"有意思"，我一定會質問他」

A.24 甘議員指出何俊仁議員是明確而清楚表達出他在與甘議員會面時所聽到的說話。甘議員要求調查委員會重寫報告內容 2.115。

B.回應調查委員會報告第3章 - 確立事實

B.1 報告內容 3.8 及 3.8(i)「.....調查委員會根據所掌握的資料認為，甘議員在這些場合從沒有說過，他向王女士表示好感是爲了認同她的個人能力和肯定她的工作表現.....」；「雖然甘議員聲稱他在 2009 年 10 月 2 日的黨團會議議上說過與上述說法類似的說話，卻沒有一位曾出席該次會議的立法會議員明確確認這一點。」；「甘議員在 2009 年 10 月 6 日.....，調查委員會卻注意到，當甘議員在研訊中向調查委員會解釋，他說"有好感"這句話的意思只是關乎王女士的工作表現時，也沒有透露也無需透露王女士的個人資料私隱(即她的感情困擾的詳情)，.....」

B.2 甘乃威議員回應報告內容 3.8 及 3.8(i) 是錯誤分析及選擇性紀錄聆訊的內容。因爲依據出席聆訊的多名證人指出，甘議員在 2009 年 10 月 4 日傳媒報導前，已向民主黨成員說明有關情況，包括:-

B.2.1 涂謹申議員在 2011 年 3 月 28 日的陳述書中，就甘議員與涂議員說明在特定的場合及背景向事主說及有關「有好感」的內容，涂議員指出在 2009 年 10 月 2 日中，涂謹申議員在陳述書中說明「我當時問甘議員，是否因王女樣子不差及工作又能幹，希望令她回復自信心而已。當時甘議員向我說他向王女士的說話正是這個意思，希望她提高自信，但現在卻被誤會。」這段陳述書內容說明證人已明確指出甘議員在 2009 年 10 月 2 日向民主黨成員說及「有好感」是指事主工作又能幹及希望回復事主信心的。而且涂謹申議員在 2011 年 4 月 13 日的聆訊當中也說明會用「有好感」來形容下屬在工作上做得好。

B.2.2 黃成智議員在 2011 年 3 月 2 日的陳述書中指出「本人從沒有覺得甘議員與王麗珠女士有任何私人的感情關連。」這段陳述書說明證人指出甘議員與事主沒有私人的感情關連。

B.2.3 何俊仁議員在 2009 年 10 月 5 日向調查委員會提交的書面陳述書中，何俊仁議

員指出 2009 年 10 月 2 日的黨團會議上「他亦承認在數月前曾在一個場合向王麗珠說對她「有好感」，但強調他當時無意向對方示愛。」。在 2010 年 6 月 21 日的聆訊中，何俊仁議員指出甘議員在 2009 年 10 月 2 日黨團會議中，在逐字紀錄 231 段說明「他很清楚表明是兩件事，兩者沒有關係，也不是任何男女感情的問題。」這段逐字紀錄說明甘議員已向民主黨成員說明與事主不存在任何男女感情的問題。

B.2.4 張文光議員在 2011 年 1 月 28 日回應調查委員會的問題「甘議員有否及如何解釋他說「有好感」時想表達的意思.....?」，張文光議員回答問題指出沒有將「有好感」這句話連繫私人感情上。

B.3 甘議員認為如果在 2009 年 10 月 6 日電台節目中要解釋「有好感」，便要披露事主工作上的表現，亦會無可避免在電台節目主持人追問下要披露更多事主的私隱。事實上，甘議員在 2010 年 5 月 20 日的聆訊當中，因為要解釋在甚麼情況下說「有好感」，已需要進一步說明事主感情困擾比較詳細的內容，包括事主一些私隱例如事主因感情問題向甘議員的求助及涉及警方的調查，詳情請參照當日聆訊的逐字紀錄 423 段至 462 段，較在電台節目中已向調查委員會披露更多事主的私隱。調查委員會對甘議員在調查委員會席情披露更多事主個人私隱的供詞視而不見，反而說甘議員在調查委員會「也沒有透露亦無需透露王女士的個人資料或私隱(即她的感情困擾的詳情)」，這是與事實不符。

B.4 甘乃威議員質疑調查委員會為何不採納上述 B.2.1-B.2.4 的四名證人的供詞於報告內容 3.8 及 3.8(i)，沒有作出任何的解釋。調查委員會刻意不採納上述四名證人供詞，也無視甘議員在宣誓作供下向調查委員會進一步披露有關事主個人私隱的事實，顯示出調查委員會對事件已有既定的立場，處事不公。甘議員要求調查委員會收回報告內容 3.8 及 3.8(i) 或重寫該段的內容。

B.5 報告內容 3.8 (ii) 「除了甘議員的證供外，並無資料顯示甘議員曾在其他場合以“有好感”這句話來“認許”其他員工的工作表現……」。

B.6 甘乃威議員回應報告內容 3.8 (ii)指出正常的情況下都不會有任何與員工的對話紀錄，特別是讚賞員工的說話，因此調查委員會要求索取有關的紀錄跟本是強人所難及不合理。證人涂謹申議員在 2011 年 4 月 13 日的聆訊當中也說明他會用「有好感」來形容下屬在工作上做得好，認許員工的工作表現。這觀點是與甘議員供詞是一致的。調查委員會完全無視甘議員及證人在宣誓下作供的供詞，反而調查委員會並未提出甚麼證據去否定甘議員的供詞。甘議員要求調查委員會收回報告內容 3.8(ii)或重寫該段的內容。

B.7 報告內容 3.8(iii) 「假若甘議員向王女士說“有好感”是藉此表達甘議員肯定好的工作表現的說法，……，以及在同年 7 月初說他向王女士說“有好感”這句他自覺不恰當的說話而向她道歉」。

B.8 甘乃威議員回應報告內容 3.8 (iii)指出在調查委員會聆訊中，甘議員已多次向委員會說明因為事主誤解「有好感」這句話，而需要在其後給事主的電郵中及在 7 月份的會議中表達甘議員的看法，如甘議員給事主的電郵中提出「別無他想」，表示出甘議員向事主表明她不要再誤會。而在 7 月初的會議因之前的聚會說“有好感”令事主誤會，因而向事主就說錯話令事主誤會而道歉，但調查委員會仍然不接納這合理的解釋，令人費解的是調查委員會完全沒有正常的邏輯推論，這反映調查委員會已有既定的立場。甘議員要求調查委員會收回報告內容 3.8(iii)或重寫該段的內容。

B.9 報告內容 3.8(iv) 「……調查委員會認為，倘若甘議員把事件告訴太太時，已解釋他向王女士表示好感只是認同她的個人能力和工作表現而不涉男女感情關係，按道理

他無需向太太認錯，而他的太太亦不會 "內心有不舒服"。

B.10 甘乃威議員回應 *報告內容 3.8(iv)*，在 2010 年 5 月 29 日的聆訊當中逐字紀錄 1890-1901 段，甘議員已明確向調查委員會表示因「講錯嘢」令事主誤會，第一時間回去告訴太太，並向太太認錯。因太太經常提醒甘議員小心用詞不當，而甘議員又再犯同樣錯誤，因而甘議員向太太認錯，並不是向事主「示愛後」而向太太認錯。但調查委員會沒有任何理據或解釋為何不採納甘議員的供詞。

B.11 而在 2010 年 6 月 30 日聆訊會議中逐字紀錄 244 段，甘議員向調查委員會主席指出「我已經說我曾與太太講述此事，但有關我與我太太的一些對話，又或她的表達，我覺得無需要在這裡向委員會講述，主席。」。當時調查委員會主席沒有反對甘議員的說法，而其他出席會議的委員亦沒有即時提出異議，即同意甘議員與太太的對話無需要在調查委員會討論。如果調查委員會認為根本無需要研究甘議員與太太的對話，但調查委員會為何現時又將甘議員在商台節目左右大局片言隻語的訪問作為推論「按說理他無需向太太認錯」，調查委員會根本在聆訊沒有這此論據向甘議員作出提問，也完全不在聆訊中搜證有關「他覺得太太內心有不舒服」的原因，這是絕不公正及不合理的處理方法，最後調查委員會更將此推論成為確立事實的部份，更是荒謬。

B.12 甘議員認為調查委員會不單沒有解釋為何不接納甘議員宣誓下的供詞，更確認甘議員無需要在調查委員會聆訊中討論及了解甘議員與太太的私人對話，但調查委員會卻作出不公正的推論，這再一次顯示調查委員會已有既定的看法強加於甘議員身上，這是不公正及不合理的調查方法，甘議員表示十分失望。甘議員要求調查委員會收回 *報告內容 3.8(iv)* 或重寫該段的內容。

B.13 *報告內容 3.8(v)*，「甘議員就他如何向王女士說 "有好感" 的整句道話以肯定她的

工作表現所提的證供前後不一致.....」

B.14 甘乃威議員回應 報告內容 3.8(v) 甘議員指出調查委員會認為甘議員的證供前後不一致是錯誤的結論，也與事實不符。

B.15 甘議員在 2010 年 3 月 15 日的第一份書面陳述書已明確說明「有好感是認同事主的個人能力、肯定事主對同事的相處或對聯繫傳媒等工作上的表現。.....從而增強事主的自信。」即在調查委員會聆訊開始前甘議員已表達有關的立場。

B.16 甘議員在 2010 年 7 月 14 日聆訊的逐字紀錄 306 段中顯示，「我只能夠記憶到片言隻語。至於每一句說話究竟是怎樣的呢？我沒有辦法可以憶述得到。」當日的聆訊中甘議員已說明可以記憶片言隻語，不是每一句與事主的對話內容。

B.17 在上述的聆訊中甘議員已說明能夠記憶到片言隻語，而在 2010 年 10 月 21 日聆訊中的說話內容是因應調查委員會的提問作出的補充，當日的證供內容與甘議員在 2010 年 3 月 15 日第一份書面陳述書內容的意思完全吻合，並不存在證供前後不一致，調查委員會的推論是斷章取義，甘乃威議員要求調查委員會 收回報告內容 3.8(v) 或重寫該段的內容。

B.18 報告內容 3.9 「總的來說，.....調查委員會因此認為，甘議員堅持“有好感”是肯定員工的工作表現的說法，難以令人信服。」

B.19 甘乃威議員回應 報告內容 3.9 指出調查委員會是選擇性引用部份證人的證供，而不是全面分析全部證人供詞，令人感到調查委員會刻意不選取對支持甘議員看法的證人供詞，而作出不盡不實的結論。由本文 B.1 至 B.18 段中甘議員已經指出調查委員會報

告錯誤的內容及推論，包括(1)證人涂謹申議員在甘議員向調查委員會提交書面陳述書前，已向調查委員會明確表示甘議員曾有提及「有好感」是認許事主的工作表現；(2)甘議員知道事主誤會「有好感」的意思才會向事主道歉及因知道向事主「講錯嘢」才向太太認錯；(3)甘議員出席聆訊的言論完全沒有前言不對後語，證供是前後一致。因此甘乃威議員要求調查委員會收回報告內容 3.9 或重寫該段的內容。

B.20 報告內容 3.10 「.....調查委員會認為王女士的公開聲明絕對有參考價值。.....」

B.21 甘乃威議員回應報告內容 3.10，甘議員指出調查委員會必須有程序的公義，搜證的過程必須是有一套嚴謹及一致的標準，並且給不同的證供應有不同的證供比重價值。調查委員會要求證人可以在宣誓或不宣誓下作供，而最後全部證人均選擇在宣誓下作供，但委員會卻採納事主在沒有宣誓下的公開聲明作為確立事實的內容，調查委員會根本沒有提供任何資料說明事主在甚麼的情況下作出該聲明，更重要是調查委員會容許事主在沒有被調查委員會就該公開聲明的內容進行聆訊提問及澄清，以及被調查的甘議員沒有機會向事主作出提問，但調查委員會卻認為事主的公開聲明絕對有參考價值，調查委員會沒有解釋為何在沒有公平、公正及合理的聆訊程序下，為何該公開聲明有絕對的參考價值。這只是證明調查委員會在聆訊前已有既定的立場及看法，也完全不考慮調查需要有程序公義和公正的原則。甘議員對調查委員會不公正及不顧程序的公義的調查方法表示強烈抗議。

B.22 甘議員重申在沒有事主的作證下，調查委員會及甘議員均沒有機會就事件或事主在 2009 年 12 月 3 日向立法會的聲明作了解及提問，在此情況下，調查委員會竟揣測該聲明背後的所謂「事實」，甘議員要求調查委員會應界定事主在 2009 年 12 月 3 日的公開聲明是沒有價值的證供(evidential value)，不應予以考慮。

B.23 *報告內容 3.11* 「調查委員會察悉，.....，調查委員會認為，甘議員向王女士表示好感的客觀疑問是令對方覺得此舉是向她示愛，而王女士有這樣的理解亦屬正常和合理的。」

B.24 甘乃威議員回應*報告內容 3.11* 指出調查委員會是完全不知所謂的推論。事主沒有參與調查的過程，沒有被調查委員會就其公開聲明內容進行聆訊提問及澄清，被調查的甘議員也沒有提問的機會。事主單方面向何俊仁議員及劉慧卿議員說明甘議員向她表示好感是向她示愛，從來事主只有提及一次與甘議員會面下而作出甘議員向其「表白」的結論，調查委員會有甚麼其他的證據資料支持事主的說法是事實，調查委員會有甚麼的證據支持在一次會面及一句「有好感」可以證實是示愛，調查委員會搜集了甘議員在那次下午茶聚會以外的甚麼行爲或證據以支持調查委員會的論點。甘議員多次在調查委員會指出事主在 2009 年 6 月因其私人的感情困擾而影響工作，調查委員會收集了甚麼證據證明甘議員的觀點不正確，調查委員會並沒有任何解釋為何不接納甘議員宣誓下的供詞，反而調查委員會只從單方面，即事主無宣誓下的公開聲明及事主向其他人的敘述，而作出「王女士有這樣理解亦屬正常和合理的」，這結論是荒謬的，更表明調查委員會一開始已有既定的立場及看法，調查委員會是在完全不公正的態度下進行調查。甘乃威議員要求調查委員會收回報告內容 3.11 或重寫該段的內容。

B.25 *報告內容 3.12-3.14* 「調查委員會認為.....即她們認為甘議員向王女士表示好感是與男女關係有關的。」

B.26 甘乃威議員回應*報告內容 3.12-3.14* 指出調查委員會是選擇性及刻意將一些證人的證供不納入確立事實的章節內，特別是涂謹申議員在 2011 年 3 月 28 日的陳述書中，已明確指出甘議員已 2009 年 10 月 4 日傳媒報導前向涂謹申議員說及有關 “有好感” 的情況。以下再次列出一些證人的證供內容，包括如下:-

B.26.1 涂謹申議員在 2011 年 3 月 28 日的陳述書中，就甘議員與涂議員說明在特定的場合及背景向事主說及有關「有好感」的內容，涂議員指出在 2009 年 10 月 2 日中，涂謹申議員在陳述書中說明「我當時問甘議員，是否因王女樣子不差及工作又能幹，希望令她回復自信心而已。當時甘議員向我說他向王女士的說話正是這個意思，希望她提高自信，但現在卻被誤會。」這段陳述書內容說明證人已明確指出甘議員在 2009 年 10 月 2 日向民主黨成員說及「有好感」是指事主工作又能幹及希望回復事主信心的。而且涂謹申議員在 2011 年 4 月 13 日的聆訊當中也說明會用「有好感」來形容下屬在工作上做得好。

B.26.2 黃成智議員在 2011 年 3 月 2 日的陳述書中指出「本人從沒有覺得甘議員與王麗珠女士有任何私人的感情關連。」這段陳述書說明證人指出甘議員與事主沒有私人的感情關連。

B.26.3 何俊仁議員在 2009 年 10 月 5 日向調查委員會提交的書面陳述書中，何俊仁議員指出 2009 年 10 月 2 日的黨團會議上「他亦承認在數月前曾在一個場合向王麗珠說對她「有好感」，但強調他當時無意向對方示愛。」。在 2010 年 6 月 21 日的聆訊中，何俊仁議員指出甘議員在 2009 年 10 月 2 日黨團會議中，在逐字紀錄 231 段說明「他很清楚表明是兩件事，兩者沒有關係，也不是任何男女感情的問題。」這段逐字紀錄說明甘議員已向民主黨成員說明與事主不存在任何男女感情的問題。

B.26.4 張文光議員在 2011 年 1 月 28 日回應調查委員會的問題「甘議員有否及如何解釋他說「有好感」時想表達的意思……?」，張文光議員回答問題指出沒有將「有好感」這句話連繫私人感情上。

B.27 甘議員指出調查委員會必須解釋為何上述 B.26.1-B.26.4 四名證人的證供不被納入確立事實章節中的原因，這些證人的證供均表明甘議員與事主並不有任何男女的感情問題，也有提及「有好感」是基於工作上的能幹，增強事主信心。反而調查委員會只是斷章取義，只選取證人劉慧卿議員的部份證供，認為甘議員向事主表示好感是與男

女關係有關的，更重要是劉慧卿議員的證供與另一名證人何俊仁議員的證供完全不吻合。在 2010 年 6 月 21 日聆訊中，何俊仁議員回應委員提問是否聽到甘議員會對事主說 "有意思" 這句話，在當日聆訊的逐字紀錄 1271 段，何俊仁說「因為你知道我們當律師的，最重要是留意關鍵的事物，你當時說過甚麼話是很重要的。從頭到尾，我記得很清楚，甘乃威議員說的是 "有好感"」。調查委員會沒有解釋為何只接納劉慧卿議員的供詞，而不接納何俊仁清楚而明確的供詞。這再一次反映調查委員會是有既定的看法及立場，完全漠視公正及公平審視證人的供詞，處事不公。

B.28 何俊仁議員在聆訊會議中認為對一位同事說 "有好感"，特別是涉及一男一女的情況下，都是很容易引起誤會，證人的證供證明這只是一場誤會，而不是示愛。在 2009 年 10 月 2 日的民主黨黨團會議上出席的議員亦覺得甘議員向事主說「有好感」這句話是不恰當的，但並不表示甘議員曾向事主說「有好感」說是等同示愛，因為 B.26.1-B.26.4 的四名證人均證明甘議員在 2009 年 10 月 2 日民主黨黨團會議上說明「有好感」是不存在任何男女感情的問題，更有一名證人證明「有好感」這句話是認許事主的工作，加強其自信，但有出席的議員認為當時甘議員向事主說 "有好感" 可能會令事主誤會，因而他們有部份議員覺得甘議員用詞不恰當。甘乃威議員要求調查委員會 收回報告內容 3.12-3.14 或重寫該段的內容。

B.29 報告內容 3.15 「經考慮甘議員以及其他證人提供的證據，.....，調查委員會信納，甘議員向王女士所表示的「好感」是涉及男女間感情的表達，並可以合理地視之為有示愛的含義的行為。」

B.30 甘乃威議員回應 報告內容 3.15，民主黨八名立法會議員中，有一半在宣誓下作証時明確表示甘議員向事主說 "有好感" 是不存在任何男女感情的問題，其中更有一位明確表示甘議員說的 "有好感" 是基於事主工作上的能幹，增強事主信心，其餘的三位均沒

有表示甘議員說 "有好感" 是與男女感情有關係，這七位議員，即絕大部份出席聆訊的證人，均沒有指出甘議員向事主說 "有好感" 是與男女感情有任何關係。

B.31 但調查委員會刻意不納入上述 B.26.1.-B.26.4 的四名證人的證供，以及其餘三名證人，即共七名證人的證供，反而將劉慧卿議員的個人理解作為可以信納的證供，但劉議員的證供與何俊仁議員的證供是不吻合，因此調查委員會要解釋為何將劉議員的證供給予一個很高的證供比重，作為完全可以信納的證供，反而完全漠視其他七名議員的證供，特別是涂謹申議員的證供。B.26.1-B.26.4 四名證人的供詞是一致，證明甘議員早在事件在傳媒曝光前已向民主黨議員說明 "有好感" 這句說話是不存在任何男女感情問題及關係，也有涂謹申議員指甘議員說的 "有好感" 是基於事主工作上的能幹，增強事主信心。調查委員會必須要解釋為何對七名議員的證供視而不見。

B.32 甘議員在同一場合的發言，何俊仁議員及劉慧卿議員均可以有不同的理解，但調查委員只用劉慧卿議員證人的證供作為甘議員有示愛含義的行為，調查委員會明顯是選擇部份證人的證供，而不是全面審視所有證人的證供後作出結論，調查委員會是作出不公平、不公正、不合理的結論，甘議員要求調查委員會收回報告內容 3.15 或重寫該段內容。

B.33 報告內容 3.16，「……………調查委員會確立第二項有待確立的事實。」

B.34 甘乃威議員回應報告內容 3.16，由於調查委員會刻意不採納入上述 B.26.1 - B.26.4 的四名證人的證供，證明甘議員多次說明與事主不存在任何男女感情關係，反而只是斷章取義一名證人的證供認為甘議員有示愛的含義。調查委員會也完全不考慮調查需要有程序公義和公正的原則下，竟然認為事主的公開聲明絕對有參考價值。因此在不公正及不公義的情況下的搜證內容，絕不可能確立事實。甘議員要求調查委員會收回

報告內容 3.16 及應未能確立第二項有待確立的事實。

B.35 報告內容 3.22 「調查委員會的理解是，甘議員所指王女士的工作表現和態度出現問題的時段，始於下午茶敘(即 2009 年 6 月 15 日)之後。」

B.36 甘乃威議員回應 報告內容 3.22，調查委員會是選擇性地將甘議員的證供部份內容作出錯誤的理解。甘議員多次證供均指出 2009 年 6 月事主主動向甘議員說及她個人的感情問題，事主也說到她自己情緒不穩定，甘議員認為事主是因感情受到困擾，出現情緒不穩，因而影響工作上的表現。但調查委員會只是將事主的工作表現和態度出現問題的時段，認定為在下午茶敘(即 2009 年 6 月 15 日)之後，完全沒有提及事主的個人感情問題，但甘議員指出調查委員會完全沒有作出任何解釋為何不考慮甘議員的上述供詞。甘議員指調查委員會作出了錯誤的理解，甘議員要求調查委員會收回報告內容 3.22 或重寫該段內容。

B.37 報告內容 3.26 及 3.28，「甘議員指王女士不願意出席金融管理局在 2009 年 6 月 18 日為協助精明債券苦主而舉行的會議，……，但調查委員會掌握到的資料並無顯示，他曾就此事以電郵或任何其他書面方式對王女士缺席該會議向她表達不滿。」。「甘議員告知調查委員會，……，並以此作為即時解僱她的其中一個理由。」

B.38 甘乃威議員回應 報告內容 3.26 及 3.28，甘議員指出事主出席金融管理局會議是其合約內的工作範圍，而當天辦事處並沒有其他的工作，事主也沒有向甘議員解釋為何不出席會議。作為整體評價一名員工的工作表現時，包括該員工的責任感，是否樂意投入工作，以及員工是否接受上級委派合約範圍內的工作等，均是評價員工整體表現的指標。事主不願出席金融管理局會議，這影響甘議員對事主工作表現的評價。甘議員雖然未有就此事以電郵或任何其他書面方式向事主表達不滿，但甘議員已在 7 月份的

會面要求事主改善工作態度，而事主在當次會面也承認需要改善工作態度。不論甘議員是否接受事主改善工作態度的承諾，不論甘議員說過去的問題是否告一段落，但事主不出席金融管理局會議是一個不爭的事實，已被紀錄及影響到甘議員對事主整體工作表現的評價。

B.39 *報告內容 3.30*，「鑒於甘議員在上述電郵.....，由此看來，他對王女士的辦事能力看來應該相當有信心。」

B.40 甘乃威議員回應*報告內容 3.30*，甘議員指出事主不出席金融監管機構會議，已是一項實質而具體的事例反映事主不專注工作或對工作不投入。甘議員在聆訊中向調查委員會表示曾要求事主尋找關於傳媒的資料和課本，但調查委員會卻認為甘議員對事主的辦事能力因此看來應該相當有信心，調查委員會在聆訊中沒有查詢甘議員是否對事主辦事能力相當有信心，反而推測甘議員如何評價事主的辦事能力，這是不公平的調查方法。甘議員要求調查委員會收回*報告內容 3.30*或重寫該段內容。

B.41 *報告內容 3.34*，「調查委員會注意到，.....調查委員會認為並不合理。」

B.42 甘乃威議員回應*報告內容 3.34*，甘議員在聆訊上已經多次向調查委員會指出撰寫新聞稿是事主的一項主要工作，也是事主的專長，事主拒絕撰寫新聞稿令甘議員十分不滿，而甘議員在事主拒絕後沒有再發出電郵要求事主撰寫擦鞋匠的新聞稿，因為甘議員身在歐洲，因時差問題而沒有時間再要求事主即日寫該則新聞稿。甘議員從沒有在調查委員會上表示接納事主的解釋，調查委員會也沒有在聆訊中問及甘議員是否已經接受事主不撰寫新聞稿的解釋。反而甘議員曾在聆訊中指出十分看重事主不撰寫新聞稿的問題，因為這是事主的專長，也是事主職責的主要部份，加上甘議員是在辦公時間內提出要求寫新聞稿，因此甘議員看不到事主有甚麼理由不寫新聞稿。而調查委

員會就此表示事件已經化解的結論甘議員表示很難理解。甘議員質疑調查委員會已有既定的立場，但對甘議員在聆訊多次表示十分不滿事主拒絕撰寫新聞稿，未能夠履行事主基本的職責的意見視而不見。甘議員要求調查委員會收回報告內容 3.34 或重寫該段內容

B.43 報告內容 3.36-3.40，「未能夠依時進行宣傳活動……」

B.44 甘乃威議員回應報告內容 3.36-3.40，樹木論壇早在 2009 年 4、5 月份已經進行論壇籌備工作，但結果在論壇即將舉行的時間仍未完成所有宣傳工作，因此甘議員才向事主表達不滿。由於甘議員對事主工作的不滿，才考慮將事主有關的工作交由其他職員處理。調查委員會認為事主在樹木論壇的宣傳工作的表現未完全符合甘議員的要求亦可理解，完全無視籌備工作已進行多個月，而且在八月份立法會已經休會令事主整體的工作量減少。調查委員會並沒有向甘議員查詢籌辦有關活動的詳情，反而得出上述的結論，令人再一次感到調查委員會已有既定的立場。甘議員要求調查委員會收回報告內容 3.39 及 3.40 或重寫該段內容

B.45 報告內容 3.42 「……由其他同事分擔王女士部份工作。」

B.46 甘乃威議員回應報告內容 3.42，調查委員會應該清楚明白一名議員助理不會被分派處理單一工作項目，議員助理都會通常同時間處理多個工作議題，所以調查委員會基於事主電郵中的片面之詞，而認為甘議員不理解事主工作十分繁重是錯誤的。因為知道事主能力有限，甘議員才把事主部份工作分給其他職員。甘議員認為調查委員會的分析，即因事主的工作量多而將其工作分擔給其他同事，是錯誤的，甘議員要求調查委員會收回報告內容 3.42 或重寫該段內容。

B.47 報告內容 3.43-3.44,「.....該兩項工作中的足之處嚴重到構成即時解僱她的理由。」

B.48 甘乃威議員報告內容 3.43-3.44, 甘議員指出解僱事主是因事主連續三個月連續作表現及工作態度欠佳, 而該兩項目工作表現只是其中一些欠佳的例子。

B.49 報告內容 3.45,「.....不少值得商榷之處:.....」

B.50 甘乃威議員回應報告 3.45, 甘議員表示事主在次階段的工作表現和態度出現問題是建基連續的工作表現欠佳, 例如, 拒寫新聞稿、太遲安排宣傳樹木論壇、工作報告仍有錯漏等等, 完全不存在甘議員證供的自相矛盾。

B.51 甘議員在 2009 年 9 月 22 日希望與事主及另一位同事一同午膳, 目的是提出改善工作的要求, 正正是給事主改進的機會。這做法並沒有不合常理, 也符合調查委員會結論中指僱主應給予僱員改進的機會。故此事主不出席午膳, 其後甘議員也安排與事主面談討論需要改善工作的地方。

B.52 甘議員指出“調查委員會認為甘議員基於事主不安及不快和協助她解決經濟困難這兩個理由而向事主作出巨額補償”實在難以置信。甘議員質疑調查委員會是基於甚麼已查證的證據作出意見而不接納甘議員宣誓下的證供。

B.53 甘議員認為報告內容 3.45 是錯誤分析, 甘議員要求調查委員會收回報告 3.45 或重寫該段內容。

B.54 報告內容 3.46 「.....調查委員會因此認為甘議員把她在次階段的整體工作表現亦評為良好」

B.55 甘乃威議員回應報告內容 3.46，調查委員會從未接見事主，更從沒有與事主共事，亦沒有機會親身觀察事主的工作表現，調查委員會不單荒謬地自行評價事主的工作表現，更謬謬然將調查委員會的意見強加於甘議員身上，也超越了調查委員會調查的範圍。甘議員認為事主在 2009 年 6 月至 9 月的工作表現，未能夠符合表現良好的情況。甘議員要求調查委員會收回確立第四項事實的結論。

B.56 甘乃威議員回應報告內容 3.47 至 3.52，調查委員會在要確立的事項當中，並沒有全面的列出事件的前因後果，包括甘議員因處理事主感情的困擾，而在一次下午茶聚中如何說及有好感之詞，而令事主有所誤會及引致抗拒的反應。由於在 2009 年 6 月至 9 月期間，事主一直工作表現欠佳，甘議員遂邀請事主及另一位同事一起外出午膳以進行工作的檢討，惟最後兩位均未應約外出午膳。故此調查委員會並非全面的反映要確立的事項。

C.回應調查委員會報告第 4 章 – 所確立的事實是否構成譴責 甘乃威議員的理據

C.1 報告內容 4.7 「.....調查委員會考慮的問題是，甘議員向王女士表示好感是否可以合理地理解為示愛，而王女士及一般人是否如此理解；.....」

C.2 甘乃威議員回應報告內容 4.7，調查委員會應考慮甘議員向事主表示好感時，是否等同於甘議員向事主示愛，而考慮事主及一般人是否如此理解這種分析的方法是錯誤的。

C.3 甘議員指出調查委員會應考慮由甘議員作為出發點，考慮當時甘議員說"有好感"的意思，當然沒有人比甘議員更清楚說"有好感"時所表達實質的意思，若然調查委員會不接納甘議員的證供，調查委員會必須清楚說明拒絕接納甘議員的證供理據，調查委員會又憑甚麼其他有價值的證供(evidential value)指出「有好感」等同「示愛」。

C.4 調查委員會依賴的資料包括事主的公開聲明及事主其後的表現。甘議員指出調查委員會依賴事主未經宣誓及未經查證的公開聲明是不公正處理證供的方法，而調查委員會更依賴事主事後向其他人士敘述有關的事情，這些都是未經查證的傳聞證供。如果調查委員會認為事主的公開聲明有絕對的參考價值，給予一個很高的證供價值的比重，調查委員會必須向公眾作出解釋原因為何；如果調查委員會認為事主的公開聲明及向其他人敘述有關的事情十分看重，為何調查委員會不引用立法會權力及特權法傳召事主出席會議，令調查委員會及甘議員可以有機會向事主作出提問及求證的機會。調查委員會明顯是已有既定的立場。調查委員會的調查方式十分不公正及不公平。

C.5 調查委員會依賴一般人士如何理解「有好感」等同「示愛」這種分析方法也是錯誤的。劉慧卿議員與其他七位證人在同樣的事件上的理解很不同，調查委員會不應只接

納劉慧卿議員的證供，而否定其餘七位證人的證供，明顯地不同人可以對同一句說話有不同的理解，調查委員會這種分析方法是非常不合理、不公正及不公平的調查。甘議員要求調查委員會收回報告內容 4.7 或重寫該段內容。

C.6 報告內容 4.9 「儘管甘議員向調查委員會作供時強調他 "向王女士表示好感是肯定她的工作表現"，所有曾出席 2009 年 10 月 2 日民主黨黨團會議的立法會議員的證供均未有顯示甘議員在該會議上向他們交代解僱事件時曾提出上述的說法，……」

C.7 甘乃威議員回應報告內容 4.9，甘議員指出報告內容 4.9 是錯誤分析及選擇性紀錄聆訊的內容。因為依據出席聆訊的多名證人指出，甘議員在 2009 年 10 月 4 日傳媒報導前，已向民主黨成員說明有關情況，包括:-

C.7.1 涂謹申議員在 2011 年 3 月 28 日的陳述書中，就甘議員與涂議員說明在特定的場合及背景向事主說及有關「有好感」的內容，涂議員指出在 2009 年 10 月 2 日中，涂謹申議員在陳述書中說明「我當時問甘議員，是否因王女樣子不差及工作又能幹，希望令她回復自信心而已。當時甘議員向我說他向王女士的說話正是這個意思，希望她提高自信，但現在卻被誤會。」這段陳述書內容說明證人已明確指出甘議員在 2009 年 10 月 2 日向民主黨成員說及「有好感」是指事主工作又能幹及希望回復事主信心的。而且涂謹申議員在 2011 年 4 月 13 日的聆訊當中也說明會用「有好感」來形容下屬在工作上做得好。

C.7.2 黃成智議員在 2011 年 3 月 2 日的陳述書中指出「本人從沒有覺得甘議員與王麗珠女士有任何私人的感情關連。」這段陳述書說明證人指出甘議員與事主沒有私人的感情關連。

C.7.3 何俊仁議員在 2009 年 10 月 5 日向調查委員會提交的書面陳述書中，何俊仁議員指出 2009 年 10 月 2 日的黨團會議上「他亦承認在數月前曾在一個場合向王麗珠說對她「有好感」，但強調他當時無意向對方示愛。」。在 2010 年 6 月 21 日的聆訊中，何俊

仁議員指出甘議員在 2009 年 10 月 2 日黨團會議中，在逐字紀錄 231 段說明「他很清楚表明是兩件事，兩者沒有關係，也不是任何男女感情的問題。」這段逐字紀錄說明甘議員已向民主黨成員說明與事主不存在任何男女感情的問題。

C.7.4 張文光議員在 2011 年 1 月 28 日回應調查委員會的問題「甘議員有否及如何解釋他說「有好感」時想表達的意思.....?」，張文光議員回答問題指出沒有將「有好感」這句話連繫私人感情上。

C.8 甘議員質疑調查委員會為何不採納上述 C.7.1-C.7.4 四名證人的供詞，沒有作出任何的解釋。甘議員的證供與其他證人的證供均證實在事件在傳媒曝光前，甘議員已向證人提及「有好感」是肯定事主的工作表現之說法。調查委員會必須解釋刻意不採納上述的證人供詞的原因。

C.9 甘議員是出於事主誤會甘議員說"有好感"的意思，才需要解釋為何事主有在下午茶敘的即場反應，調查委員會未有任何理據不接納甘議員的解釋。而其後甘議員基於說"有好感"令事主誤會才向事主道歉，也是人與人溝通正常的方法。

C.10 甘議員是基於太太已經常提醒他，但在今次事件中又因用詞不當而「講錯嘢」，所以才向太太認錯，這完全合符常理；甘議員是在宣誓下作供，調查委員會並沒有任何其他證供或其他證人的供詞，來推翻或不接納甘議員的供詞。最重要的是調查委員會已決定不再就甘議員與太太的對話再作討論或探討，否則調查委員會是違反了當日的決定，這是處事不公。甘議員要求調查委員會收回報告內容 4.9或重寫該段內容。

C.11 報告內容 4.12「調查委員會注意到，.....，甘議員當時是很清楚知道他"曾向該女助理表示好感"這事實，對公眾瞭解"該女助理投訴遭不合理的僱"這件事來說，實屬一項具關鍵性的資料。」

C.12 甘乃威議員回應 報告內容 4.12，甘議員指出由於 2009 年 9 月 24 日甘議員知悉有人投訴「說助理被解僱得不合理，此事與感情有關」，因此在此情況下，甘議員向民主黨黨內交代時需要解釋解僱事主是基於其工作表現欠佳而將事主解僱，也需要解釋事主因其個人的感情困擾所以甘議員曾說了一句"有好感"而引起的誤會，以回應「說助理被解僱得不合理，此事與感情有關」這投訴內容。甘議員向民主黨立法會黨團交代「曾向該女助理表示好感」是與投訴傳聞相關連的資料，由於是在黨內進行討論，並不涉及公開事主工作表現欠佳，以及公開事主個人的感情問題，因此甘議員認為可以將相關的資料，即「曾向該女助理表示好感」，披露給黨內討論。

C.13 甘議員指出在 2009 年 10 月 4 日的報章是指甘議員「求愛不遂炒女助理」，「疑涉性騷擾」等標題。基於何俊仁議員及劉慧卿議員表達事主不想公開事件及有保護事主私隱的責任，為了保障事主的個人私隱及不應公開討論離職員工的欠佳工作表現的關鍵原則下，因此甘議員沒有公開相關資料。就回應報章「求愛不遂炒女助理」，「疑涉性騷擾」等標題及 2009 年 10 月 4 日的記者會記者的提問而言，「曾向該女助理表示好感」這不是一個具關鍵性的資料，反而如何保障事主的個人私隱則是關鍵性處理問題的大原則。甘議員要求調查委員會 收回報告內容 4.12 或重寫該段內容。

C.14 報告內容 4.13，「調查委員會認為，甘議員在出席記者會前，理應已估計到記者或會提出 "有否求愛" 或"有否示愛"的問題，以及考慮過如何回應該等問題。然而，當甘議員在記者招待會上被問及他有可向女助理(即王女士)示愛及做了些甚麼令她產生誤會而作出投訴時，他完全沒有提及他"曾向該女助理表示好感"的事實。.....」

C.15 調查委員會認為甘議員「理應已估計到記者或會提出 "有否求愛"或"有否示愛"」。甘議員指出調查委員會沒有在聆訊中向甘議員提問可有「理應已估計到記者或會提出 "

有否求愛"或"有否示愛"」。再者，甘議員指出調查委員會亦沒有向所有出席聆訊的證人搜證在 2009 年 10 月 4 日記者會前，有否與甘議員討論在記者會內，或會被記者問到「"有否求愛"或"有否示愛"」的問題。調查委員會並沒有交代已搜集到有甚麼的證供，證據或事實的基礎下，以推論甘議員「理應已估計到記者或會提出 "有否求愛"或"有否示愛"」。調查委員會是強加已有的立場及看法於甘議員的身上，是本末倒置即以結果推論甘議員的想法。

C.16 事實上，甘議員確實沒有想過調查委員會指「理應已估計到記者或會提出 "有否求愛"或"有否示愛"」的問題，在 2009 年 10 月 4 日報章的報導主要是「求愛不遂炒女助理」，「疑涉性騷擾」等標題，在當天只有很少時間為記者招待會作出準備，時間非常緊迫。

C.17 調查委員會的報告指記者招待會上甘議員被問及做了些甚麼令她產生誤會而作出投訴，甘議員指出調查委員會是錯誤紀錄 2009 年 10 月 4 日記者會上記者的提問，原文是「其實會否有一些行為令女助理誤會你有些曖昧的行為呢?」。當時記者的提問重點是「曖昧行為」，甘議員當時的理解是涉及「性騷擾」的行為，而且一直以來甘議員向事主說及 "有好感"並不存在示愛的想法，加上要保護事主私隱的關鍵原則下，因此甘議員從來沒有想過要提及"有好感"的內容，所以不存在有意識地不予透露。甘議員求調查委員會收回報告內容 4.13 或重寫該段內容。

C.18 報告內容 4.14，「.....甘議員是基於傳媒的報導和何議員的提醒才出席電台節目對事件」。

C.19 甘乃威議員回應報告內容 4.14，甘議員指出一直表示「有好感」並不同向事主示愛，調查委員會認為在 2009 年 10 月 4 日記者會上，甘議員並非一時忘記提及曾向事

主表示好感，而是有意識地不披露，這是錯誤的分析。事實上在當日記者會中，甘議員清楚明白是有責任保障事主的私隱，當時的正確判斷是不應披露事主的感情困擾問題，若在記者會中提及曾向事主說“有好感”，必會被記者追問，而無可避免要披露事主的感情困擾問題。再者，當日記者會的焦點是環繞「求愛不遂炒女助理」，「疑涉性騷擾」等問題，所以當時甘議員不透露“有好感”的前文後理是正確的。

C.20 及後，甘議員是基於 2009 年 10 月 5 日傳媒大量的不正確報導，其中包括已披露甘議員曾向事主表示“有好感”，而間接暗示甘議員曾向事主“求愛”。此乃一個非常失實的嚴重指控。甘議員認為是有需要向傳媒作出進一步澄清。

C.21 與此同時，何俊仁議員向甘議員提醒即使甘議員當時說“有好感”主觀上不是向事主“示愛”，但聽者(事主)有可能誤會是“示愛”，何俊仁議員向甘議員建議在適當時候向記者作出澄清。甘議員接納何俊仁議員的觀點。

C.22 甘議員認為報告內容 4.14 指甘議員是“存心隱瞞”是絕不正確及錯誤的。甘議員要求調查委員會收回報告內容 4.14。

C.23 報告內容 4.15「……他的言論確實存在……」

C.24 甘乃威議員回應報告內容 4.15，基於 C.11 至 C.22 的回應，甘議員是因應事主的要求不要公開事件，基於甘議員有責任保障事主的私隱，因此甘議員不存在“有所隱瞞”的情況。甘議員一直不認為向事主說“有好感”是等同“示愛”。甘議員認為調查委員會作出“有所隱瞞”是錯誤的結論。甘乃威議員要求調查委員會收回報告內容 4.15。

C.25 報告內容 4.16「……調查委員會認為公眾相當可能會……。」

C.26 甘乃威議員回應 報告內容 4.16，甘議員基於 C.11 至 C.24 的回應，甘議員的言論並不存在 "前後不一" 和 "有所隱瞞"，甘議員要求調查委員會收回 報告內容 4.16。

C.27 報告內容 4.22-4.25 「甘議員解僱王女士的原因」

C.28 甘乃威議員回應 報告內容 4.22-4.25，指出甘議員已多次在調查委員會指出事主工作表現或工作態度欠佳，原因是事主在 2009 年 6 月受其個人感情的困擾，但調查委員會並沒有進一步了解有關的問題，更沒有指出任何的原因不接納甘議員的供詞，如果調查委員會決定不以立法會權力及特權法召傳事主，因此調查委員會不應只從事主未經宣誓的公開聲明，認為 2009 年 6 月 15 日下午茶聚事件是引致事主工作態度的改變唯一的因素。

C.29 報告內容 4.27-4.40，「甘議員解僱王女士的處理方式是否有不恰當之處」

C.30 甘乃威議員回應 報告內容 4.27-4.40，甘議員指出在法律上向員工的警告不一定要以書面寫明是「警告」的字句，甘議員認為以電郵給員工表達「不滿」也是警告的一種方式，而警告員工也不一定只是單獨給被警告的那一位員工，可以給其他員工知道相關情況，以作警剔。

C.31 報告內容 4.41，「調查委員會認為，.....做法不恰當。」

C.32 甘乃威議員回應 報告內容 4.41，甘議員不同意調查委員會認為甘議員沒有在處理解僱事主一事上向事主發出任何具紀律含義的警告，也不同意沒有給予僱員作出改善的機會，甘議員也不同意以即時生效方式解僱事主是不恰當。甘議員認為是合法解僱

事主，調查委員會報告內容 4.36 也同意「甘議員在法律上有權解僱她而無須作出解釋」，及報告內容 4.37 「以給予代通知金的方式即時解僱員工並非必然屬不恰當。」，調查委員會報告內容 4.36 及 4.37 是確認甘議員的觀點。但調查委員會卻作出前後不一的結論。

C.33 甘議員同意因脾氣欠佳在解僱的過程令事主不安及不快，這是甘議員認為不恰當的地方。因此甘議員願意為事主的投訴作出法律以外的額外補償。

A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned above the date.

2011 年 12 月 5 日

電郵，目的是讓她知道他只是想跟她談工作上的事情，並表明自己只會專注於自己的工作，別無他想，請她“不要想歪”。甘議員向王女士發出的電郵，內容如下：

“Dear Kimmie

我完全明白妳面對的困擾。

我今天只是想說清楚我未來只會專注⁷我的工作上，希望妳協助我提升民望，繼續為我的民主事業打拼。別無他想。

無論如何，我會一如既往，樂意協助解決妳的困難。但我也希望妳能夠於工作上投入多一些。

~~另外，我剛收到MPA最新一科Mass Media & Public Administration的assignments(見附件)，未知可否協助一下？~~

甘威”。

~~2.25 甘議員在上述電郵中要求王女士就他正就讀的公共行政碩士課程的作業提供協助。甘議員向調查委員會解釋，他的意思僅是要求王女士替他找尋一些關於傳媒的資料和課本而已，因為她曾是資深的傳媒工作者，而他打算在找到那些資料後，由他本人完成作業。甘議員在研訊中表示，王女士沒有回應他會否提供協助，而他也沒有追問。~~

2.26 甘議員在研訊中表示，到了2009年7月初，王女士終於與他坐下來談話。甘議員在該次談話中就他在2009年6月15日下午茶敘中向王女士表示好感一事向她道歉：“那件事情引起你有這樣的理解、這樣的問題，我向你道歉。”甘議員又表示，他在會面中對王女士說：“喂，你要

⁷ 甘議員的電郵(中文)有一項排印錯誤：“尊注”應為“專注”。

工作，你要積極一點才行，你不可以這樣的”，以及“大家要合作，你這樣是不行的”。甘議員向調查委員會表示，他“現時回顧”起來覺得，他在該次會面中向王女士說這些說話是給了她一個口頭警告，雖則他當時並無採用“警告”一詞。甘議員亦表示，王女士在該次會面中承認需要改善工作態度，並承諾作出改善。甘議員表示，他認為他和王女士在該次會面中已經把事情說清楚，因此對他來說，事情在該次會面後已告結束，而下午茶敘所引起的問題亦已經解決。

2.27 在2009年7至8月暑假期間，甘議員留在議員辦事處的時間不多，原因是他有一位家人在7月感染了人類豬型流行性感冒，因此在有關期間他較少返回辦事處，而且他由8月4日至20日期間離港往海外度假。根據甘議員提供的資料，由2008年12月王女士上任至2009年9月24日她遭解僱期間，甘議員與王女士之間的往來電郵共有628封，即平均每月超過60封；而在2009年7月及8月，每月的電郵數目分別有91及94封。調查委員會曾經要求甘議員提供2009年4月至9月期間他與王女士的所有往來電郵的複本，但甘議員拒絕了調查委員會的要求，理由是他經諮詢其律師後認為，他與王女士之間的電郵與載於譴責議案附表中的不檢行為詳情完全無關，他又認為調查委員會此項要求已超出其調查範圍，而透過電郵搜證是藉詞試探而作出漁翁撒網式的要求(fishing expedition)，此種調查方法既不公平亦不公正。甘議員亦在研訊中表示，電郵只是他與員工的溝通方式之一，不能夠全面地反映王女士的工作表現。調查委員會不同意甘議員的說法，因為有關的電郵可以協助調查委員會瞭解2009年4月至9月期間甘議員與王女士之間的工作關係，以便對王女士的整體工作表現作出較公允及全面的評價。然而，調查委員會在衡量過從該等往來電郵可能得到的效用，以及請求立法會授權行使《立法會(權力及特權)條例》(第382章)第9(1)條所授予的權力所費的人力物力，決定不採進行動，請求立法會特別授權，命令甘議員出示有關的電郵複本。

[REDACTED]
[REDACTED]
[REDACTED]

I think you are not the expertise on the planning of events. I will discuss this issue when I back to HK. I think the planning of event may be taken over by Kelvin or Monkey and u may be major on the writing of speech, article, press release, blog, working report and the liaise with media. Sometime u need to work on holiday or after office hour when there is a suddenly issue.

Any way, discuss it later.

Regards
Kam Wai”

[電郵譯本：

請妳不要花太多精力在樹木議題上，我希望我可以把更多功夫投放在空氣議題上，因為我是民主黨的環境事務發言人。

[REDACTED]
[REDACTED]
[REDACTED]

我認為妳並不擅長策劃活動。待我返回香港後，我會就此事進行討論。我認為策劃活動的工作可由Kelvin或Monkey接手，而妳則可主力負責撰寫演辭、文章、新聞稿、網誌、工作報告，以及和傳媒聯絡的工作。有時候，遇有突發事件時，妳需要在假期或辦公時間後工作。

“environmental”。

Ref: CB(3)/IC/09/3

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

**Extract from the minutes of the forty-fourth meeting
which contains the proceedings on consideration of the report of
the Investigation Committee held on 22 February 2012 at 4:15 pm
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Chairman)
Hon CHAN Kin-por, JP (Deputy Chairman)
Hon LAU Kong-wah, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Dr Hon PAN Pey-chyou
- Members absent** : Hon Vincent FANG Kang, SBS, JP
Dr Hon LAM Tai-fai, BBS, JP
- Clerk in attendance** : Ms Pauline NG
Secretary General
- Staff in attendance** : Mr Jimmy Y T MA, JP
Legal Adviser
- Mrs Justina LAM
Assistant Secretary General 3
- Ms Connie FUNG
Senior Assistant Legal Adviser 1
- Mr Bonny LOO
Assistant Legal Adviser 3
- Mr Arthur LEUNG
Chief Council Secretary (3)1

Miss Joey LAM
Translation Officer 23

Miss Chapple CHAN
Administrative Assistant (3)4

I. Consideration and endorsement of the report of the Investigation Committee paragraph by paragraph
(LC Paper Nos. CB(3) 469/11-12 to CB(3) 473/11-12)

In accordance with Rule 73A(10)(a) of the Rules of Procedure, the draft report as set out in LC Papers Nos. CB(3) 469/11-12 to CB(3) 473/11-12 was accepted as a basis for discussion. The question that the Chinese text of the draft report be adopted as the Chairman's report and be read a second time paragraph by paragraph, was proposed, put and agreed to.

Chapter 1

2. Paragraphs 1.1 to 1.7 read and agreed to.
3. Paragraph 1.8 read and agreed to.
4. Paragraphs 1.9 and 1.10 read and agreed to.
5. Paragraphs 1.11 to 1.13 read and agreed to.
6. Paragraphs 1.14 to 1.19 read and agreed to.
7. Paragraph 1.20 read and agreed to.
8. Paragraphs 1.21 to 1.23 read and agreed to.
9. Paragraphs 1.24 to 1.26 read and agreed to.
10. Paragraphs 1.27 and 1.28 read and agreed to.
11. Paragraphs 1.29 to 1.31 read and agreed to.
12. Paragraphs 1.32 to 1.35 read and agreed to.
13. Paragraphs 1.36 to 1.40 read and agreed to.

14. Paragraphs 1.41 and 1.42 read and agreed to.
15. Paragraphs 1.43 and 1.44 read and agreed to.
16. Paragraphs 1.45 and 1.46 read and agreed to.
17. Paragraphs 1.47 and 1.48 read and agreed to.
18. Paragraphs 1.49 to 1.51 read and agreed to.
19. Paragraphs 1.52 to 1.55 read and agreed to.
20. Paragraphs 1.56 and 1.57 read and agreed to.
21. Paragraphs 1.58 to 1.60 read and agreed to.
22. Paragraphs 1.61 to 1.65 read and agreed to.
23. Paragraph 1.66 read, amended and agreed to.
24. Paragraphs 1.67 to 1.70 read and agreed to.
25. Paragraph 1.71 read, amended and agreed to.
26. Paragraphs 1.72 to 1.76 read and agreed to.

Chapter 2

27. Paragraph 2.1 read and agreed to.
28. Paragraphs 2.2 to 2.8 read and agreed to.
29. Paragraphs 2.9 to 2.20 read and agreed to.
30. Paragraphs 2.21 to 2.39 read and agreed to.
31. Paragraphs 2.40 to 2.46 read and agreed to.
32. Paragraphs 2.47 to 2.54 read and agreed to.
33. Paragraphs 2.55 to 2.61 read and agreed to.

34. Paragraphs 2.62 to 2.65 read and agreed to.
35. Paragraphs 2.66 and 2.67 read and agreed to.
36. Paragraphs 2.68 to 2.80 read and agreed to.
37. Paragraphs 2.81 to 2.96 read and agreed to.
38. Paragraphs 2.97 to 2.103 read and agreed to.
39. Paragraphs 2.104 to 2.114 read and agreed to.
40. Paragraphs 2.115 to 2.118 read and agreed to.
41. Paragraphs 2.119 to 2.128 read and agreed to.

Chapter 3

42. Paragraph 3.1 read and agreed to.
43. Paragraphs 3.2 and 3.3 read and agreed to.
44. Paragraph 3.4 read and agreed to.
45. Paragraph 3.5 read and agreed to.
46. Paragraphs 3.6 and 3.7 read and agreed to.
47. Paragraphs 3.8 and 3.9 read and agreed to.
48. Paragraphs 3.10 and 3.11 read and agreed to.
49. Paragraphs 3.12 and 3.13 read and agreed to.
50. Paragraph 3.14 read, amended and agreed to.
51. Paragraphs 3.15 and 3.16 read and agreed to.
52. Paragraphs 3.17 and 3.18 read and agreed to.
53. Paragraphs 3.19 to 3.25 read and agreed to.

54. Paragraphs 3.26 to 3.28 read and agreed to.
55. Paragraphs 3.29 and 3.30 read and agreed to.
56. Paragraphs 3.31 to 3.34 read and agreed to.
57. Paragraph 3.35 read and agreed to.
58. Paragraphs 3.36 to 3.39 read and agreed to.
59. Paragraphs 3.40 to 3.45 read and agreed to.
60. Paragraphs 3.46 to 3.51 read and agreed to.
61. Paragraphs 3.52 to 3.55 read and agreed to.

Chapter 4

62. Paragraph 4.1 read and agreed to.
63. Paragraphs 4.2 and 4.3 read and agreed to.
64. Paragraphs 4.4 to 4.6 read and agreed to.
65. Paragraphs 4.7 to 4.9 read and agreed to.
66. Paragraphs 4.10 to 4.16 read and agreed to.
67. Paragraphs 4.17 to 4.21 read and agreed to.
68. Paragraphs 4.22 to 4.25 read and agreed to.
69. Paragraph 4.26 read, amended and agreed to.
70. Paragraph 4.27 read and agreed to.
71. Paragraphs 4.28 to 4.35 read and agreed to.
72. Paragraphs 4.36 to 4.38 read and agreed to.
73. Paragraphs 4.39 to 4.41 read and agreed to.

74. Paragraphs 4.42 to 4.47 read and agreed to.

Chapter 5

75. Paragraph 5.1 read and agreed to.

76. Paragraph 5.2 read and agreed to.

77. Paragraphs 5.3 to 5.5 read and agreed to.

78. Paragraphs 5.6 to 5.8 read and agreed to.

79. Paragraphs 5.9 to 5.14 read and agreed to.

80. The question that the Chinese text of the report, as amended, be adopted as the report of the Investigation Committee was proposed, put and agreed to.

81. The Investigation Committee authorized the Chairman and the Deputy Chairman, where necessary, to make textual amendments to the Chinese text of the report and the Clerk to make necessary editorial amendments.

II. Any other business

82. There being no other business, the meeting ended at 5:56 pm.

Council Business Division 3
Legislative Council Secretariat
24 February 2012

Ref: CB(3)/IC/09/3

Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai

Extract from the minutes of the forty-fifth meeting which contains the proceedings on consideration of the report of the Investigation Committee held on 29 February 2012 at 3:38 pm, 6:05 pm and 6:51 pm in Conference Room 3 of the Legislative Council Complex

Members present : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Chairman)
Hon CHAN Kin-por, JP (Deputy Chairman)
Hon LAU Kong-wah, JP
Hon Vincent FANG Kang, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Dr Hon PAN Pey-chyou

Members absent : Dr Hon LAM Tai-fai, BBS, JP

Clerk in attendance : Ms Pauline NG
Secretary General

Staff in attendance : Mr Jimmy Y T MA, JP
Legal Adviser

Mrs Justina LAM
Assistant Secretary General 3

Ms Connie FUNG
Senior Assistant Legal Adviser 1

Mr Bonny LOO
Assistant Legal Adviser 3

Mr Arthur LEUNG
Chief Council Secretary (3)1

Miss Joey LAM
Translation Officer 23

Ms Cicely WONG
Administrative Assistant I (3)1

Miss Chapple CHAN
Administrative Assistant (3)4

(the meeting resumed at 6:51 pm)

I. Consideration and endorsement of the report of the Investigation Committee paragraph by paragraph
(LC Paper Nos. CB(3)415/11-12, CB(3)519/11-12 to CB(3)523/11-12 and CB(3)541/11-12)

In accordance with Rule 73A(10)(a) of the Rules of Procedure, the draft report as set out in LC Papers Nos. CB(3) 519/11-12 to CB(3) 523/11-12 was accepted as a basis for discussion. The question that the English text of the draft report be adopted as the Chairman's report and be read a second time paragraph by paragraph, was proposed, put and agreed to.

Chapter 1

2. Paragraphs 1.1 to 1.7 read and agreed to.
3. Paragraph 1.8 read and agreed to.
4. Paragraphs 1.9 and 1.10 read and agreed to.
5. Paragraphs 1.11 to 1.13 read and agreed to.
6. Paragraphs 1.14 to 1.19 read and agreed to.
7. Paragraph 1.20 read and agreed to.
8. Paragraphs 1.21 to 1.23 read and agreed to.
9. Paragraphs 1.24 to 1.26 read and agreed to.
10. Paragraphs 1.27 and 1.28 read and agreed to.
11. Paragraphs 1.29 to 1.31 read and agreed to.

12. Paragraphs 1.32 to 1.35 read and agreed to.
13. Paragraphs 1.36 to 1.40 read and agreed to.
14. Paragraphs 1.41 and 1.42 read and agreed to.
15. Paragraphs 1.43 and 1.44 read and agreed to.
16. Paragraphs 1.45 and 1.46 read and agreed to.
17. Paragraphs 1.47 and 1.48 read and agreed to.
18. Paragraphs 1.49 to 1.51 read and agreed to.
19. Paragraphs 1.52 to 1.55 read and agreed to.
20. Paragraphs 1.56 and 1.57 read and agreed to.
21. Paragraphs 1.58 to 1.60 read and agreed to.
22. Paragraphs 1.61 to 1.71 read and agreed to.
23. Paragraphs 1.72 to 1.76 read and agreed to.

Chapter 2

24. Paragraph 2.1 read and agreed to.
25. Paragraphs 2.2 to 2.8 read and agreed to.
26. Paragraphs 2.9 to 2.20 read and agreed to.
27. Paragraphs 2.21 to 2.39 read and agreed to.
28. Paragraphs 2.40 to 2.46 read and agreed to.
29. Paragraphs 2.47 to 2.54 read and agreed to.
30. Paragraphs 2.55 to 2.61 read and agreed to.
31. Paragraphs 2.62 to 2.65 read and agreed to.

32. Paragraphs 2.66 and 2.67 read and agreed to.
33. Paragraphs 2.68 to 2.80 read and agreed to.
34. Paragraphs 2.81 to 2.96 read and agreed to.
35. Paragraphs 2.97 to 2.103 read and agreed to.
36. Paragraphs 2.104 to 2.114 read and agreed to.
37. Paragraphs 2.115 to 2.118 read and agreed to.
38. Paragraphs 2.119 to 2.128 read and agreed to.

Chapter 3

39. Paragraph 3.1 read and agreed to.
40. Paragraphs 3.2 and 3.3 read and agreed to.
41. Paragraph 3.4 read and agreed to.
42. Paragraph 3.5 read and agreed to.
43. Paragraphs 3.6 and 3.7 read and agreed to.
44. Paragraphs 3.8 and 3.9 read and agreed to.
45. Paragraphs 3.10 and 3.11 read and agreed to.
46. Paragraphs 3.12 to 3.16 read and agreed to.
47. Paragraphs 3.17 and 3.18 read and agreed to.
48. Paragraphs 3.19 and 3.20 read and agreed to.
49. Paragraph 3.21 read, amended and agreed to.
50. Paragraphs 3.22 to 3.25 read and agreed to.
51. Paragraphs 3.26 to 3.28 read and agreed to.

52. Paragraphs 3.29 and 3.30 read and agreed to.
53. Paragraphs 3.31 to 3.34 read and agreed to.
54. Paragraph 3.35 read and agreed to.
55. Paragraphs 3.36 to 3.39 read and agreed to.
56. Paragraphs 3.40 to 3.45 read and agreed to.
57. Paragraphs 3.46 to 3.51 read and agreed to.
58. Paragraphs 3.52 to 3.55 read and agreed to.

Chapter 4

59. Paragraph 4.1 read and agreed to.
60. Paragraphs 4.2 and 4.3 read and agreed to.
61. Paragraphs 4.4 to 4.6 read and agreed to.
62. Paragraphs 4.7 to 4.9 read and agreed to.
63. Paragraphs 4.10 to 4.16 read and agreed to.
64. Paragraphs 4.17 to 4.21 read and agreed to.
65. Paragraphs 4.22 to 4.26 read and agreed to.
66. Paragraph 4.27 read and agreed to.
67. Paragraphs 4.28 to 4.35 read and agreed to.
68. Paragraphs 4.36 to 4.38 read and agreed to.
69. Paragraphs 4.39 to 4.41 read and agreed to.
70. Paragraphs 4.42 to 4.47 read and agreed to.

Chapter 5

71. Paragraph 5.1 read and agreed to.
72. Paragraph 5.2 read and agreed to.
73. Paragraphs 5.3 to 5.5 read and agreed to.
74. Paragraphs 5.6 to 5.8 read and agreed to.
75. Paragraphs 5.9 to 5.14 read and agreed to.
76. The question that the English text of the report, as amended, be adopted as the report of the Investigation Committee was proposed, put and agreed to.

Executive Summary (LC Paper No. CB(3)541/11-12)

77. Paragraphs 1 and 2 read and agreed to.
78. Paragraph 3 read and agreed to.
79. Paragraphs 4 and 5 read and agreed to.
80. Paragraph 6 read and agreed to.
81. Paragraphs 7 and 8 read, amended and agreed to.
82. Paragraph 9 read and agreed to.
83. Paragraph 10 read, amended and agreed to.
84. Paragraphs 11 to 19 read and agreed to.
85. The question that the Executive Summary, as amended, be included in the report of the Investigation Committee was proposed, put and agreed to.
86. The Investigation Committee authorized the Chairman and the Deputy Chairman, where necessary, to make textual amendments to the English text of the report and the Clerk to make necessary editorial amendments.

87. The question that the documents as listed in LC Paper No. CB(3)415/11-12 be included as appendices in the report of the Investigation Committee was proposed, put and agreed to.

II. Any other business

Day of tabling of the report

88. Members decided that the report be laid on Table of the Council on 28 March 2012.

Provision of an advance copy of the report

89. Pursuant to paragraph 23 of the Practice and Procedure, members decided that an advance copy of the report would be made available on 28 March 2012, the day on which the report was tabled, from 9:30 am onwards for collection by Hon KAM Nai-wai, the Member under investigation, and the witnesses, after their signing a confidentiality undertaking. Members also agreed that an advance copy of the report would be made available on the same day from 10:30 am onwards for collection by other Members.

Declassification of confidential information

90. Members decided under paragraph 24 of the Practice and Procedure that all the documents contained in Volumes I, II and III of Members' Folders, should be declassified and uploaded onto the LegCo website on the day on which the report was made public.

Press conference

91. Members also agreed that a press conference would be held at 12:00 noon on 28 March 2012, after the report was tabled at the Council at 11:00 am on that day.

92. There being no other business, the meeting ended at 7:15 pm.

Council Business Division 3
Legislative Council Secretariat
1 March 2012



民主黨
香港島支部

立法會議員
甘乃威先生

中西區區議員

鄭麗琼女士
何俊麒先生
甘乃威先生
阮品強先生
楊浩然先生
黃堅成先生

南區區議員

柴文瀚先生
楊熾光先生
徐溢寧先生

東區區議員

梁淑楨女士
趙家賢先生

立法會 **甘乃威** 議員辦事處

Appendix 2.1

Office of Legislative Councillor Mr. **KAM Nai Wai**, MH

聘任函件

接受聘任

WONG, Lai-chu

本人 王麗珠 (香港身份證號碼: [REDACTED]) 接受甘乃威議員按下述條款及條件，聘任為甘乃威立法會議員辦事處的 私人助理：

1. 職責：
 - i) 跟進議會工作；
 - ii) 對外宣傳聯絡工作；
 - iii) 社區聯絡活動；
 - iv) 個案處理、事件研究及資料搜集；
 - v) 任何其他附帶職務。
2. 履新日期： 2008年12月15日。
3. 試用期： 三個月。
4. 月薪： 港幣 \$ 22,500。
5. 強積金： 僱主及僱員會根據《強制性公積金條例》的條文，作出供款。
6. 雙糧： 不設雙糧。
7. 約滿酬金： 不設約滿酬金。
8. 工作時間： 每周 44 小時。
9. 逾時工作： 不設逾時工作津貼，以補假抵償逾時工作津貼，累積逾時工作上限為 40 小時。
10. 年假： 在試用期屆滿後，每年可享有 14 個工作天有薪年假。如因工作需要，可將部份年假延至下一年度，累積有薪年假之上限為 28 個工作天。
11. 醫療福利： 每月設 2 天有薪病假，須提供執業醫生證明文件才能放取。不設其他醫療福利。
12. 薪酬調整： 視乎工作表現而定，以立法會秘書處所釐定、與通脹掛鉤的議員辦事處營運開支償還款項為參考基準。

地址：香港中環政府合署西座 409 室 電郵/Email: nwkam@dphk.org

電話/Tel: 2537 2563 傳真/Fax: 2537 4874

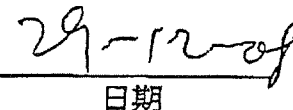


立法會 **甘乃威** 議員辦事處

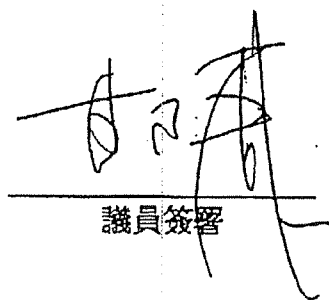
Office of Legislative Councillor Mr. **KAM Nai Wai**, MH

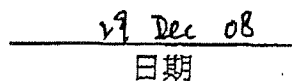
13. 行為守則： 遵從隨附的行為守則。
14. 終止僱用： 試用期內，僱主與僱員雙方可隨時以口頭方式通知對方終止僱傭合約；試用期滿，須給予一個月書面通知。如未能提供足夠通知期則須補回代通知金(數額相等於通知期限內之工資)。
15. 保密聲明： 在受聘於甘乃威議員期間，以及在離職後，均須將所知悉一切有關甘乃威議員辦事處的運作及事務的資料保密。如於受聘期間違反是項守則，僱主可即時解聘員工而毋須作出任何賠償；如於離職後違反是項守則，僱主將保留追討賠償之一切法律權利。


僱員簽署


日期

本人同意按上述條款及條件聘用上述人士，以支援本人處理與立法會事務有關的工作。


議員簽署


日期

地址：香港中環政府合署西座 409 室 電郵/Email: nwkam@dphk.org

電話/Tel: 2537 2563 傳真/Fax: 2537 4874

CHEUNG & CHOY
張世文 蔡敏 律師事務所
SOLICITORS & AGENTS FOR TRADE MARKS AND PATENTS

BY FAX (2877 9600) & BY HAND

Ms Pauline Ng
Secretary General
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Our Ref: SC/665/001

3 December 2009

Dear Ms Ng

Re: Statement of Wong Lai Chu

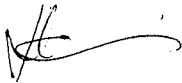
We act for Ms Wong Lai Chu, the ex-assistant of the Honourable Legco Member Mr Kam Nai-wai.

We are instructed to write to you and are pleased to enclose the statement of our client for your reference. This could perhaps assist the Legco members in making their decision in respect of the censure motion against the Honourable Mr Kam.

Please feel free to call our Ms Leesha Khemlani or Mr Simon Cheung on 2541 2889 if you have any queries.

Thank you for your attention and assistance on this matter.

Yours sincerely



MC **Simon Cheung**

Partner

Cheung & Choy

PARTNERS

SIMON CHEUNG
張世文 律師

PARRY CHOY
蔡敏 律師

ASSISTANT SOLICITORS

SELWYN CHAN
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ADRIAN CHEUNG
張俊偉 律師

CHRISTINE LO
盧志琨 律師

REGISTERED FOREIGN
LAWYER (PRC)

JACK CHEN
陳海濤 律師(中國)

聲明

我是王麗珠，是立法會議員甘乃威的前助理，也是甘乃威解僱女助理事件中的受害者。

由十月初事件見報至今，我和家人好友承受了沉重壓力，壓力之大，令我有時徹夜難眠，有時食不下咽，在這樣的心理及生理狀況下，我無法回應傳媒及政界朋友的查詢。然而，在家人、好友的支持及神的引領下，我慢慢走出窘況，意志也逐漸恢復過來。

此時此刻，我正式藉此陳情書講述事件經過，希望以自己的親身敘述，讓事件能水落石出，讓紛擾的猜測及評論告一段落，也希望自己能盡快重投正常生活。同時，希望喚醒社會各界關注女性在辦公室不時遇見的困難處境，為一眾含屈啞忍的職業婦女打氣。

由始至終我只做了一件事，就是拒絕一個有妻女、一個在建制有位置的政客、我的上司——甘乃威。

2009年6月15日，甘乃威突然要求我單獨和他外面談，在中環

一間高級餐廳，甘乃威向我表白，指對我有好感。當時我很錯愕，即時拒絕了他，並多次表明辭職。甘乃威表明不希望我辭職，卻要求我回家再三考慮大家的關係。

我對愛有一份堅持和執著——我相信兩情相悅的愛情，一生一世的婚姻。我一直視甘乃威為上司，從沒有喜歡過甘乃威，加上他有家室，我是不會接受他的。

然而，我需要工作，所以在甘乃威多次勸阻下，我留守工作崗位。甘乃威示愛被我拒絕後，仍多番要求我跟他單獨見面，為了避免甘乃威再有遐想，我一一拒絕非必要及和工作沒有直接關係的邀約。

雖然在私人感情上我與甘乃威保持距離，但在工作上我依然克盡己任。然而，甘乃威不斷以工作需要為理由，要求我單獨和他外出工作或面談，作為盡責的僱員，我是無法拒絕僱主有關工作的要求，因此在必要時我會安排辦事處的暑期工同行，以確保公事完滿辦妥，同時也避免和甘乃威有獨處的機會。

2009年9月23日，甘乃威在辦公室邀請秘書和我外出午膳，秘書

表示已約了朋友，我則沒有回應，甘乃威離開辦公室後致電給我，再一次邀請我單獨與他外出午膳，我拒絕後，他再追問翌日可否應約，我亦表明不可以。甘乃威下午返回辦公室，要求我單獨到另一房間談公事，我認為談公事可以在辦公室談，並拒絕把門關上。

2009年9月24日，甘乃威和同事們在辦公室召開職員會議，當時我為趕撰新聞稿，唯有一邊寫稿一邊開會。但甘乃威不滿意，隨即要求其他同事離開辦公室，改到另一個地方繼續開會，而我一寫好新聞稿便加入會議。翌日，甘乃威表示和我無法合作，即時辭退我。

當晚，我的前僱主譚香文陪我約見民主黨副主席劉慧卿，向她訴說事件始末，希望劉慧卿能為我討回公道。席間，譚香文為我爭取，建議民主黨為我尋找新職位或以金錢作為不合理的賠償。

在第二天，劉慧卿致電給我，指可安排我在民主黨工作，但我當時只答謝，沒有答應，亦沒有提出任何要求。

2009年9月30日，民主黨主席何俊仁及副主席劉慧卿和我見面，我要求民主黨嚴肅處理事件，包括：

- 一) 甘乃威以個人名義發道歉信，詳細解釋辭退我的原因，特別要交代他曾經向我表白，並承認辭退本人是不合理的，誠懇道歉。
- 二) 甘乃威立法會議員辦事處發在職證明，澄清本人的工作表現沒有問題。
- 三) 向民主黨全體立法會議員通報，甘乃威曾經向我表白，辭退本人的原因和我的工作表現沒有絲毫關係，還我公道。

何俊仁答應上述要求，並附加下列兩項行動：

- 一) 民主黨全體立法會議員譴責甘乃威；
- 二) 向在民主黨辦事處的員工通報本人被解僱，非因工作表現問題。

與會的劉慧卿再提出我可繼續留在民主黨工作的建議，我表明不願意在民主黨工作，只同意接受被不合理的額外賠償。在會面中，何俊仁、劉慧卿和我，並沒有訂明任何保密協議。何俊仁、劉慧卿也指出，明白我仍然有權利以其他途徑處理事件，包括向傳媒披露實情。

到十月初，傳媒相繼報道此事，並愈演愈烈，壓力之大超乎我的想像和估計。我無黨無派，也沒有政治機心，卻無辜被捲入公眾輿論中，成為被談論及被追訪的人物。最近，我的代表律師已替我致函民主黨和立法會，指本人因壓力問題無法協助調查。這份陳情書，不單是向公眾及各方作個交代，也希望為這事件畫上句號。

本人希望今次事件在本陳情書發出後告一段落，懇請各界尊重我的感受，不要再向我追根究底，讓我有更多一點自由空間，重新上路。

在主耶穌基督的恩典下，我願意以寬恕的心了結這事。以寬恕彌補傷痕，以寬恕化解紛爭，放下包袱，釋放心靈。最後，我謹此感謝所有陪伴我走過這段艱難日子的家人、朋友、弟兄姊妹和香港市民，並感謝立法會在今次事件對本人的關心。

王麗珠

(由張世文 蔡敏律師事務所(Cheung & Choy)代表)

二零零九年十二月三日

甘乃威解僱王麗珠女士事件 -- 2009年6月至9月甘乃威就王麗珠女士工作表現的督導撮要 草擬人:甘乃威 2009年12月9日

- 1) 2009年6月18日
甘乃威要求王麗珠一同出席金管局協助精明債券苦主的會議，王麗珠表示不願意出席會議。
- 2) 2009年6月22日
甘乃威發出電郵要求王麗珠專注工作。
- 3) 2009年8月10日
甘乃威在歐洲向王麗珠發出電郵表示「甘乃威工作報告」有很多錯處，要求王麗珠小心核對。這些錯處在早前甘乃威已提出，但最新的版本仍未修改。
- 4) 2009年8月13日
甘乃威在歐洲(香港時間下午五時許)想就中環擦鞋匠事件最新的進展向傳媒發新聞稿表達意見，致長途電話回香港要求王麗珠代寫新聞稿並發出，但王麗珠拒絕寫新聞稿。

因王麗珠不願就擦鞋匠事件為甘乃威寫新聞稿，甘乃威向王麗珠發出電郵表示寫新聞稿是她最基本要做的工作。
- 5) 2009年8月25日
甘乃威向王麗珠發出電郵表示要求立刻就「樹木論壇」發出電郵，博客、民主黨網頁等進行宣傳工作。
- 6) 2009年8月27日
王麗珠在8月26日突然要在8月28日放假。由於由王麗珠負責的樹木論壇會在8月29日舉行。甘乃威向王麗珠發出電郵表示她突然要求放假，會影響工作。
- 7) 2009年8月28日
甘乃威向王麗珠發出電郵明確表示對「樹木論壇」宣傳工作的不滿。
- 8) 2009年8月28日
甘乃威發電郵要求王麗珠監察「空氣污染論壇」的進展並向甘乃威匯報。
- 9) 2009年9月11日
過去甘乃威都會在會議中透過MSN與職員聯絡，以安排工作。但在8及9月份王麗珠都不上MSN，因此甘乃威發出電郵要求她在辦公時間在線。
- 10) 2009年9月20日
甘乃威因不滿「空氣污染論壇」的進展安排，甘乃威發電郵要求安排職員會議，四名職員包括王麗珠在內，討論論壇前期預備工作的分工，地區活動及新一年度立法會工作。

① 空氣

② 樹木

③ 空氣 後 - 變平高 after speeches

④ image building

⑤ 政府 宣傳 和 會

⑥ 人 手 - 和 100 理
- 更 positive

- job

定期會議

- monthly

- ~~定期~~
no understand

- communication

- ~~any~~ request
expectation

- 3 to 2 for
press

- Co-ordinate with
all staffs.

Verbatim transcript of the press conference
called by Hon KAM Nai-wai on 4 October 2009

1 **主持：**

2 各位傳媒，今天就甘乃威最近……今天……在報紙被指控一
3 事，甘乃威會在這裡正式說出他的看法，亦都歡迎大家查詢。我
4 將時間先交給甘乃威。

5 **甘乃威議員：**

6 好了，今天麻煩各位新聞界朋友，星期天追月之夜都要來到
7 CGO這裏。因為今天有報章報道，我想我必須在這裏作出一些解
8 釋和澄清。其實我手頭上都派了一份資料表給大家，不過我都簡
9 單簡述一下這份資料表的內容。是否全部人都有？有沒有人沒
10 有？是否都有了？有了，OK。

11 我在今年9月24日終止了一名私人助理的聘任合約。依據聘任
12 合約，我以一個月的代通知金終止了聘任這個員工的合約。該名
13 員工的職務主要是一些對外的聯絡、寫立法會的演辭，負責統籌
14 一些特別的活動等。該名員工……其實她有向我們民主黨主席何俊
15 仁先生及副主席劉慧卿女士曾經作出一些口頭的投訴，事件至
16 今，我們民主黨主席及副主席都正在處理這個投訴，我想投訴人
17 —— 即是我這個前員工 —— 亦都接受民主黨的這個處理。當然
18 在現時，這名員工在終止聘任合約的問題，亦接受了在僱傭雙
19 方……雙方面的處理方法，她亦都已經接受了。

20 我認為終止一名員工的聘任合約，而令到該名員工向民主黨
21 作出投訴，我作為公職的人員，我會主動、我會主動向民主黨的
22 中央委員會作出交代及接受紀律調查，因為我作為一個公職人
23 員，既然有人投訴我的工作。另一方面，鑒於這件事件亦都
24 引起很多公眾的關心，因為今天這麼多新聞界的朋友都來到這
25 裏，我想我亦都會願意接受 —— 如果是有這個立法會議員個人
26 利益監察委員會要進行調查 —— 我絕對是樂意配合有關的調
27 查。我也必須……在這裏必須我要澄清，我是絕對沒有向任何人作
28 出過性騷擾的言行，我亦絕對沒有因愛不遂而解僱該名員工，這
29 兩點我是必須在此作出澄清。

30 當然我認為終止一名員工的合約 —— 無論我是否公職人員
31 都好 —— 我只是作為一個……簡單作為一個僱主的身份，有僱員
32 作出投訴的話，我想我作為僱主，我都會作出檢討及改正的地方，
33 這個必然要有。我亦都會汲取今次的這個經驗以及教訓，在日後
34 作出一些改善。而就今次事件引起到公眾的關注及疑慮，我亦都

35 就此向公眾表示歉意。我希望今天我能夠澄清所有大家的一些疑
36 問，我亦都就此事引起公眾的疑慮，我再一次表示歉意。

37 今天是在書面上作出一些簡單的聲明及一些回應，我想我
38 亦都絕對樂意接受各位傳媒朋友的查詢，我盡量我都希望 ——
39 因為我自己慣常的做法，我都是盡量配合大家的，我可以答得到的，
40 我都盡量答大家的問題。好不好？看看大家有沒有甚麼查詢。

41 **眾記者：**

42 我想問問你...

43 **主持：**

44 可不可以一個一個。

45 **男記者：**

46 可不可以說一下是甚麼原因你忽然要解僱該名員工？

47 **甘乃威議員：**

48 我想有關牽涉到我去解僱員工的原因，可能牽涉到我們與該
49 名員工的工作關係，我就尊重當事人，我不會在這裏詳細討論。
50 不過我想說，在今次事件上，我自己 —— 如果和我合作的人都
51 知道 —— 我一向在工作上都有頗多的要求，亦都有比較直率及脾
52 氣比較暴躁。在今次解僱過程裏，我自己是覺得是有不適當的地
53 方。雖然在過去的時間，即是我自己都有同事提點我，有關我自
54 己對一些.....可能我都比較"猴急"，希望盡快去解決一些工作上的
55 問題，但是有關這個工作上面的 —— 即是有時不應該那麼暴躁，
56 我會吸收及汲取今次的經驗和教訓，我會作出改善。

57 **男記者：**

58 甘先生，我想問一下，實際上是甚麼原因呢其實？

59 **女記者：**

60 即是為甚麼會有這件事發生，搞得這麼嚴重，指你是性騷擾、
61 因愛不遂，是否真是追求過這個女孩子？

62 **甘乃威議員：**

63 我想.....這樣說吧，我不想傷害任何人，我好清楚我是沒有任
64 何性騷擾的行為作出過，我亦都沒有因為求愛不遂去解僱任何的
65 員工。

66 **男記者：**

67 甘先生，我想說一下，甘先生我都是想問一問，你是.....實際
68 上是甚麼原因解僱這位女助理呢？這位女助理你是公帑請的，是
69 市民給錢你去請這位女助理的，而你忽然間無故解僱她，你是否
70 應該對市民有解釋，請問。

71 **甘乃威議員：**

72 我想從.....

73 **男記者：**

74 你是不滿意她的工作表現.....在那方面的表現呢？還是你自
75 己做錯了？

76 **甘乃威議員：**

77 我重申我所說，根據我和這個僱員的合約，即是如果要終止
78 合約的時間，我會跟足僱員合約的內容，我是用一個.....你給我
79 答...

80 **主持：**

81 你給他答先，可不可以？

82 **男記者：**

83 你是不是不滿意她的工作表現？

84 **甘乃威議員：**

85 我多說一次，我是根據僱傭合約的內容，用一個月的代通知
86 金去解僱這個員工.....

87 **男記者：**

88 即是你不滿意她的工作表現？

89 **甘乃威議員：**

90 至於這個員工的工作表現，因為牽涉到當事人，我是不方便
91 在 —— 作為一個僱主、作為一個僱員的關係，我不覺得在第.....
92 在公開的場合去評論這個員工，我覺得這樣是對她一種的傷害。

93 **男記者：**

94 你有沒有曾經.....

95 **甘乃威議員：**

96 所以我會根據僱傭的合約去作出解僱，亦都發出一個月的代
97 通知金，這個是我覺得現在的處理方法。

98 **男記者：**

99 甘先生，事實上有女同事投訴你對她作出性騷擾。其實你覺
100 得你做了些甚麼令到她誤會，所以會投訴你呢？

101 **甘乃威議員：**

102 我想再重申，我本人並沒有任何性騷擾的行為及言行作過，
103 對任何的同事.....

104 **男記者：**

105 但是你有甚麼令到她.....

106 **甘乃威議員：**

107 我再重申，我並沒有作出任何性騷擾的行為，對我任何的同
108 事。

109 **男記者：**

110 我想問你是否從來沒有曾經向她示愛，甘先生？

111 **主持：**

112 可不可...

113 **男記者：**

114 甘先生....

115 **主持：**

116 或者等等...

117 **女記者：**

118 我想問一下甘先生，如果你說，即是其實你說你是沒有做過
119 任何性騷擾的言行、你亦都沒有求愛不遂的，那麼你現在是不是
120 說，其實現在有人因為和你就這個僱傭問題鬧翻了，所以有人去
121 告你呢？

122 **甘乃威議員：**

123 我想再重申在這裏，因為有關這個解僱的過程，或者有關員
124 工的工作表現，這個牽涉到當事人，我不想傷害任何的人，我希
125 望大家都明白。我在這方面——剛才我亦都再次重申一點，在
126 解僱過程，如果有任何員工不滿而作出投訴的話，我覺得我是要
127 自己作出檢討，包括剛才我也說過，我一直都是比較性急、一直
128 都是脾氣比較暴躁、我的要求亦都是比較高，我自己覺得在解僱
129 的過程是有不恰當的地方，我會作出檢討，以及作出改善，這個
130 是我希望我汲取今次的教訓。

131 **女記者：**

132 如果單說你解僱的過程，你憶述你整個解僱的過程，你覺得
133 自己那裏做得最不滿？例如你是說自己很性急、要求很高，其實
134 可不可以具體說一下，是做了些甚麼可以令.....估計引發今次的事
135 件？

136 **甘乃威議員：**

137 我想我剛才也在說，具體的內容，因為牽涉到當事人，我自
138 己覺得，我都希望不要再，我不希望再次傷害當事人，所以我不
139 會在細節方面再說。不過我說的是，我過去都被我的同事批評，
140 就是我脾氣欠佳、脾氣比較暴躁，這點我相信是我自己在今次事
141 件上，最令我相信.....有引發投訴的原因，所以我會希望作出
142 一些改善，在這方面我會作出改善。

143 **女記者：**

144 甘先生，想問一下，如果你說那個報道，即是你是沒有性騷
145 擾那個，你會不會追究報道這個.....我check過報道的media，又或
146 者，其實你自己本身是不是真是沒有去對這個女孩子示愛。

147 **甘乃威議員：**

148 我想再重申，我真的不想傷害任何人，但我一定要說得清楚，
149 我是沒有，我是沒有求愛不遂，去終止員工的合約，我希望說得
150 清楚這一點。

151 **記者：**

152 那會不會追究，追究那個.....即洗脫罪名？

153 **甘乃威議員：**

154 我.....我自己相信，因為在這事件中，我亦會主動交給中央委
155 員會去作出調查。那我想，我相信這件事件，最終是會水落石出
156 的。我會盡量協助有關的調查。我想這個調查是會有個水落石出
157 的結果，我想公眾是會比較明白的。

158 **記者：**

159 甘先生，其實你在解僱之前，有沒有口頭警告那位僱員呢？
160 即如果她的工作表現或者其他問題，你也覺得有問題，為甚麼不
161 口頭警告她，而是即時解僱？以及我想問，因為你說你自己沒有
162 性騷擾或者求愛不遂，那你會否反告這位僱員誹謗或者其他誣告
163 你的成份呢？

164 **甘乃威議員：**

165 我想再重申再說，有關牽涉到當事人的，我不方便透露。至
166 於，究竟當事人有作出一些甚麼的投訴，我想這方面最重要是
167 由.....我想我亦不方便透露有關她的投訴。不過我說，我會作出檢
168 討，因為我也不想再一次傷害當事人，我希望大家都明白這一點。
169 但我會作出.....我自己作為一個僱主，在僱主有關終止聘任合約的
170 過程中，引起員工有相關的問題，我是會作出檢討的。

171 **記者：**

172 Can you ... When are you going to remarkably explain why you
173 sacked this particular employee?

174 **甘乃威議員：**

175 不好意思，我想用中文回答有關的問題，不好意思。因為我
176 用中文的表達會比較準確一點。我想我再重申有關我是絕對並無
177 作出性騷擾的行為，對任何的員工。

178 **記者：**

179 甘先生，我想問一下，其實.....即在你與你的女助理合作時，
180 其實會否有一些行為令女助理誤會你有些曖昧的行為呢？此外，
181 你說你在這事件上，不想傷害任何人，其實在這事件上，會不會
182 都傷害到太太呢？

183 **甘乃威議員：**

184 我想最重要的是，因為有關牽涉到我和員工在工作上的關
185 係，有關員工在工作上的表現，我再重申一次，我真的不想傷害
186 任何人，那我不會在此講述。那麼，我太太今天亦有來這裏，她
187 一直都知道這件事件，我想她會瞭解到我的情況。

188 **記者：**

189 你是否從來沒有向這位女同事示愛？

190 **甘乃威議員：**

191 我想.....羅先生，我想再重新說一次，我真的真的不想傷害任
192 何人，我是沒有。

193 **記者：**

194 你說你太太一直知道這件事，即是你太太都一直知道你追求
195 這位女助理？

196 **甘乃威議員：**

197 羅先生，我剛才已經重覆了我的問題。

198 **記者：**

199 我想問，你意思是否其實你處理今次的事件，是一個合理解
200 僱？如果是的話，你是否在某程度上在指控.....即那位女同事在誣
201 告你，作為一個替補？

202 **甘乃威議員：**

203 我想再重申我今天的記者會，我在整個，從頭到尾，到今天
204 為止，我並無指控任何人，亦無指控任何報章，任何人的報道，

205 我是沒有這個意思。我只是想說，在今次的事件中，既然有我的
206 前僱員作出投訴的話，我是要作出檢討的，因為在這件事上，
207 如果我的員工覺得在.....不論就算她是否被解僱也好，我剛才說
208 過，我的員工過去也曾經投訴我，有關脾氣上的問題，就這一點，
209 我是會作出檢討和改善的。

210 **記者：**

211 甘先生，你說身為.....

212 **主持人：**

213可不可以.....

214 **記者：**

215 可不可以說清楚，其實你以往有否向她表白，即是你自己的
216 感情生活？以及你覺得你和你下屬的關係有沒有超越了一個正常
217 上司下屬的關係？有沒有這件事？

218 **甘乃威議員：**

219 我想我剛才說過，我和我的員工一直都是一個工作上的關
220 係，我想有關過去工作上的內容，我不想在此詳細透露有關她的
221 工作表現、工作的關係，工作的過程是怎樣，我覺得不適宜.....
222 因為這樣我覺得會傷害到當事人，我不覺得需要在這裏說出來。

223 **記者：**

224 可不可以說為何你覺得是傷害到當事人呢？如果你把事情說
225 清楚，反而會不會令大家可以瞭解多一點，反而傷害會少一點？

226 **甘乃威議員：**

227 因為我不想單方面只有我一個人說，這方面我很清楚，因為
228 實際現在大家也看到今天的報道，大家也看到實際上是並無當事
229 人出來說話，那我想我不希望透過傳播媒介的形式，大家互相對
230 答，我覺得這不是一個適合的表達方法。我覺得這樣做法，我現
231 在這個表白.....表達清楚這件事情，是最能夠保護當事人。

232 **記者：**

233 甘先生，我想問一問，那位女助理替你工作多久，即做了多
234 少年？還有我想問，究竟她是否犯了一個很嚴重的錯誤，所以你
235 憤怒得一定要即時解僱她，一個月通知也沒有給予？還有第三個
236 問題，這件事有否.....即你會不會覺得自己拖累了民主派爭取民
237 主？

238 **甘乃威議員：**

239 我想有關這件事情中，其實我在文件沒有寫上她在何時聘
240 用，其實在去年12月我便聘用了她，即這位同事，我想在這個過
241 程中，我再重申，有關我和她.....她的工作表現、工作上的關係究
242 竟是怎樣，我為了希望不影響當事人，我在此不方便透露，我想
243 這點，我相信希望大家都能夠理解。那麼，我想再重申，在今次
244 事件中，我引起公眾關心和疑慮，我向大家表示歉意。有關泛民
245 主派方面，我想我也會向它作出解釋。

246 **記者：**

247 你是否都想澄清，其實你和她之間是否只有工作關係？第
248 二，其實你說她用了一個.....即她已經接受了民主黨的處理，其實
249 她是用甚麼方法表達她已經接受了民主黨的處理？以及你是否覺
250 得你現在的處理手法，可能會引致.....譬如傳媒上可能都會.....對
251 於她來說，有.....可能大家都不知道你是否認為她是一個誣告，抑
252 或是怎樣？其實你會否覺得對於她來說，會是一個更加大的傷
253 害？

254 **甘乃威議員：**

255 你問了數過問題。我嘗試回答，如果答漏了，你告訴我.....

256 **記者：**

257 首先說一下是否工作的關係？

258 **甘乃威議員：**

259 我想這個是絕對的。我想我聘請我的員工，因為我是用公帑
260 聘請員工，所有的員工純粹是一個工作上的關係，這個絕對是純
261 粹一個工作上的關係。那我想.....你第二個問題是？

262 **記者：**

263 第二個問題就是說，其實你說她接受了民主黨的處理，我想
264 問她是用甚麼方式，即已經接受了那個處理？

265 **甘乃威議員：**

266 OK。我想我在裏面說過，在民主黨的處理中，因為民主黨在
267 我的文件中都有提過，主席、副主席都已經見過這位.....即我的前
268 僱員，而我亦都就.....我在另外一段都提到，在合約的問題，我亦
269 都和她處理了有關在合約上的問題，這個是雙方.....但我想，因為
270 這個處理的方法牽涉到.....即一些的.....雙方要保密的，那我想這
271 點我都不方便，未得到事主的同意，我是不方便作出透露的。

272 **記者：**

273 但你的意思是，她接受了處理，其實是否即是說她其實對你
274 性騷擾的指控是還存在、還是沒有呢？

275 **甘乃威議員：**

276 我想說有關相關的指控是些甚麼呢？我想這個你可能要問當
277 事人，但我現在說有關我和這位僱員有關合約的問題，我是已經
278 和她獲得……已經處理了。

279 **記者：**

280 已經只是處理了那……

281 **甘乃威議員：**

282 處理了僱員合約問題，已經獲得處理。

283 **記者：**

284 但性騷擾那個……

285 **甘乃威議員：**

286 我想提我是並無任何對我的員工作出性騷擾的行為，這個是
287 很清楚。

288 **記者：**

289 ……但劉副主席說已經收了一個投訴，是有關性……

290 **甘乃威議員：**

291 我想說如果有關投訴的話，這個是會由中央委員會作出調查
292 的，我會尊重中央委員會的調查，我沒有作進一步的評論。

293 **記者：**

294 甘先生，其實對於被……

295 **主持人：**

296 對不起，可不可以……因為有人先舉手，對不起。

297 **記者：**

298 甘先生，其實你是否覺得對公眾市民很不公平，因為你說不
299 想傷害當事人，但對於公眾，其實你是一位立法會議員，還要是
300 民主的，對於你怎樣解僱，有沒有性騷擾或者那位僱員投訴甚麼，
301 你都隻字不提。對於公眾市民來說，你覺得是否公平，你可否解
302 釋一下呢？

303 **甘乃威議員：**

304 我想再重申，因為在過程中，我的僱員的工作表現，過去與
305 她的工作的關係，有關我辭退她的原因，我想這些牽涉到有關當
306 事人，我覺得我要尊重她，我不能夠透露。但我現在所做的解僱
307 方法，是根據我在合約上的程序的，我是沒有超越合約的規定，
308 所以這個我自己覺得，在今次我作出解釋，我希望公眾能夠明白
309 和理解。

310 **記者：**

311 你自己說沒有做過性騷擾的行為，但有報章今天已經刊出了
312 有關的報道，其實你會不會有一些法律行動跟進？第二，就是那
313 位當事人作出了投訴，即向黨投訴之後，你有沒有再接觸她瞭解
314 事件？

315 **甘乃威議員：**

316 首先答你第二個問題。我想我就沒有.....自己會接觸有關這個
317 當事人，但據我理解，劉慧卿副主席是有跟當事人接觸的。但是，
318 她接觸了多少次，我就不知道，但我知道副主席是有跟她接觸的，
319 但接觸了多少次，我就不清楚。

320 至於有關.....你是.....第一條問題.....是.....

321 **記者：**

322 報章方面？

323 **甘乃威議員：**

324 報章的追究方面，我想.....我剛才已說過，我相信經過民主黨
325 中央委員會調查，我相這事件是會水落石出的。我想這個最終會
326 有.....大家會.....即瞭解到清楚那個真相。

327 **記者：**

328 對於被指是性騷擾，是求愛不遂，解僱下屬，你覺得今次是
329 被人"屈"抑或是一個誤會導致呢？你覺得是甚麼原因會導致.....
330 無論是被人"屈"或者是誤導，甚麼原因呢？

331 **甘乃威議員：**

332 我相信在今次的事件中，我會汲取今次的教訓，因為過去我
333 對員工都有很高的要求，有時我自己就一些事務上，都是比較脾
334 氣暴躁，希望能夠盡快去完成這件事。作為一個僱主，我很希望
335 就算有任何的僱員作出投訴，我覺得我作為一個僱主，都是應該
336 作出檢討。但是，因為今次事件，我希望檢討完，我自己作出改
337 善而引起公眾的關注和有疑慮，我會向公眾作出道歉。

338 **記者：**

339 你不是.....覺得誤會呢？

340 **甘乃威議員：**

341 我剛才說過了，既然今次事件是有員工向我的民主黨的主席
342 和副主席作出投訴，我作為一個僱主，我會檢討究竟我自己過去
343 的工作，是否因為我的要求很高，或者我因為過去想在工作上做
344 得快一點，脾氣比較暴躁，而引起今次的投訴，我因而檢討而作
345 出改善，我希望作出改善，能夠汲取今次的教訓，因而引起有關
346 的關心及疑慮，我希望向公眾致歉。

347 **記者：**

348 甘先生，你怎樣引致到性騷擾？

349 **主持：**

350 對不起。

351 **記者：**

352 甘先生，你說自己脾氣差，其實可否具體說明一下你怎樣脾
353 氣差，是否會對着員工說粗口呢？

354 **甘乃威議員：**

355 我想重申，我從來沒有向員工說粗口。我想.....但是，你說我
356 脾氣差，我想可能很多與我共事的人都會有這個感覺。我是一個
357 比較希望很快去完成一個事工，以及我也有一點是比較完美的主
358 義者，即每一件事，我都希望做到最好。所以，有時有一些很細.....

359 細微.....細緻的.....譬如舉例說今天開記者會，其實我之前打電話
360 去問究竟有沒有冷氣，沒有冷氣，是否需要開窗等，即這些都是
361 有時我自己.....即有一些比較"細眉細眼"的，我都要關心、要關
362 注。有時因為做得不好時，我會向員工發脾氣，但我絕對不會向
363 我的員工說粗口。

364 **記者：**

365 我想再問，其實你說你要檢討，其實你檢討是檢討自己錯，
366 但沒有理由要辭退員工而去檢討啊？這是很不logic。還有，你說
367 自己脾氣差，與被人引起.....你覺得是性騷擾是兩回事。你脾氣
368 差，你罵人，可能人家投訴你讓人.....你罵人，但是沒有理由會投
369 訴你被人性騷擾，如果你沒有做過的話。其實你做過甚麼，會令
370 到這麼大的一個人，大家都是成年人，會令人感覺到你是被人性
371 騷擾？其實你是否真的做過這件事呢？

372 **甘乃威議員：**

373 我再重申一次，我必須重申、強調，我是絕對沒有性騷擾的
374 行為.....對過我任何的員工，這一點是必須要澄清及強調的。

375 **記者：**

376 但是，那麼大的一個人，沒有理由.....

377 **甘乃威議員：**

378 我想強調.....至於剛才我提到，究竟我過去的工作，是令同事
379 有作出投訴的話，我會作出檢討及改善。

380 **記者：**

381 我想問一下，現在這位當事人究竟是投訴你性騷擾，抑或是
382 投訴你辭退她？

383 **甘乃威議員：**

384 我再重申一件事，我想有關.....相關的投訴，現在民主黨會展
385 開調查，我想這個展開的調查，我想我會盡量配合有關的調查。
386 我想強調我並沒有 —— 再重申 —— 我並沒有向任何人作出性
387 騷擾行為。

388 **記者：**

389 因為我不太明白，即你要否認性騷擾，但是你就.....

390 **甘乃威議員：**

391 因為今天.....今天我想提.....因為今天報章有作報道嘛。我必
392 須.....我必須要說有關這個報道的時候，我便要說明我是沒有性騷
393 擾的行為，這個很清楚。

394 **記者：**

395 你不是證實那個.....

396 **記者：**

397 作為一個立法會議員，如果一個男上司向一個女下屬示愛，
398 而女下屬拒絕，你作為一個議員，你覺得這樣會否構成性騷擾呢？

399 **甘乃威議員：**

400 我再重申，我並無作出任何性騷擾的行為.....我想重申，我並
401 無作出任何性騷擾的行為。

402 **記者：**

403 此外，我想問一下，你說你不想傷害任何人.....

404 **記者：**

405 我想問清楚，你說你會檢討嘛，但為甚麼檢討得來，你要炒
406 了那個人呢？其實是你自己的問題，你自己的脾氣大、罵人，但
407 反而該員工要遭殃，被你炒了呢？其實為甚麼呢？你是否因為.....
408 其實你真的求愛不遂，所以.....人家拒絕你，你便要炒人呢？

409 **甘乃威議員：**

410 明白。我再重申一點，我並無求愛不遂去炒.....即解僱該員
411 工，我絕對沒有這樣的行為。

412 第二點我亦想回答，有關我過去的工作，與這個僱員的工作
413 相關的表現，我不方便在公開.....第三者方面作出評論，因為我都
414 希望有關她個人的私隱；而有關解僱方面，剛才我說過了，過去
415 我脾氣暴躁，這個是我經常都受到員工的批評，這一點我會作出
416 改善。

417 **主持：**

418 因為.....至於有關民主黨如何處理，何俊仁主席稍後4時會向
419 大家交代。我想我們今天的記者會在此.....(眾記者同時發問).....
420 好嗎？

421 **記者：**

422 甘先生……可否拍一張照片呀？可否與太太一起拍照呢？

423 **記者：**

424 是否方便說兩句呢？你是否相信你丈夫呢？

425 **記者：**

426 可否與太太拍一張照片呢？

427 **主持：**

428 不好意思……不好意思……不好意思……

429 **記者：**

430 其實你如果今次影響到民主黨的聲譽……受到很大影響……

431 辭職的話……

432 (完)

Verbatim transcript of the press conference
called by Hon Albert HO on 4 October 2009

1 **單仲偕先生**

2 今日民主黨我單仲偕副主席及何俊仁，會交代民主黨如何跟
3 進甘乃威事件。

4 或者我首先請何俊仁交代一下到目前的情況。

5 **何俊仁議員：**

6 好的。各位新聞界朋友，我相信大家今日看到一份報紙的頭
7 版報道，知道有一宗對甘乃威議員的投訴，我相信大家都會有興
8 趣向我提出一些問題。我先說一些背景資料，第一點，在上月30
9 日，我作為民主黨的主席，以及我們的副主席劉慧卿與甘乃威一
10 位前僱員有一次會面，亦收到她對甘乃威一些口頭投訴。她亦要
11 求民主黨對她所作出的投訴公正處理。我們到現在過了幾日，我
12 們亦就她所提出的一些要求，直接與甘乃威一起談過後，亦做了一
13 些處理。到了今日，她接受我們的處理方法。但是，我亦與這
14 位投訴人講明，我們會把這件事交給民主黨作進一步的調查，包
15 括甘乃威會向民主黨中委會交代這件事。實際上，他在上星期亦
16 向我們的立法會9位議員作了第一次的一些口頭交代，他亦將會向
17 中委會再作一次交代。與及如果進一步民主黨的紀律委員會有聆
18 訊的話，他會接受聆訊，他亦主動提出他願意接受全面調查。

19 外界當然會很關注民主黨內部調查是否足夠呢？我想提出兩
20 點，第一，這位投訴人到來見我們時，她是很清楚的，因為事實
21 上大家知道她是一位很有經驗、很有知識的人士。她當然很清楚
22 知道有很多投訴途徑，當她到來見我們時，她說得很清楚她是特
23 意要見主席和副主席，希望我們正視她的投訴。她都相信我們可
24 以公正處理。她亦希望在民主黨自己處理，她不想公開這件事，
25 這是她的個人意願。

26 就這件事情的處理問題，我當然知道公眾的關心。如果立法
27 會的議員個人利益監察委員會根據章程，主動提出調查，當然甘
28 乃威是責無旁貸要全力合作，接受調查，這是一定應該要做的。
29 但是，至於我們應不應進一步公開投訴人的身份、投訴內容等東
30 西，我會很小心考慮，我不單止取得了黨內的法律意見，我亦親
31 自請教過香港人權監察，我與它的主席莊耀洸律師談過，知道他
32 亦與人權監察的總監羅沃啟先生談過。我們都指出了因為投訴人
33 希望只是民主黨自己處理，即她不想公開這件事。我們是不是應

34 該尊重她的私隱，抑或我們有沒有權把她不想公開的事向大眾公
35 開呢？我們的法律意見覺得不應該公開的。在我諮詢後，人權監
36 察給我的意見是同意我們看法，同意我們的法律顧問的看法，如
37 果倘若當時人不想公開的話，我們是不應該公開的。起碼他是口
38 頭與我談了兩次後，便給了我這樣的意見。

39 所以，我今日只能披露我剛才所披露的事情。我只能再重申
40 一點，其實昨日副主席劉慧卿都說了，就是民主黨對任何涉及我
41 們公職人士，即民主黨公職人士的投訴，我們一定會很嚴肅處理，
42 我們一定會公正調查，以及對投訴人有合理的交代。我們只能有
43 一把尺，就是無論我們接到投訴的對象是民主黨的人，或者是我
44 們所謂的對手，我們應該都以同一把尺來看這件事。所以，我以
45 這樣的心情來繼續跟進這件事。

46 好了，我所交代.....還有一點我想說說的，就是剛才甘乃威開
47 完記者會後，他打了電話給我，他說有一點應該要再說說，是剛
48 才沒有說的。他說他對這位已經離職僱員的表現，整體上是滿意
49 的。她是一位表現相當好的職員，其實他當時這個衝動的決定是
50 錯的，他是非常懊悔。不過，他覺得公平一些對她說，就是她是
51 一位能幹、盡責任和表現良好的職員。他亦寫了一封這樣的推薦
52 信給她，是發自內心衷心的推薦，希望她日後能夠在她的仕途.....
53 即對她的事業順利的。

54 **單仲偕先生：**

55 有沒有問題？

56 **男記者：**

57 我想問，即現在民主黨說給了1個月代通知那位投訴人，除此
58 之外，還有沒有其他賠償給這位投訴人？

59 **何俊仁議員：**

60 喲，其實我很抱歉，我不能夠再進一步披露中間與她處理這
61 件事，因為她說是她自己私人的事，她不想再公開。但是，到目
62 前來說，她的一些處理要求，我們會盡量回應，到現在她是滿意
63 的。

64 **單仲偕先生：**

65 接受。

66 **女記者：**

67 想問……

68 **何俊仁議員：**

69 她是接受的。

70 **女記者：**

71 ……她有這樣的要求提出了，你們如何去滿足她呢？

72 **何俊仁議員：**

73 我都重申一點，真的要尊重她的意願，其實如果她是願意說，
74 當然我們可以說出來，是沒有問題的。不過，即是她個人私隱的
75 問題，她既然就這件事提出了一個處理要求，我們處理了，她接
76 受了，那她就覺得沒有需要公開，那我們尊重她這個意願。

77 **女記者：**

78 仁哥，她現在的投訴，是投訴她受到性騷擾或者因愛不遂，
79 還是因為不滿她被人解僱呢？她投訴甚麼呢？

80 **何俊仁議員：**

81 欸，這點就投訴內容，我們都再三通過電話，問她有多少東
82 西我們是可以披露的。但是，當事人都說就這件，她只向我投訴，
83 她說無須向外面披露。所以我們……她知道我們內部公正處理，這
84 就是她的要求。所以，直至現在，我沒有得到她的同意公開投訴
85 的內容。

86 **女記者：**

87 ……你們強調自己沒有性騷擾別人，即其實投訴內容都牽涉到
88 這點？

89 **何俊仁議員：**

90 不過，無論如何，你們聽到甚麼消息都好，我今日的態度只
91 能不確認，又不否認。因為我事實上得不到她的同意披露她的投
92 訴內容。

93 **男記者：**

94 我想問投訴內容其實有沒有涉及歧視成分，你覺得是否需要
95 交給警方？

96 **何俊仁議員：**

97 我或者這樣說，如果有法律責任，要交給警方處理，我們一
98 定會這樣做的。你剛才都留意到我很小心完全看過那些法律，亦
99 請教過我們的法律顧問，甚至問過香港人權監察，他們處理人權
100 問題很有經驗。到現在，我覺得沒有需要提交警方處理。

101 **男記者：**

102 即是……不涉及刑事成分？

103 **何俊仁議員：**

104 是了，我們內部處理已經足夠。

105 **女記者：**

106 仁哥，想看看你們怎樣跟進，除了甘威向中委交代之外，你
107 們未來會怎樣嚴謹跟進這單case呢？

108 **何俊仁議員：**

109 我很視乎那個調查結果是怎樣，是嗎？我相信調查結果除了
110 可能對一些事實有所釐清之外，可能還會有些建議也不定，會怎
111 樣處理一些問題。所以，很視乎這個調查。

112 **記者：**

113 中委會會……

114 **何俊仁議員：**

115 中委會星期四會開會。

116 **記者：**

117 開會之後會繼續怎樣去follow？

118 **何俊仁議員：**

119 我們一般的做法是交給紀律委員會去作調查的。那麼，紀律
120 委員會調查完之後，它就會是……即可能會將報告書交給中委會。

121 **記者：**

122 會多久有……多快出到？

123 **單仲偕先生：**

124 我相信會盡快的。

125 **何俊仁議員：**

126 會盡快的，我都說不出時間，其實不需要太久的。

127 **單仲偕先生：**

128 是的。

129 **記者：**

130 如果譬如發現有問題，你會怎樣去紀律……只是內部紀律，還
131 是要求"甘威"要不要辭去議員這個職位？

132 **何俊仁議員：**

133 很視乎這個調查結果。當然，這個結果會引申到再進一步的……
134 甚麼結果，我今天就很推論，是不是？當然，我不可以排除一切
135 的可能性。

136 **記者：**

137 "甘威"都說會接受這個立法會議員個人利益監察委員會調
138 查……

139 **何俊仁議員：**

140 是。

141 **記者：**

142 ……你如何看，去到甚麼情況底下，才做到這一步？即立法會
143 議員個人利益監察委員會。

144 **何俊仁議員：**

145 我就不是太熟悉那章程，不過，以我所記得的，就是如果是
146 有傳媒廣泛報道，那麼，這個委員會都可以自己啟動，去作出調
147 查。但當然，在調查的時候，要相關人等都要配合，提供多一些
148 資料。但是，以我所知，這個委員會是可以自己來啟動。我不知
149 道有沒有記錯，但總括來說，如果這個委員會是要啟動，當然議
150 員，尤其是你自己是一個每日被投訴的議員，你是責無旁貸，一
151 定要接受調查，以及要全力合作。

152 **記者：**

153 那麼，這事件其實都是由主流的媒體揭發，其實為甚麼會是由
154 媒體揭發呢？其實如果媒體無揭發這件事的時候，民主黨自己
155 本身會怎樣處理此事呢？

156 **何俊仁議員：**

157 我剛才都說過，我們今次處理這件事，其中一個最重要的.....
158 即有兩個原則，我再重申，第一點就是對公職人士的投訴，我們
159 是要很公正地處理，嚴正不阿，絕不能夠偏私；但第二點，就是
160 投訴者她的要求，她如果其中有一個要求，就是要保障她的私隱，
161 不要公開、披露的話，這一點我們是不能夠忽視的。所以，處理
162 這個投訴的時候，我們本着這兩個原則，最後我們得到的法律意
163 見，後者使我們目前 —— 起碼在目前 —— 未得到她的同意，我
164 們不能夠披露她曾經對我們說過的話。

165 **記者：**

166 其實這.....

167 **英文記者：**

168 English..... It illustrates.....

169 **記者：**

170黨內自己去解決.....其實這件事是你們黨內自己去查，其
171 實夠不夠呢？如果真的牽涉到性騷擾的情況，例如，刑事成份。

172 **何俊仁議員：**

173 問題是這樣，我剛才都說過，投訴者是一位很有知識、很有.....
174 即她很明白她自己的權利，當然她可以選擇以不同的渠道去申
175 訴，她是很清楚這一點。我們會面的時候亦都有提過，她有其他

176 申訴的渠道，即是她自己很清楚，我們亦都再提醒過她。但是，
177 她最後是決定將這件事向民主黨主席和副主席，親自作出這個投
178 訴，希望我們直接處理。當然，我們就說我們是有機制的，我向
179 她解釋過，所以後來，我們說會交到中委會和紀委會調查，亦都
180 通知了她，她亦都接受這個處理方法。

181 **記者：**

182 Mr. HO, when you saw this lady, did she or did she not tell you that Mr.
183 KAM sexually harassed her, and that she had reported sexual advancement?

184 **何俊仁議員：**

185 I must make it quite clear at the start that when the lady made the complaint
186 to.....She specified in quite clear terms that the complaint was made on the
187 confidential basis. Mainly she expected that the Chairperson and the Deputy
188 Chairperson, namely myself and Emily LAU, would handle the matter
189 impartially and seriously, and she would be contented that the matter was to be
190 handled within the Party machinery.

191 After that, we had explained to her that the matter would probably.....you
192 know, apart from.....you know.....responding to certain specific request she
193 made to us, we also mentioned that the matter might have to be investigated by
194 our Disciplinary Committee. And that, Mr Kam might have to report or account
195 directly to our Central Committee. She is contented with that up to now, she
196 accepted that this is the way we handle the matter but she.....you know, up to
197 today, we still kept in contact with her. She said that she would like the matter
198 to be handled by the Democratic Party. Having said that, I am fully aware that
199 the lady is very familiar with all the different channels and the procedures for
200 making complaints. So, if she would like to choose to ventilate her complaint
201 elsewhere, she would certainly have no hesitation to do it.

202 **記者：**

203 But did she say to you whether she was sexually harassed?

204 **何俊仁議員：**

205 Now, I would like to mention.....

206 **記者：**

207 Not to Now, the whole

208 何俊仁議員：

209but as she mentioned to us that the complaint was made directly to us
210 and should be confined to be handled by our Party itself, in other words, she
211 would not like us to divulge what she said to us in the complaint. I reconfirm to
212 Emily Lau with her whether or not this is our understanding that mainly that the
213 contents of her complaint should be kept within the Party and should not be
214 divulged to the public. She confirmed that this is the correct understanding.

215 記者：

216 What.....

217 何俊仁議員：

218 In order to make sure that this duty of confidentiality is overriding duty, I
219 have sought legal advice from my Party's legal adviser. I have also sought
220 confirmative advice from the Hong Kong Human Rights Monitor. The legal
221 advice I got.....you know, from my adviser and the Human Rights Monitor is
222 that we must respect the privacy of the complainant, and hence the duty of
223 confidentiality should prevail.

224 記者：

225 One last question. What happens if the complaint is substantiated? What
226 will happen to Mr. Kam?

227 何俊仁議員：

228 I would not like to answer your question on such hypothetical situation.
229 Obviously, much would depend on the outcome of the complaint and I would not
230 rule out any serious consequence. Of course, you would know what will be the
231 consequence for a public officer, like a legislator. So, much would depend on
232 the outcome of the investigation and I will assure you that the investigation
233 would be conducted in an impartial and very serious manner. It would be fully
234 accounted to the complaint.

235 記者：

236 Might he be asked to step down?

237 何俊仁議員：

238 We would not rule out any possibility. I can only assure you that the
239 investigation would be conducted in a very impartial manner.

240 **單仲偕先生：**

241 OK。她先，她先……

242 **記者：**

243 我想問一下，因為好像甘乃威叫你向他們說，其實那位職員
244 很能幹，工作表現非常之好。那麼，其實你問他解僱的過程，他
245 有否解釋為何要解僱這位秘書，以及這件事，你覺得會不會影響
246 民主黨，甚至整個民主派的民望？

247 **何俊仁議員：**

248 當然，我就不……甘乃威剛才向你所說的，我就不去評論了。
249 因為他自己最清楚，就是他當時處理這件事。那麼，現在正正這
250 件事就是牽涉到一個投訴，所以，到時這些一切的投訴者的資料，
251 以及甘乃威的回應，都會交給我們的投訴的委員會，即調查這個
252 投訴的委員會。今天，我就不想作出任何進一步的評論。不過，
253 當然，就是這個投訴牽涉到，當然有些處理……有處理不當的問
254 題，這些是我們一定要正視的。

255 **單仲偕先生：**

256 後面那位。後面，後面。

257 **記者：**

258 即民主黨……

259 **單仲偕先生：**

260 後面那位小姐。

261 **何俊仁議員：**

262 任何投訴，當然都會影響公職人士的聲譽，所以我們是要很
263 認真、很嚴肅和公正地處理。

264 **記者：**

265 對個黨呢？如果甘乃威事件中都有……

266 **何俊仁議員：**

267 當然一定會有影響的。如果不是，我們不需要今天這樣地嚴
268 肅坐在這裏面對大家，以及向大家交代解釋。

269 **記者：**

270 現在你說不方便透露投訴的內容，但你作為主席……聽完投
271 訴，覺得是否是一個嚴重的指控呢？因為現在只有中委會、紀委
272 會知道，之後會怎樣去公開，即會不會優惠……因為如果不是……

273 **何俊仁議員：**

274 我只能這樣說，如果有一個投訴者，尤其兼且是我們的職員，
275 對我們的公職人員、我們立法會議員，有過一個這樣的投訴，她
276 亦有一個強烈的感受，我一定要正視的，我一定要好好處理的。
277 這樣才是對她公道，所以我今天，恕我就不會去……即向你說我的
278 感受是怎樣，反正我的感受不是最重要的，我只能夠決定是要很
279 嚴肅、公正地去處理，然後交由我們的紀律委員會去掌握事實，
280 作出一個公正的調查，這點是最緊要的。

281 **單仲偕先生：**

282 綠色衫的女士，綠色衫的女士，是，怎麼了？

283 **記者：**

284 有甚麼行動？

285 **何俊仁議員：**

286 我不會……我只說我會嚴肅處理，OK。

287 **單仲偕先生：**

288 我讓未問過的先問。後面那位女士。

289 **女記者：**

290 我想問……剛才甘乃威說他感到很懊悔，其實他懊悔甚麼，是
291 否懊悔炒了那位員工……其實當中剛才你說她投訴……處理不
292 當，其實處理不當是否即是指該解僱過程呢？

293 **何俊仁議員：**

294 我想我記……以我所知，他剛才應該有向大家講過，是嗎？關
295 於該解僱情況，是嗎？我想日後一定會講。因為其實我並不是當
296 事人，所以很多事是要調查之後，才可以有一個結論。這件事……
297 因為我不想只是支離破碎，就我的一些理解去講，而那些理解亦
298 不準確。不過，我並不知道他剛才講了多少。關於那個解僱的情

299 況，我不太知道。不過，怎樣都好，我只是收到他的電話，託我
300 說肯定她的工作及肯定她的表現。

301 **男記者：**

302 希望你不要介意……

303 **何俊仁議員：**

304 嗯。

305 **男記者：**

306 但是，剛才甘乃威……剛才我們問了他接近20次，請他再說該
307 員工有甚麼表現令他不滿，令到他要炒了她，他都說因為不想為
308 她帶來傷害，不想再一次傷害她，所以他不說。但是，如果聽你
309 剛才所講，說她整體的表現是那麼理想的話，他剛才應該已經講
310 了，就不會說……即他這樣讚他的員工，沒有理由變了再上……這
311 樣的感覺就好像是有一點自相矛盾。

312 **何俊仁議員：**

313 這些正正就是可能我們要調……即引起投訴的原因，以及可能
314 是我們要調查的一些核心的事實。這點讓我們來調查吧，好不好？
315 因為這點可能就是關鍵所在。不過……不過，無論……無論解僱當
316 時的事情是怎樣都好，他剛才致電給我，是說公道一點講，他說
317 她的整體表現是好的。

318 **單仲偕先生：**

319 這位小姐。

320 **女記者：**

321 香港是一個法治社會，如果投訴是牽涉到性騷擾的話，是刑
322 事的罪行，是否就這樣關了門來調查便可以呢？

323 **何俊仁議員：**

324 我剛才也講了，如果是牽涉到需要去到報警……去到作刑事處
325 理的話，我們當然會履行我們的法律責任，OK？到現在，我們……
326 我所掌握的就並不是這樣的情況。不過，當然……你說如果日後我
327 們調查……紀委會調查出來，不是一回這樣的事，當然我不會排除
328 一切的可能性，好嗎？這只是一個初步……

329 **單仲偕議員：**

330 我們都是說回那句，即應那個投訴人的要求，是民主黨在這
331 一個階段處理。

332 **女記者：**

333 你說事主接受你們的安排，就是說民主黨希望把這件事保
334 密，這是在傳媒把這件事曝光之前還是之後呢？

335 **單仲偕先生：**

336 之前和之後……之前和之後。

337 **女記者：**

338 ……這件事曝光……

339 **單仲偕議員：**

340 她是在第一天見我們的時候，她說希望……即我們黨替她解決
341 這件事，她是不想公開，這麼樣。

342 **女記者：**

343 但是，現在……

344 **何俊仁議員：**

345 但是……當然，我不可以……她會不會改變主意，我不知道。
346 所以我不能夠告訴你，她以後……她都是保持這種態度。不過，直
347 至今天，我所知道的，就是她仍然不想公開，我沒有得到她的同
348 意公開。所以，今天我就不能夠公開。不過，當然，如果她改變
349 主意，是她的權利。如果她是……尤其是她自己想自己公開，直接
350 聯絡大家，亦是她的權利，我們只能夠尊重她的權利，是嗎？

351 **女記者：**

352 正如你說，即暫時看不到有直接的懲罰了。其實，會否她與
353 甘乃威先生的僱傭問題最後可能會在勞資審裁處之類的地方解決
354 呢？

355 **單仲偕先生：**

356 我想……等我們內部……等我們中委會……接着紀委會調查完
357 畢後向大家有個交代吧。

358 **女記者：**

359 我想問，這件事調查之後，是否會向公眾交代呢？因為如果
360 你說事主她不想公開該調查，之後都不會再公開，那麼我們就不
361 會知道，究竟立法會議員……

362 **單仲偕先生：**

363 一定要讓……

364 **何俊仁議員：**

365 我剛才已說過了，就是事主的意願及私隱是非常重要的，我
366 們是要尊重的。我們作出這個尊重，亦都有法律依據，亦都表示……
367 亦都是一個法律責任。事主她是絕對有自由和權利，去作出選擇
368 去不去公開。我想是……如果她選擇不公開，我們是……我覺得我
369 們是沒有權利去單方面公開。

370 **女記者：**

371 仁哥，另外想問一問，我們聽到事主私底下與你談的時候，
372 提出了一些proposal給你們，可能是一些賠償方案。我想問，有沒
373 有這回事，以及提出的內容是怎樣呢？以及甘乃威就這件事都向
374 你們解釋過，他的交代內容是怎樣，以及你們是否相信呢？

375 **何俊仁議員：**

376 第一點是，我們替她處理的方法，我們亦都是不能夠公開，
377 對不起。因為她都是……這個亦都尊重她的意願。至於，甘乃威初
378 步的交代和解釋，我們當然聽到了，但我覺得我仍然是要交給一
379 個我們內部的紀律委員會作一個獨立、全面的調查。我就不會作
380 出一個……這個階段……作出一個判斷。

381 **男記者：**

382 仁哥，我想問一問，其實，到頭來……民主黨以往一直最討厭
383 一些機構，特別是那些公營機構，即自己人查自己人，但你們今
384 次講要尊重投訴人的意願，你們便決定用閉門……用內部的調查方
385 式去進行，怕不怕會引起市民難以收貨呢？即變了……以及會有一
386 個壞的例子，就是如果一個女事主受到性騷擾，或者受到一些不
387 合理對待的時候，而那個機構與她私下做一些賠償，可能賠償了
388 金錢給她，便變了沒有了那件事，那會不會做了一個很壞的先例
389 給市民看呢？

390 **何俊仁議員：**

391 第一樣東西，我剛才已經重申了很多次，當事人是絕對有自
392 由、有權利去作出各種的投訴，即向不同的渠道、不同的機構，
393 她是很清楚的。她亦是一個很有能力、很有知識的人，她完全知
394 道自己怎麼做，絕對不會說，有些人去到教唆她、去到勸她，她
395 就會聽。她十分知道她應該怎樣使到她覺得滿意，去到處理。至
396 於民主黨來說，當然，我們很瞭解——我剛才一開始已說過——
397 很瞭解公眾可能會有期望，會有一些公開一點的交代，或者獨立
398 的……即民主黨以外的調查。但是，記着我受到第一點的限制，如
399 果她是同意外面的調查的話，當然是……她可能是已經作出了另
400 類……另外的投訴也不定……是嗎？我相信。所以，到目前來說，
401 我們會繼續與她保持聯繫，我們日後的跟進。到最後，如果她真
402 的不同意，是交出去外邊的話，我也是沒有辦法的。

403 **男記者：**

404 有沒有鼓勵過她，即可以向外邊的機構作出投訴，反而可能
405 對……

406 **何俊仁議員：**

407 其實我們坐下第一天已經向她說，即她應該很知道有別的渠
408 道，她絕對可以去。我們是願意合作的——如果真的要向外邊
409 投訴的話。這些是清楚的，即大家坐下談的時候，她是很清楚的。
410 不過，我相信每個人有其自己的考慮，我都要尊重她的考慮，是
411 嗎？以及有時候很多事情，她覺得有些事情對她不公平，要我們
412 去處理，還她一個公道，但如果我們做了別的事情是她不同意的，
413 而帶來第二種的傷害，我亦都不想見到。

414 **女記者：**

415 仁哥，會否你們民主黨為求公道起見，會自動在立法會那個
416 調查小組啟動該調查機制？

417 **何俊仁議員：**

418 我想別的同事可以做吧。因為既然她叫民主黨不要去到……
419 即自己內部處理，可能就是……我們去到啟動就不是太適宜。不
420 過，我相信民主黨只得9位議員，但全部有很多議員，他們是絕對
421 可以去啟動的。在啟動的時候就順理成章由那個委員會去調查
422 了，那麼，議員就要履責了。

423 **女記者：**

424

425 **何俊仁議員：**

426 我覺得就是，她既然對我們的黨作出這樣的要求，我們就要
427 尊重的。不過，別的議員，因為他們變了第三者，如果他在報紙
428 看到，他是關心這件事，希望那個利益監察委員會作出調查，這
429 個亦是順理成章的。我覺得.....我都預料有議員會這樣做。

430 **女記者：**

431 仁哥，你可否澄清一點，以我所知，性騷擾在香港似乎不是
432 一種刑事罪行，純粹是一種民事？是不是呢？

433 **何俊仁議員：**

434 不是，在條例中.....條例中有一些刑事的條文，有一些民事的
435 條文，純粹性騷擾就是民事的。但是，我剛才用.....舉了一個.....
436 用的名詞，可能講那個的是性別歧視條例中的一些條文，有一些
437 條文是刑事的，譬如講victimization那些就是刑事，所以我就當作
438 是整體一個回應。到現時，我看不到有任何成分是需要去報警。

439 **單仲偕議員：**

440 但是，民主黨講了很多次.....主席講了，有需要的時候，我們
441 一定會做。

442 **何俊仁議員：**

443 是了，是了。

444 **女記者：**

445 如果最後是.....雖然不是刑事，但發現原來甘乃威真的曾經有
446 性騷擾別人，你們會否out他出黨，或者這類.....

447 **單仲偕議員：**

448 我想這是假設性問題吧。

449 **何俊仁議員：**

450 好的。你不要假設吧。我剛才已講過，我是期望有一個公正
451 的調查，然後有結果後，當然根據結果就會有些決定，有一些跟

452 進的決定。我當然不會排除一切的可能性，等於我不能排除任何
453 結果，今日的調查。

454 **女記者：**

455 但是，如果礙於你說不公開，那麼這件事會不會就掩蓋了，
456 大家公眾不知道他有沒有真的性騷擾別人？

457 **何俊仁議員：**

458 我只能夠再重複，除非當事人同意，如果當事人同意，我們
459 絕對是毫無選擇，可能要公開出來，是嗎？到目前來說，當事人
460 的意願就是她希望我們黨內公正處理和解決。

461 **女記者：**

462 就因為如果你們黨自己決定了，如果甘乃威真的犯了錯，但
463 她又說不公開，這件事就會不了了之。那麼，那位議員.....其實立
464 法會議員是一位公眾人物，他的誠信是很重要的，他不單要向當
465 事人交代，或者向黨交代，也要向公眾交代.....

466 **何俊仁議員：**

467 這樣吧，我知道大家的關注，我們中委會都會再商量這些大
468 家的關注。我們看看，在尊重投訴人的尊嚴、尊重她的意願、尊
469 重她的私隱等原則下，我們怎樣能夠盡量對外界有些交代。我覺
470 得這對我們來說亦是一件好事，因為我今日有很多東西不能說，
471 不能暢所欲言，我亦不舒服，是嗎？不過，我都瞭解大家問這些
472 問題都很公道。不過，正如我所說，我不想再令投訴者尷尬，以
473 及她明明不想這件事公開，而在未得到她同意下公開。

474 **單仲偕議員：**

475 差不多了，是嗎？

476 **女記者：**

477仁哥，多問一點。

478 **何俊仁議員：**

479 好的。

480 **女記者：**

481 你剛才都沒說到，其實她當時投訴什麼？甘威剛才唯一說的，
482 是我沒有性騷擾別人，會不會對於當事人很不公平？你們又不說
483 她complain甚麼，好像出來，明天的報道就是，甘威一面倒說沒有
484 性騷性別人。

485 **何俊仁議員：**

486 我總括來說，我不否認，亦不確認你們出面傳聞的東西，我
487 只能這樣做。即我不去否認，因為出面傳了甚麼……

488 **女記者：**

489 他說沒有性騷擾別人……

490 **何俊仁議員：**

491 我想這件事要有一個委員會的調查，我今日不會告訴大家，
492 亦不會告訴她，我對她所說的一切東西會照單全收，我們要經過
493 一個公正的程序來調查，這才可以對投訴者有交代。我們亦在中
494 委會討論後，看看在尊重那位投訴者的私隱和議員的原則下，我
495 們看看怎樣能夠向公眾作一些交代。

496 **男記者：**

497 我想多問一個問題，就是剛才甘議員說他自己覺得很懊悔，
498 我想問是否我們剛才記者會後，再提過問(……未能收音……)，即
499 是他說，覺得炒了這位員工，感到很懊悔，(……未能收音……)肯
500 定是工作的……或是

501 **何俊仁議員：**

502 我只是照樣說出來而已，如果再要解釋，我都解不到，我都
503 不能再解釋。

504 **女記者：**

505 仁哥，我想問，今次這事件會不會影響到……爭取民主的步
506 伐……

507 **何俊仁議員：**

508 我想是兩件事，怎會呢？是兩件事。

509 **女記者：**

510 以及在你們紀委會由誰人負責調查這件事？

511 **何俊仁議員：**

512 我們有一個panel，有一個名單的。我想這件事比較重要，多
513 數會是幾位比較資深的紀委會成員。

514 **女記者：**

515 我想問時間表，你見過那位女僱員幾多次，以及見過甘乃威
516 一共多少次？

517 **何俊仁議員：**

518 見過幾多次？我對你說過，她當然見了.....她先見了卿姐，但
519 她又希望見我，所以我們一起見她，是30號，即幾日前。當日我
520 聽到她的一些看法和要求。

521 **女記者：**

522 當時她的情緒狀況是怎樣？

523 **何俊仁議員：**

524 我不多說了，當然她是投訴者，你都.....覺得她都是.....

525 **單仲偕議員：**

526 我想無須再多說.....

527 **女記者：**

528 總共見了民主黨幾次？

529 **單仲偕議員：**

530 劉慧卿見了一次。

531 **何俊仁議員：**

532 劉慧卿見了一次，與我一起再見。

533 **女記者：**

534 即兩次。

535 **何俊仁議員：**

536 我不知道劉慧卿……是了，我自己見了一次，你自己問劉慧卿
537 吧。

538 劉慧卿今天有事不能到來，你其實可以打電話給她，你有甚
539 麼再進一步問她吧。

540 **女記者：**

541 甘乃威……向你們解釋是……最後一次？

542 **何俊仁議員：**

543 他在黨團解釋過，一次到兩次，但我們覺得詳細一些是需要
544 日後調查再說。

545 **單仲偕先生：**

546 差不多。

547 **女記者：**

548 那麼，有沒有暫時停止甘威的議員職務呢？

549 **單仲偕先生：**

550 暫時停止他的職務？

551 **女記者：**

552 我不知道譬如說公眾對……

553 **單仲偕議員：**

554 我想有了調查結果才採取任何行動。民主黨中委會會在星期
555 四，本來民主黨在星期四有中常委的會議，我們會把它變成一個
556 中委會會議。

557 **女記者：**

558 那麼，紀委會最快會幾時開始？

559 **單仲偕先生：**

560 可以很快，我們會即時同步開始叫紀委會作出準備，但正式
561 可能都要等中委會……

562 **何俊仁議員：**

563 但你記着，紀委會可能先進行調查，OK？

564 **單仲偕先生：**

565 是的。

566 **何俊仁議員：**

567 然後才看看是需不需要進行紀律聆訊，所以調查……

568 **女記者：**

569 但紀委會會不會有deadline？

570 **單仲偕先生：**

571 我相信這件事情大家……

572 **何俊仁議員：**

573 不是，他們……，民主黨的紀委會真的很獨立，我們都不能指
574 揮他們的。他們有自己的程序，以及他們自己有……即他們有
575 主席，他們會知道這件事越快處理越好。

576 **男記者：**

577 暫時甘議員一切工作都會正常？

578 **何俊仁議員：**

579 是，當然。

580 **男記者：**

581 那麼，現在會不會暫時不讓他請女職員？或者任何職員對這
582 個空缺，即是……

583 **何俊仁議員：**

584 不會。

585 **單仲偕先生：**

586 我想如果就……

587 男記者：

588 Are you making the findings publicly?

589 何俊仁議員：

590 As I have said, we have to respect the wish of the complainant. If at the
591 end of the day, she still insists that the report should be kept confidential, maybe
592 we have no option. But of course it's entirely a matter that we may have to seek
593 her consent and agreement. But having said that, you know, we would certainly
594 have to conduct a..... most impartial manner and then make sure that the result
595 would be accountable to her, to her satisfaction.

596 男記者：

597 So it's a possibility that we may never know what happened.

598 何俊仁議員：

599 Well, as I have said, we would discuss within our Central Committee to see
600 how we can.....result.....you know.....result..... is honouring our pledge to her
601 to keep the matter within confidential, we can still, you know, make sure, make
602 the matter accountable, in the form that is acceptable to her.

603 單仲偕先生：

604 謝謝。

605 (完)

Verbatim transcript of a telephone interview of Ms Mandy TAM Heung-man by the programme Talkabout of the Radio Television Hong Kong on 5 October 2009

1 **周融：**

2 我地請一位認識這位女助理，並曾替她辦事的前立法會議員
3 譚香文。譚香文，你好！

4 **譚香文：**

5 早晨，周融、家永。

6 **梁家永：**

7 你認識當事人，並且是她的前僱主，你們曾經談過這個情況，
8 基於這件事我們當成公共事件處理，你可否提供這方面你所知的
9 資料呢？

10 **譚香文：**

11 事主有向我反映甘乃威向她示愛，亦不止一次。今日我看到
12 星島的報道，所以我要澄清這事。報道說有兩個版本，一個說“羅
13 生門”，另一個版本說“無此事、無求愛不遂，亦無性騷擾，只不
14 過女事主感情煩惱，向對方安慰，令對方誤會”。

15 **梁家永：**

16 可能用上不恰當言辭，令對方誤會，但絕非求愛不遂。這是
17 星島日報A4版的報道，是甘乃威黨友的說話。

18 **譚香文：**

19 據我了解，第一，是有這件事發生。

20 **梁家永：**

21 即是女方對你所說的。

22 **譚香文：**

23 無錯。第二，當時甘乃威亦有向民主黨高層承認這件事。第
24 三，求愛不遂不止發生過一次，是最少兩次。如果第一次當成誤

25 會，好像羅生門版本所說，為何會有第二次呢？兩次都是誤會嗎？
26 我覺得這些人再繼續中傷當事人，是無恥的手段，更加令受害者
27 再受傷害。今次事件，她已經不夠膽出來說話，因為壓力太大，
28 我都有與她談論這事，她都覺得壓力太大，不想出來說話。但我
29 今日看完報紙便覺得，我需要澄清沒有羅生門，只得一個版本。

30 **梁家永：**

31 只得一個真的版本。

32 **周融：**

33 譚香文，我們想問事實，求愛不遂，是不是大家之間，女方
34 對男方沒有感情掛牽在內，或者與他有發展呢？

35 **譚香文：**

36 我了解這個前下屬是個很虔誠的基督徒，她絕不會，絕不會
37 接受有婦之夫的感情。她以前有的朋友、男朋友可能是有婦之夫，
38 但她一知道後便即刻斷席。甘乃威是一個有婦之夫，而一個基督
39 徒，我本身亦是基督徒，我們不會這樣做。她是宗旨原則很堅定
40 的一個人，我深信她不會為這個人去做這種傻事。我可以對她有
41 100%的信任。但事件可能為了保住甘乃威而出現另一個版本是令
42 人反感，十分之反感。

43 **周融：**

44 譚香文，你能否說一說，當日解僱的時候是否有一個理由去
45 解僱呢？老實說，僱主與僱員之間可以冷冷的說，合則來，不合
46 則去，是不是當大家合作完畢，請人離去，過程之中可以吵，你
47 知道「炒魷」時，可以是拍枱拍櫈，這過程之中你覺得是否傷害
48 了女方，覺得無理地被解僱呢？

49 **譚香文：**

50 是，沒錯。當時他是叫她即刻走，沒有一個很合適的理由。
51 你也知道，然後事主向民主黨投訴，而我亦陪同她見。

52 **周融：**

53 當時你也在場？

54 **譚香文：**

55 是。我知道整個過程，當然，開會的過程我不會透露，這並
56 不適合。但我深信這件事確有其事，確有求愛不遂。

57 **梁家永：**

58 你覺得民主黨處理這件事有沒有問題呢？如果你覺得它做得
59 不好，你有甚麼建議？

60 **譚香文：**

61 我很尊重民主黨、亦尊重黨主席何俊仁的政治操守，當我們
62 見他時，他很客觀地分析事情，亦很幫女事主，我是尊重他的，
63 亦很欣賞他。但調查這件事，我覺得民主黨應該公開調查的過程、
64 結果。原因正如你所說，有關公眾利益，不要忘記，甘乃威是用
65 政府公帑聘請助理，繼而解僱她。但在昨日的記者招待會，他沒
66 有說清解僱的原因，又說她做得好，若做得好為甚麼不繼續keep
67 她，反而解僱她呢？他沒有一個正式的、合理的原因，在這情況
68 下，既然使用公帑，市民是有知情權，調查的結果是怎樣，過程
69 是怎樣，我們作為市民一份子，有納稅的人亦希望知道事件的真
70 相。

71 **梁家永：**

72 但現在民主黨偏偏說因為當事人要求不將事件公開，亦徵詢
73 人權監察委員會的意見，因為事主要求不要公開便不公開，近日
74 偏偏用這個理由甚麼都不說。

75 **譚香文：**

76 我希望他們審慎考慮公開事件，市民亦都有知情的權利。

77 **周融：**

78 譚香文，你的女助理，其實她為甚麼……你曾是立法會議員，
79 你明白僱傭條例其他方面的事情，其實民主黨與女助理沒有僱傭
80 關係，她唯一的僱主是甘乃威，即是大家一齊共事的關係，法律
81 上無關係。其實除了向黨希望取回例如是公道、離職時可得到的
82 補償等東西，為甚麼她當日不向勞工處或其他地方求助呢？你有
83 沒有了解過？

84 **譚香文：**

85 我了解她有打電話給平機會，但平機會的回應是十分冷淡。
86 不太想去做這件事般。因為我亦有叫她到平機會或其他部門，至
87 於勞資糾紛，她曾有徵詢法律意見，勞工處未必是一個相關的政
88 府機構供她投訴，唯一是平機會，她有打電話給平機會，但平機
89 會的電話回應幫助不大。

90 **周融：**

91 但平機會是否應該接受一些涉嫌性騷擾、愛騷擾、或男女關
92 係騷擾的，就應該着緊些。

93 **譚香文：**

94 應該是着緊些，尤其是這次事件牽涉一個政治的立法會議
95 員，無奈平機會在這方面的跟進比較緩慢，可以這樣說。

96 **周融：**

97 這個女同事其實在整件事件中想得到些甚麼呢？公道？賠
98 償？還是正義？她想得到甚麼呢？

99 **譚香文：**

100 我想講，沒有一個同事是覺得被炒，她當日被炒是即走的。

101 **周融：**

102 是，是一個很大的傷害。

103 **譚香文：**

104 是很大的侮辱，對一個女性員工，她又沒有偷東西，又沒有
105 犯法，你叫她即刻走、執包袱，我相信她都是第一次經歷這種事。

106 **梁家永：**

107 即是含冤啦，含冤啦。

108 **周融：**

109 她替你辦事時，她的工作表現是怎樣？可否說一下？

110 **譚香文：**

111 她曾替我辦事，她是一個很盡責，亦是一個很忠心於僱主的
112 同事，她替我工作時的表現十分之好，如果我不是失去議席，我
113 會繼續聘請她，而其實我亦幫她找工作。

114 **周融：**

115 話說回頭，她想得到些甚麼呢？

116 **譚香文：**

117 我想是一個公平的judgement，這樣解僱她，應給她一個合理
118 解釋，是否她辦事不力所以你解僱她，抑或另有事情呢？如果這
119 樣做，她的工作是OK的，沒有問題的，何俊仁都說過，請甘先生
120 解釋為甚麼你解僱她。

121 **周融：**

122 譚香文，如果就整件事來看，如果她想得的是一個公道，而
123 不是純粹一個賠償的話，看到報紙說羅生門、又說朋友，即甘乃
124 威的黨友，說是女方有誤會，或者甚麼甚麼，其實對她的傷害是
125 否更加大？

126 **譚香文：**

127 對的，所以她不夠膽出來見傳媒，壓力是大的，你看今日的
128 報道，在 Wise News有70幾個報道關於這件事情，你想想對於事
129 主來說，是不是一個很重大的壓力？如果不是因為這些壓力，我
130 相信她會站出來講出事實。

131 **周融：**

132 但壓力其實來自一個誤會、誤解，因為昨日記者招待會之後，
133 有消息人士出來說，說一些東西，這個傷害才大，現在說到有兩
134 個不同的版本，一個是說求愛不遂，另一個是說女方自己不知有
135 甚麼表示或者發生甚麼事而引致這情形，這樣對她應該傷害更加
136 大。

137 **譚香文：**

138 周融你說得很對，對她的傷害更加大，所以我要出來澄清這
139 一點。當事人是有……應該這樣說，甘乃威有向當事人求愛不遂，
140 不止一次，是最少兩次。

141 **周融：**

142 你可不可以說得更加清楚些，女事主有沒有拒絕呢？你要問
143 清楚，如果是說“唔好啦”，那男方可能又誤解她半推半就，是不
144 是說得很清楚呢？

145 **譚香文：**

146 當事人是很清楚講給甘乃威聽，拒絕他的求愛，亦都說“喂，
147 你有老婆啫”。

148 **梁家永：**

149 很清晰，這個訊息。

150 **譚香文：**

151 不止一次呀！我相信甘乃威應該知道這個女事主是堅持拒絕
152 他的求愛，如果他昨日在發佈會或者記者會所說的與事實不符，
153 他的誠信便出現問題。

154 **梁家永：**

155 最後一個問題，你會不會建議立法會的有關小組去調查這件
156 事？

157 **譚香文：**

158 我建議立法會應該開一個調查小組去跟進事件，還有，這些
159 是涉及個人道德操守，作為一個立法會議員應該有更高的境地。
160 今次事件如果證實甘乃威有求愛不遂而解僱人的話，我希望甘乃
161 威審慎考慮辭職。

162 **周融：**

163 這個道德上是有問題。

164 **譚香文：**

165 他的個人操守牽連到民主黨，亦牽連到泛民主派，亦牽連到
166 周融你先前說民主派正在跟進普選的爭取，是有很大的連鎖反
167 應，我希望甘乃威審慎考慮不要影響民主黨，亦不要影響泛民主
168 派，嚴肅地考慮辭職。

169 **周融：**

170 我覺得他應該出來解釋清楚，澄清整件事。好，多謝你譚香
171 文，多謝你。

172 **譚香文：**

173 多謝。再見。

174 (完)

Verbatim transcript of the relevant news coverage
on 5 October 2009 by the News Channel of Cable TV

1 **王巧**：民主黨立法會議員甘乃威辭退女助理事件越鬧越大，甘乃威雖
2 然一再否認因為求愛不遂而炒人。不過，本台得悉，佢已經向民主黨
3 承認，曾經向對方表示好感，亦承認做錯咗。主席何俊仁認為，佢犯
4 咗好不道德嘅錯誤，事件如果公開，好大機會要辭職。許秋霞報道。

5 **許秋霞**：甘乃威接受電台訪問嘅時候，堅持冇向被解僱嘅女職員示愛。
6 (記者會片段：甘議員表示「我講得很清楚，我沒有求愛不遂，我講清
7 楚，我並沒有求愛，這個很清楚。」) 不過本台獲悉，甘乃威曾經向
8 民主黨主席何俊仁承認、向投訴人表示過好感，亦承認做錯。何俊仁
9 亦向投訴人表示，以甘乃威自己承認嘅嘢，已經好唔啱，好不道德，
10 投訴人後來被解僱，任何人睇落去，都係求愛不遂引起，事件如果公
11 開，甘乃威要辭職嘅機會好大。至於係咪到性騷擾嘅程度，就要詳細
12 調查。

13 事發之後，民主黨曾經提出為投訴人安排一份工，可以係幫何俊仁或
14 者劉慧卿做嘢，但係薪金由甘乃威繼續支付。後來又提出，可以支付
15 六至九個月人工，即係十幾萬至廿幾萬，作為「不公平」解僱嘅賠償。

16 民主黨喺投訴人要求下，同意向黨團匯報事件，但就提出，只係通知
17 黨內九個議員，「個個都唔可以再周圍講。」甘乃威可以向投訴人發番
18 一封信，承認解僱佢係做錯咗，肯定投訴人嘅工作表現，同講明願意
19 請番佢，等投訴人可以容易搵工。投訴人要求甘乃威另外寫一封信，
20 就求愛不遂道歉，信件唔會公開，民主黨承諾向甘乃威提出。至於調
21 查同懲處，本台得悉，主席何俊仁喺事件曝光之前，原本只提出喺黨
22 團會議向甘乃威提出內部譴責，認為俾人當眾訓斥，已經係好大懲罰。
23 至於紀律聆訊，成件事就會公開。何俊仁當時認為，未必要做到咁嚴
24 重。有線電視記者許秋霞報道。

25 立法會秘書處
26 議會事務部 3
27 2010年2月23日

Verbatim transcript of the relevant parts of the interview of Hon KAM Nai-wai by the radio programme Tipping the Points broadcast on Channel 1 of the Hong Kong Commercial Radio attended by him on 6 October 2009

1 **女主持：**

2 甘乃威事件正在繼續燃燒，其實今天有達8張報紙以甘乃威作
3 為頭條.....

4 **男主持：**

5 都不是一版這麼少，有兩三版。

6 **女主持：**

7其實多過昨天，以他為頭條的報紙。不過，其實事件並沒
8 有新的內情，但矛頭轉到誠信的問題，就是說究竟甘乃威在事件
9 中有沒有說謊。

10 昨晚，我們邀請甘乃威上來我們“左右大局”，與我們談，以及
11 與聽眾對話。他以法律意見叫他不要再說作為理由，推掉我們，
12 我們當然是強烈批評，因為我們認為事件還有很多疑點，而甘乃威
13 作為一個議員，是應該.....我覺得是應該向大家交代。

14 **男主持：**

15 跟新世界好像沒甚麼分別似的。

16 **女主持：**

17 今天，我們再向甘乃威提出邀請，到了下午的時候，他回覆
18 我們，說願意今晚上來與我們談，以及與聽眾對話。現在，甘乃
19 威就坐在“左右大局”的直播室裏。

20 甘議員，經過了24小時，為甚麼你昨晚覺得不可以再說，但
21 今天你又願意上來與我們談、與聽眾談呢？

22 **甘乃威議員：**

23 兩位主持，電台側邊的聽眾。我首先對大家說聲不好意思。
24 昨天我聽到李慧玲說，即我從來都沒有推過“左右大局”的節目，
25 說我不上來，昨天是第一次。那我是.....我的律師對我說，就是我在
26 早上說得比較多有關我與那位同事在解僱過程中的一些比較細
27 節的資料，可能影響到日後的調查，他便建議我不要再說。但是，
28 有些事我是覺得對很多人都不公平，在現時我.....即在24小時內我

29 見到，譬如舉一個例，我自己門口，今天有很多記者，這個是我
30 自己因為我的工作問題……

31 **女主持：**

32 昨晚等到你很晚？那些記者……

33 **甘乃威議員：**

34 ……是的，那些記者……今天整日都有很多記者，這個都是我
35 作為公眾人物，我可以承受。我自己覺得最不好的地方，我知道
36 是被我解僱的那位女同事，亦可能有很多記者正在她的門口在等
37 她。即是，我覺得我作為一位前僱主，作為一位立法會議員，在
38 今次事件中，除了我的女同事，其實今天可能有很多矛頭，大家
39 都看到，可能都指向何俊仁是否……民主黨是否包庇我，今日甚至
40 乎我亦看到電視台說，譚香文為何泄露那位女士的名字出來。其
41 實這些……她都是在過程中，因為我可能在過去的一些失誤，而導
42 致……令他們都被包圍、被攻擊，我覺得我是要承擔這個責任。我
43 不可以縮在“一二角”，我自己我覺得這事情是很重要，就是我的
44 女兒，她對我說……她不是直接對我說，因為我的女兒已經不住在
45 家裏……

46 **女主持：**

47 是否因為這幾天被記者追訪……

48 **甘乃威議員：**

49 沒錯。

50 **女主持：**

51 ……所以她搬了出去？

52 **甘乃威議員：**

53 之前她對我太太說，就是“叫爸爸……應該把這件事如實說出
54 來，是最重要的。”那我想……我自己覺得這也是最重要的，所以
55 我考慮過，昨天我睡了個多兩個小時，今天其實我跟些記者朋友
56 說聲不好意思，實際上我是要翻查很多資料，我希望我能夠準確
57 描述實際的情況。但我希望大家明白，有些事情，去到細節，我
58 因為我是會接受任何合法、合理的調查，任何的委員會的調查，
59 包括立法會的調查，我都願意接受。有時，有些事情我未必能夠
60 詳細說很多，但是，我亦希望盡量能夠把可以說的就說得一清二

61 楚。我希望公眾有一個判斷，到底我的一言一行是否應該受到批
62 評，應該受到一些甚麼的.....要怎樣做法呢？我希望讓聽眾作一個
63 判斷。

64 **女主持：**

65 既然是這樣，不如你向大家重頭說說，究竟你與女助理之間
66 發生了甚麼事？而後來為甚麼會解僱她？其實她在你的辦公室工
67 作了多久？

68 **甘乃威議員：**

69 她在去年12月，哪一天我不太記得，因為我看過合約，好像
70 是十多號的時間，她同我簽合約的。她就是我的私人助理，她主
71 要的工作就是對傳媒的聯絡，有時替我寫立法會的稿件，有時亦
72 會替我搞一些我們特別的event，譬如論壇，她都有替我們做。她
73 過去的整體表現是良好的.....

74 **女主持：**

75 其實，你辦事處應該是有一個私人助理、一個秘書.....

76 **甘乃威議員：**

77 其實，我知道我開了很多辦事處，但是，政府總部的辦事處，
78 即主要是服務我在立法會的工作.....正如我剛才所說，被我解僱的
79 那位女私人助理及另一位秘書，是專責幫我make appointment，是
80 有兩位同事在那裏.....

81 **女主持：**

82但.....

83 **甘乃威議員：**

84她是在12月到職的。

85 **女主持：**

86嗯，根據報道就好像是今年6月，你第一次向她示愛。

87 **甘乃威議員：**

88 我想，在這件事中，其實我自己做了工作二十多年，其實很
89 多時候在工作上就.....很多時候都是談工作的事。其實我是一個工
90 作狂，很少同事跟我說工作以外的事，但今年就有同事跟我說，

91 她在工作以外有一些困擾，那我自己便坐下來，有機會與她談，
92 我想我在席間，我都與她可能有些分享，感情上有些分享，我想
93 我當時就.....即可能是一時的感性，我是曾經有說過對她有好感這
94 句說話。但我想，在這句說話說了之後，在那個環境下，我想強
95 調我不是想著向她示愛。其實在整個過程中，我沒有追求過這位
96 女同事，因為我沒有做過任何行動，送花.....即這樣的行動去追求
97 過我同事。不過，在那特定的環境下，我希望大家有一個.....可能
98 我出於一些安慰，或者我是出於.....即大家都能夠在那一刻，即比
99 較感觸的情況下，說了那些說話.....

100 **男主持：**

101 當時是否在辦公室？

102 **甘乃威議員：**

103 當時不是在辦公室，不是在辦公室。其實.....如果我印象所記
104 得，那次是唯一一次，我不在辦公室，與她單獨見面、傾談，即
105 她提到剛才有關那些問題.....

106 **女主持：**

107 即是在夜晚？

108 **甘乃威議員：**

109 不是，是在日間。

110 **女主持：**

111 在日間。

112 **甘乃威議員：**

113 在日間。

114 **女主持：**

115 即是午飯的時候。

116 **甘乃威議員：**

117 是在下午茶時間。

118 **女主持：**

119 那所謂你對她說，你對她有好感，即是甚麼意思呢？

120 **甘乃威議員：**

121 剛才我說到，因為在整個過程中，我知道有時大家說到一些
122 感情的.....一些可能的分享，在這過程中，我就說，我都是一個比
123 較直率的人，我有時都對你都有好感，這樣子。我知道，事後其
124 實我知道，她覺得我這樣是向她示愛，其實我之後已向她道歉，
125 因為我想我.....

126 **女主持：**

127 即是她即場已告訴你，她感受到她覺得你在示愛？

128 **甘乃威議員：**

129我之後.....我.....即在即場我知道，即是她事後亦有再
130 說，那我事後有向她道歉，就這句說話，我已經向她道歉。當然，
131 在那個.....其實回到現實世界，即有時我可能我在當時的一番感性
132 的說話，但現在回到現實世界，我自己都很明白實際的處境中，
133 我們，我是沒有做過任何的行動，向她作出追求。當然，可能有
134 朋友都問，其實我這句說話是否在我們的民主黨的黨團都有說
135 過，其實我是曾經有告訴我們黨團的成員，黨團的成員都覺得我
136 這句說話是不恰當的。那麼，我當時我亦都承認.....其實我剛才說
137 我都向我的前女同事，之後我都向她道歉，在黨團我都說過，我
138 的做法都是不恰當.....

139 **女主持：**

140 但剛才你提到，即是你第一次向她表示你對她有好感，其實
141 即場你已經知道她覺得你一路正在示愛，而她認為不適當，接着
142 你也道歉。那為甚麼又會有所謂的第二次示愛呢？我們現在要去
143 一去廣告，你回來可否說說第二次的情況？

144 (廣告時間)

145 **女主持：**

146 甘乃威，為甚麼有第二次示愛呢？是否真的有第二次示愛
147 呢？

148 **甘乃威議員：**

149 我自己翻查我所有的日曆，我嘗試看看我究竟有沒有第二次
150 再單獨與這位女士，即我的前女同事聚會，我看不到有。不過，
151 我自己有個印象，因為我記得我在早前去旅行回來，即在歐洲回
152 來，在8月份之後，其實當時我有很多手頭上的工作未做完，我很
153 “忤憎”，當時我的辦事處同事包括這位助理，我都經常罵她們。
154 我覺得去到9月份氣氛不是很妥當，其實都頗緊張，在寫字樓裏。
155 我曾經有一次說 —— 當着兩個女同事面前 —— 我就說“不如大
156 家一起出外吃飯。”當時.....其實之前，我們在6月之前.....其實我
157 們都有出外吃飯，即包括我的兩位女同事，不是單獨的，是兩位
158 女同事。我亦都試過一次，就是我太太與我的兩位女同事，包括
159 我，即4個人一起。所以，我想在9月那一次緩和氣氛，請她們吃
160 飯，其中一位女同事說不去，另外一位，即被我解僱的女同事，
161 我事後再打電話，我說另外那位同事不去，那我打電話給她看看
162 她去不去。可能我自己.....我估計這次可能她感覺得到，可能我又
163 單獨再約她，我想是這樣.....

164 **女主持：**

165 即最後沒有出來，不過就.....有沒有出來呀，最後？

166 **甘乃威議員：**

167 沒有，沒有。

168 **女主持：**

169 不過，她就覺得在電話中邀約.....

170 **甘乃威議員：**

171 我覺得這件事其實都做得不好，因為我自己的警覺性不夠，
172 即可能有之前的事件發生，我相信她都不想再有機會單獨和我一
173 起，所以這件事我覺得是我自己的醒覺性不夠。

174 **女主持：**

175 即是在電話，你沒有再表示你對她有好感的？

176 **甘乃威議員：**

177 沒有，沒有。我再強調一次，“好感”兩個字，如果我印象記得，
178 我是有說過一次，第一次在一間餐廳裏說過一次。

179 **女主持：**

180 這個真是具體的字眼，你當時就是用了“好感”這個字。

181 **甘乃威議員：**

182 我印象中就是這樣。

183 **女主持：**

184 即不是說“我喜歡你”，即是如果……

185 **甘乃威議員：**

186 沒有，沒有，我沒有。因為其實，老實說，我都不是有心裝
187 載，因為實際上……那時應該是6……應該是6月中左右的時間，但
188 是因為……剛才我說過，我都不能夠將所有的細節都全部記得。

189 **男主持：**

190 但你說事後，那位被你“炒”的女同事對你說過這件事，當她跟
191 你說的時候，你認為這是投訴還是問你，“你是否真的鍾意我？”
192 即當時你的感受是怎樣？接收這個信息時？

193 **甘乃威議員：**

194 我想她就無投訴，不過，之後她……我看到她有時有些言行對
195 我有些抗拒，細節我就不想說下去。我自己知道這個感覺，所以
196 我提到我在該次會面後，我之後曾經向她道歉。

197 **男主持：**

198 即你都感覺到，你的女同事是因為你告訴她你對她有好感，
199 而令到她不舒服？

200 **甘乃威議員：**

201 是，這個我感覺到。

202 **女主持：**

203 既然你重提第一次的情況，你告訴她你對她有好感，你就說
204 這個並不代表求愛。那麼，其實有時大家都是成年人，很清楚有
205 些說話……其實你怎樣說，即可能字面上同樣的字面，但是其實是
206 可以閱讀到不同的意思的，亦都譬如你說“好感”，其實你是純粹
207 是當時安慰的說話，還是根本你是對她發放一個求愛的信息呢？
208 其實，即可以是同樣的字眼，但具體的意思是很不同的。那麼，

209 你會不會都承認，其實當下你對她表達，即是你對她好感，其實
210 你真的確實有求愛的信息，而不是正正常常，正如我現在說：
211 “KEN，你今天都頗靚仔”，即是這些普通的說話。

212 **甘乃威議員：**

213 我剛才也說過，在該次聚會上，大家都說到一些感情上的問
214 題，我想在當中一時的感性，一時的感觸，在這樣的情況下，你
215 說我會不會是一句安慰的說話呢？我不能夠說我當日是說安慰說
216 話。但剛才我說過，如果我是求愛，我根本並無過去.....但如果，
217 你回看，因為一定有前文後理，由她12月開始工作到6月，其實我
218 沒有任何追.....即如果我是求愛，我不會有任何追求她，但之後我
219 亦無任何.....

220 **女主持：**

221 不是，如果她那句說話，當時你就是給了她第一個信息，如
222 果當時那位女士是有進一步的回應，即其實就好像打乒乓球般，
223 打了一球進來，那我說我有回應的時候，其實是否會發展一段婚
224 外情呢？即以你當時的情況。

225 **甘乃威議員：**

226 嗯.....

227 **女主持：**

228 如果是這樣的時候便是求愛了。

229 **甘乃威議員：**

230 我想這是有點假設性，究竟將來的發展.....我只是很清楚，在
231 當日一個感性的場合，我說了這番說話，但回到現實中，我是沒
232 有向她做過任何追求她的行為，我希望大家都明白，我並無送
233 花.....送朱古力，我好像記得我那次去完歐洲旅行，每位同事我都
234 派同樣的朱古力.....

235 **男主持：**

236 但席間有沒有提過與太太的感情很淡這些話題？

237 **甘乃威議員：**

238 我想有些的分享，我想我和太太結婚已有.....19.....

239 **男主持：**

240 三十多年？

241 **甘乃威議員：**

242 沒有，沒有，沒有三十多年，二十多年而已。那我想實際上，
243 我說感情的生活上，這二三十年的感情生活當中，當然是有起有
244 伏，有平淡的時間，這些感情的分享是有的。

245 **女主持：**

246 嗯。但當時你發出那句說話的時候，你是否覺得真的……現在
247 事後回看，其實你都是對太太的一個不忠呢？雖然你具體沒有……
248 行為上，但其實你已經是發出了一個信息給另一位女士。

249 **甘乃威議員：**

250 我想，剛才我說過，第一，我已向那位女士道歉。當然我亦
251 都要向我太太道歉，今次的事件上，她不單只鼓勵我，她給我很多
252 意見，其實她不是公眾人物，但要面對很多鏡頭、攝影……這樣
253 子。我想，我只是想說一句，就是“患難見真情”。

254 ……

255 **女主持：**

256 在7時前，甘乃威已向我們說了，曾經有兩次事件，可能導致
257 女助理覺得是示愛的情況。第二次其實是發生在9月，主要是因為
258 一個電話。我想問一下，現在你解僱女助理，是否在說完這個電
259 話之後的翌日呢？

260 **甘乃威議員：**

261 我的印象就不是的，都是在9月份之內吧……

262 **男主持：**

263 9月24日發信給她，是嗎？

264 **甘乃威議員：**

265 9月24日發信件的……

266 **女主持：**

267 那個電話是何時？

268 **甘乃威議員：**

269 我想是在9月初至中左右.....如果我印象記得的話。大家可能
270 會問我，為甚麼要解僱該女助理呢？其實.....我再重申，她整體的
271 工作表現是良好的。但是.....其實在7、8、9月的時候.....其實我
272 們之間有一些"拗撬".....其實我的同事都看到的.....可能我都有責
273 罵她的工作.....

274 **女主持：**

275 但是，6月的時候就發生第一次.....你吃飯時說對她有好感.....

276 **甘乃威議員：**

277 是的，是的。我想.....那些拗撬都是工作上的問題。到最後那
278 次就是在9月23日。當時我已計劃在當天4時半，我有.....包括我在
279 內，有4位同事和我一起開一個職員工作分配的會議。但是，當時
280 她就.....因為她手上有工作，她不想放下手上的工作，我當時就"發
281 老牌"說："喂，會議是因為工作分配，你又不願意放下手上的工作。"
282 我當時就"發老牌"。其實，當時很多同事都看到我訓斥她的。我想
283 當時的時間.....接着那天.....因為剛才說過過去我們也有些"拗
284 撬"，我在24日那天，我就.....早上我回到.....其實我在23日都準備
285 解僱她。但是，因為到24日那天我回去時，我也有向她說，我不
286 可以接受你的工作態度，我想.....我希望給一個月的代通知金，你
287 就離開吧。其實當時她曾提到有沒有.....當然很不開心，她又問有
288 沒有其他的方法解決。當時我說.....因為那天接着我都有會議要
289 開，我說完後.....其實當天並沒有簽署任何東西，我說完後.....便
290 說.....其實.....我說你.....唯一的解決就是你改變你的工作態度
291 吧，我接着便沒再說甚麼，她便出去了。我接着去了開會，下午
292 再回來，我的同事告訴我，她已收拾東西走了。當時我記得是5
293 時.....好像要開黨團。我想那個解僱過程就是這樣。但是.....譬
294 如.....之前.....我過去都有一些電郵提及過.....我對她的一些工作
295 要改善的地方，其實過去都.....6月往後都有一些這樣的電郵，我
296 想.....細節我就不想說了。

297 **女主持：**

298 但是.....她去到.....你回到公司，發現她已收拾東西走了。但
299 是.....在與她討論解僱的整個過程中，有沒有再提及6月的事件，
300 以及之前那個電話，好像有些示愛表示的事件呢？即互相在對話

301 中，譬如對方會否覺得你現在是否在報復呢？有沒有這些令你重
302 新記憶，其實你與她之間是發生過一些事情呢？

303 **甘乃威議員：**

304 我印象中是有的。但是，細節我不是很記得。當然，她也有
305 說過她都是一個.....如果我印象上.....好像說她都是受害人.....大
306 概是這樣的字眼，我不很記得，因為我沒有錄下來。但是，實際
307 上，她有說過類似的字眼。所以，其實當時.....那一刻我沒有給她
308 簽署任何東西，其實我當時都已離開了辦公室，可能.....回想起
309 來，如果當日她仍然在的話，可能我會繼續。不過，我自己想說，
310 無論.....

311 **女主持：**

312 不是啊，你說她曾再次提及啊。即是說你其實在解僱她的時
313 候，你是記得，你們之間曾經發生過一些疑似求愛不遂事件.....

314 **甘乃威議員：**

315 我.....我.....

316 **女主持：**

317 你認為不是求愛？

318 **甘乃威議員：**

319 是，我想我.....她是有.....細節上是怎樣，我不很記得，你說
320 這個類似字眼是有。不過，我剛才正在說，無論如何，怎樣都好，
321 我覺得在今次的解僱事件中，我做得非常之錯。我完全要承擔這
322 個責任。所以，之後她作出投訴，我自己覺得對這個當事人來說，
323 最重要.....我知道.....據我理解，最重要的是她要找回一份工作。
324 我自己當時.....之間曾經.....譬如她會否回來復職，或者她會否轉
325 到其他辦事處工作各方面，其實我們都盡.....我自己作為一個負責
326 任的僱主，我既然做錯了事，我應該盡我的能力.....我可以的能力
327 範圍，都希望能夠盡量幫她度過現在沒有工作的難關。我覺得這
328 個.....

329 **女主持：**

330 其實，她是何時投訴的呢？

331 **甘乃威議員：**

332 如果……據我的理解，好像是24日當天，她都有投訴的。

333 **女主持：**

334 向誰投訴？

335 **甘乃威議員：**

336 她好像向副主席劉慧卿投訴。

337 **女主持：**

338 你是……

339 **甘乃威議員：**

340 她應該……連同……因為所有的事情，我不在現場，我知道她
341 跟譚香文及副主席見過面。但是，細節內容，我不在場，我不知
342 道說過甚麼。

343 **女主持：**

344 但是，我有點奇怪的是，其實在解僱的過程，你說曾與她討
345 論，其實她當時都認為你是求愛不遂而解僱她。但是，你在這個
346 背景之下仍堅持要解僱她？

347 **甘乃威議員：**

348 我想你剛才說求愛不遂那幾個字，我印象中沒有出現過這幾
349 個字。

350 **女主持：**

351 但是，你說她有再提及你6月的時候，你與……

352 **甘乃威議員：**

353 她……不是……不是……她沒有……不是……我剛才正在說……
354 她……因為細節我不記得……不記得她是否說6月，但是，她覺得
355 她感情有困擾，我仍然要解僱她，我覺……她覺得她是受害者。所
356 以……

357 **女主持：**

358 即是覺得她正在失戀，可能情緒不好，你就不體諒她，解僱
359 她，而並不是再提及你與她之間曾經發生過事情？

360 **甘乃威議員：**

361 我想.....是否說得那麼明顯，我就不是太有這個感覺。但是，
362 即是剛才正在說我不能夠.....

363 **女主持：**

364 不如這樣說吧，你是何時知道她是投訴你，因為求愛不遂而
365 解僱她呢？你第一次知道是何時呢？

366 **甘乃威議員：**

367 我.....當24日，應該是她見了我們的副主席後，副主席之後曾
368 跟我說，但是哪個日子就不記得了，之後是有向我說有關.....但
369 是，有關她投訴的內容，我就不.....因為沒有得到她同意，我不
370 可以說，因為她是.....據我理解，她要求民主黨保密。

371 **女主持：**

372 但是，她投訴你嘛？

373 **甘乃威議員：**

374 是的，她投訴我，這個我知道，但是，投訴.....

375 **女主持：**

376 她是否投訴你因求愛不遂而解僱她呢？

377 **甘乃威議員：**

378 所以.....說投訴的內容，因為我沒有得到她的同意，我不可以
379 說，因為她要求保密。我希望大家明白。因為是她要求.....因為我
380 今天都聽到電台說，我們.....放寬條款，無須保密。現在的問題是，
381 當事人要求保密，我想.....希望.....其實.....老實說，我們過去.....
382 為甚麼我一直都不說，今天為甚麼我來到電台節目說，其實有一
383 個很重要的原因，就是我不希望新聞界的朋友再去....."圍"她，因
384 為她已經是一個受害者，她要面對那麼大的壓力，是因為我自己
385 做錯事，我覺得壓力不應在她那裏。我要再一次向她說真的對不
386 起。

387 **女主持：**

388 其實你的總結，你做錯了甚麼呢？

389 **甘乃威議員：**

390 我想有幾方面，剛才提到第一次我在6月份跟她分享的時間，
391 談到有關她覺我是求愛的說話，我第一次已向她道歉。第二次是，
392 另外有關我這個脾氣暴躁的一個僱主，在這樣的情況下，還"炒她
393 魷魚"，我想我不單.....其實向她道歉，其實我都向過去曾在我辦
394 事處工作的人.....可能做得不開心的人，我都要道歉，因為我要汲
395 取今次的經驗和教訓，改我自己的脾氣。

396 **男主持：**

397 但是，你過去那麼多年，又做區議員，接着市政局以至立法
398 會，有沒有試過這樣立刻"炒人"，連通知信也沒有而要他即日走？

399 **甘乃威議員：**

400 有，有試過，我有試過這樣的例子，我曾試過這樣的.....其實，
401 我原本有另外一個同事，我正想這樣做，不過.....但是，後來並沒有
402 這樣做。我本來有一個同事，可能.....辦事處都已有人傳出來
403 了，但是，我自己覺得這種做法，作為一個負責任的僱主，我日
404 後不會再這樣做。

405 **男主持：**

406 嗯。事後你就說，當天已支付了一個月代通知金給她，那事
407 後是何時向她說會額外補償給她？

408 **甘乃威議員：**

409 我想.....我並不想去到.....所謂一些已處理了有關她所投訴的
410 問題，有關僱員合約的問題的細節內容.....我剛才再重申，我很希
411 望盡我自己的能力，如何再幫這個僱員，能夠再有一份工作.....
412 其實她最主要是希望再有一份工作，我想這是最重要的地方。我
413 亦想說，因為我自己覺得這次解僱.....我做得不恰當，我今天會再
414 寫信給立法會，我在今次的.....那一個月代通知金，我不會向立法
415 會作出申報，因為作為我自己做錯事，應該自己承受有關責任。
416 所以，我只是申報了她9月1日至24日的工資，但在代通知金方面，
417 我就不會向立法會作出申報。

418 **女主持：**

419 甘乃威已說了他自己的版本，相對比較詳細地說出一個版
420 本，就是與女助理之間究竟發生了甚麼事。收音機旁邊的聽眾，
421 如果都想.....有一些疑問，想問清楚甘乃威，或者對這件事有一些
422 甚麼看法，歡迎來電1872881，1872881。廣告之後，我們就.....
423 甘乃威與聽眾對話。

424 (音樂)

425 聽眾可以來電1872881直接與甘乃威傾談。

426 甘乃威，你是何時第一次向你太太談到這件事呢？

427 **甘乃威議員：**

428 其實，過去我都不時跟她說辦事處的事情，剛才我也說過，
429 我也試過與她及女同事.....兩個女同事一起吃飯。第一次向我太太
430 說這件事，我印象中大概是6月份的時間，就是那次最.....即剛才
431 我說與那個女同事說完這件事之後，我跟太太.....

432 **女主持：**

433 即是立刻回去"報案"？

434 **甘乃威議員：**

435 我有跟她說.....告訴她那個情況。我想她是完全知道.....我的
436 情況是怎樣，我有回去告訴她。

437 **女主持：**

438 她有甚麼反應呢？

439 **甘乃威議員：**

440 我想.....我自己看到就.....當然，在表面上，她沒有甚麼特別，
441 我相信女士內心應該是有點不舒服的。我想.....剛才說到，我太太
442 是.....我太太對我很好。

443 **女主持：**

444 怎麼好呢？

445 **甘乃威議員：**

446 我想她在今次事件上，可能她在家中是大家姐吧，她也是很
447 堅強的.....給予我一些意見。我剛才說過，大家在這個如此艱難的
448 時刻，能夠與我一起面對這事件，讓人評頭品足，她亦處之泰然。
449 我想.....剛才說過了，"患難見真情"，在二十多年的婚姻生活，我
450 與她認識了30年，我想今次是對我們一個最大的挑戰，而我們希
451 望能夠安然地度過，我相信我們會走更長的路。

452 **女主持：**

453 但是，太太有沒有提出因為今次的事而想離婚呢？

454 **甘乃威議員：**

455 沒有，絕對沒有。我想她內心有不舒服，但她絕對沒有提過
456 離婚，她一直都是鼓勵我。

457 **女主持：**

458 即她只是內心不舒服，她甚至沒有對你說過，她對這件事有
459 任何的不滿或其他？

460 **甘乃威議員：**

461 沒有，絕對沒有，絕對沒有。

462 **男主持：**

463 你有沒有向她道歉呢？

464 **甘乃威議員：**

465 有。我已經第一時間回去認錯。

466 **女主持：**

467 但是，其實你6月時對她講，那麼，近日報紙提及很多情況，
468 都不只是6月，提及了很多情況，一時又說約她北上按摩、"枕骨"
469 等，其實這些時候，太太看了這些報道，有沒有問你呢？

470 **甘乃威議員：**

471 有，她知道的，剛才正在講.....其實說回按摩那件事，又是
472 在.....那次在寫字樓，其實有兩個女同事都在場，我說.....是同樣
473 的情況，我希望緩和一下氣氛，搞一些戶外.....即離開辦公室的活
474 動。當時，之前我已徵詢了我太太的意見，因為我都要找一輛7人

475 車，那可以載同事，可能她有男朋友一起上去。我太太是知道這
476 件事的，她都鼓勵我，叫我不要經常罵人，她經常叫我不要罵人，
477 她都鼓勵我去做……

478 **女主持：**

479 其實太太對你那麼好，那你有沒有想過其實當日你開記者
480 會，要太太陪在你身旁，其實那是做甚麼？是做show而已，讓大
481 家看太太仍是支持你。你一方面說太太對你那麼好，但你仍要她
482 做一些如此艱難的東西，即要她在那裏做布景板，為了你出來記
483 者會好看一些。那麼，你會不會覺得你罪加一等呢？

484 **甘乃威議員：**

485 我想講從她的角度，她不覺得是布景板，是她自己提出如果
486 她出席記者會，對我是不是有一些幫助呢？我想其實她一直都支
487 持我，我想在這個過程中，我對我太太只可以說……對不起。

488 **女主持：**

489 1872881，在7時半之後，甘乃威便與聽眾傾談。

490 ……

491 **女主持：**

492 電話內有聽眾李先生，李先生。

493 **聽眾李先生：**

494 是，3位，你好。

495 **女主持：**

496 李先生，不好意思，要你等了很久。

497 **聽眾李先生：**

498 不要緊，不要緊。

499 **女主持：**

500 有甚麼想跟甘乃威說？

501 **聽眾李先生：**

502 我想問甘先生，其實你今次的處理方法，以及你們的民主黨，
503 好像給我們一般市民，尤其是我們支持普選、支持泛民的人，覺
504 得好像變成了去到其他，好像民建聯或者其他你們平時"砌"的黨的
505 阿叔般。我們大家市民其實都聽到，你們所說出來的東西都"口窒
506 窒"的，很沒有說服力，與平時不相同。其實大家.....其實沒有說
507 清楚而已，可能大家都估到真實答案是甚麼，尤其是一些報紙說，
508 如果何俊仁真的知道真實的內情，如果他仍出來公開說想.....調查
509 委員會，我覺得他的誠信已經有問題。現在你拖累了整個黨，現
510 在主席和副主席都已產生了誠信問題，我不知道你自己對於你個
511 人的去留問題是怎樣看？

512 **女主持：**

513 即李先生現在問你甘乃威會不會辭職？

514 **甘乃威議員：**

515 我想.....先說到.....你剛才提到主席、副主席的問題，我覺得
516 為甚麼我今天要出來，都是因為我覺得他們已承受太多。因為我
517 造成的錯誤，其實在過去的時間，因為主席、副主席均有直接與
518 那位女事主會面，她一直都要求主席、副主席要對她的內容保密，
519 那便限制了主席、副主席不能說太多東西。

520 同時，譬如最近一次大家問我有沒有求愛，我說沒有。有些
521 朋友、很多朋友說我是否說謊，就這件事，其實主席、副主席一
522 直都要求我出來澄清，但當時我.....其實我都說過，在這件事
523 中，有些東西牽涉到女事主，我是不能說的，所以我沒有第一時
524 間出來澄清。我想今日在此我必須澄清，第一，我沒有說謊，因
525 為我沒有向那位女事主，從我的角度，是沒有示愛。當然，如果
526 我實際上令那位女事主有這種感覺的話，我會向她.....即我都會向
527 她道歉和說對不起。

528 **女主持：**

529 但其實你會不會是"捉字蝨"呢？正如我們剛才說，為甚麼我在
530 節目一開始時，在這裏與你糾纏於究竟當時你說對那女事主有好
531 感，這一句是否發出一個求愛信息？因為其實現在只不過是對方
532 沒有一個積極的回應而已，否則，如果接下來有下文時，其實這
533 些東西就是你說一句，我給你一個反應，就是這樣的，那麼，其
534 實那便是一個求愛信息，便是一個求愛了。

535 **甘乃威議員：**

536 我想我不想在……即……

537 **女主持：**

538 因為重點在於哪裏呢？如果當時那是一個求愛的信息，而你
539 接着說沒有，其實就是說謊，就有誠信的問題了。

540 **甘乃威議員：**

541 我再重申一次，大家要看前文後理，我一直都在說，由她12
542 月入職到6月，我沒有做過任何追求行動，即使在6月之後到9月，
543 我亦沒有做過任何追求的行動……

544 **男主持：**

545 但我想問，示愛不是說時間長短，示愛是說那個時刻……你有
546 沒有動作的感覺……

547 **甘乃威議員：**

548 我明白，我只是想說，我對得天地良心，我很清楚我在那一
549 刻，我剛才說過，在一個感性的場合，我承認我有說過這句說話，
550 但我沒有示愛，我沒有說謊，這點是很清楚的。

551 **女主持：**

552 不是，我想……

553 **甘乃威議員：**

554 但是，我剛才提過……

555 **女主持：**

556 ……定義方面，大家可能有很不同的看法，即我只可以這樣
557 說……

558 **甘乃威議員：**

559 我明白。

560 **女主持：**

561究竟當時那是否一種求愛，那麼，甘乃威認為不是，因為
562 他覺得自己沒有接着與她到淺水灣喝下午茶，然後去"拍拖"，他覺
563 得沒有那些就不叫求愛。但是，可能一般人，我和郭志仁就覺得，
564 你們一男一女，你發放一個其實你對她有好感的信息，在某程度
565 上，其實你正在發放一些求愛的信息。

566 **甘乃威議員：**

567 不是，我想說，我剛才正在說，因為.....第一，我沒有寫下當
568 日細節的內容，我想說出其中一點，就是當日在一個大家曾說
569 到.....因為她有一些困擾，是有關感情的問題，在一個這樣的場合
570 我說了一些這樣的說話.....

571 **女主持：**

572 不是，如果你沒有意思，你就無須道歉了。即如果你只是純
573 粹安慰.....

574 **甘乃威議員：**

575 因為.....不是.....不是.....

576 **女主持：**

577 你剛才都說你不是安慰，你一開始時你說.....

578 **甘乃威議員：**

579不是，李慧玲，我想說因為當女士有這樣的感覺時，我覺
580 得我是說多了。我作為一位男士，我是應向她道歉的。這點是很
581 清楚的，我是有的，其實我不是之後.....到現在才道歉，我在當
582 時.....即我其後在有一個場合上，我專誠向她.....

583 **女主持：**

584 不過不再糾纏於這個問題，反而李先生剛才問到你會不會辭
585 職呢？

586 **甘乃威議員：**

587 我知道很多新聞界朋友今日都追問我這個問題，其實我再次
588 重申，我願意接受任何的調查。在這件事件中，包括民主黨的調
589 查或者獨立的調查，以至立法會的調查，我都會絕對樂意配合的。

590 但是，在今次的事件中，我作為一個公職人員，我亦作為一位新
591 任的立法會議員，我只想說：經一事，長一智，我希望大家都能
592 給我一些空間，我接受今次的調查，我會繼續做好我自己.....

593 **女主持：**

594 即簡單，你.....

595 **甘乃威議員：**

596工作上的本份。那麼，我會做好工作上的本份，我會堅持，
597 我想說的其實.....

598 **女主持：**

599 簡單來說，你就是不辭職，是不是這樣？

600 **甘乃威議員：**

601 沒錯，我想實際上來說，我不會這樣容易.....因為我自己有一
602 個選舉的口號，是永不放棄。我希望我能夠繼續堅持走民主的道
603 路，亦希望繼續服務.....

604 **男主持：**

605 但有沒有想過？

606 **甘乃威議員：**

607 我想說的就是，當然，一定有想過辭職的問題，我想人是有
608 脆弱的一刻，不過我想說，談及辭職的問題，我記得民主黨主席
609 何俊仁對我說，我們是民主黨人，我們有原則，我們一定要把事
610 件搞清楚，其實我自己個人.....

611 **女主持：**

612 蘋果日報說你是作勢辭職而已。

613 **甘乃威議員：**

614 我說的是，我自己個人的去留是很容易的，但我自己在社區
615 內服務了廿多年.....

616 **男主持：**

617 突然間好像董先生。

618 **女主持：**

619 哎吔，不要好像董建華的說話……

620 **甘乃威議員：**

621 不是，我明白，但問題是，我想說的是實際上服務了廿幾年，
622 我自己做錯事情，我自己承擔這個責任，我願意承擔這個責任，
623 我希望收音機旁的朋友、市民都能給我一個機會，令我可以繼續
624 做下去。

625 **女主持：**

626 喲，看看市民是否給你機會，電話內有等了很久的林先生。
627 林先生，不好意思。

628 **聽眾林先生：**

629 不要緊。

630 **男主持：**

631 有甚麼想問……

632 **聽眾林先生：**

633 他說完之後，我發覺他的辯詞，即我都可以做議員，我很想
634 選……

635 **女主持：**

636 2012吧。

637 **聽眾林先生：**

638 不要緊，我想說說昨天一些報紙或者是譚香文小姐“大做”，以
639 第三者的角度“砌”你，你現在已經燒到上心口，還向別人說這個
640 reputation、誠信和你對那個人的承諾不保密。如果我是你，你叫
641 那個受害者出來，要她出來對質，如果你真是沒有做過的話，便
642 叫她出來對質，當著面說，好過你現在“口窒窒”，我們聽到我們
643 都不相信你，我只覺得你偽善。如果你真是沒有做過，叫她出來：
644 “拿出證據來，我怎樣向你示愛，當時是甚麼環境，說清說楚。”
645 總好過現在我聽到你說“女受害人”，如果你都覺得他是女受害人，
646 你是一個施行欺壓的人。你即是……

647 **女主持：**

648 林先生，你不覺得今晚甘乃威已經相對說出他所認為的事實
649 給大家聽，你覺得今晚聽完後，你不覺得他已說得相對比較多了？

650 **聽眾林先生：**

651 覺得他是偽善，你還在保護她，我當然不保護你，我可能連
652 份工都沒有了，我前途都沒有了，我以我的家庭和你的承諾作一
653 個交換，我當然不肯啦，如果給我說。還有請香港的市民睜開眼
654 睛，你要一個議員，我不是幫你，甘乃威，你要一個議員返工勤
655 力，我見到你百分百的，你還是要一個操守所謂好好的，只是沒
656 有被人知道或沒有被人影到吧，但是一年中只返立法會一次會，
657 你選擇那個？我希望各位小農社會的香港選民，看少些電視劇
658 集，多些自己獨立思考。

659 **男主持：**

660 我們給甘乃威一點時間作回應。

661 **女主持：**

662 謝謝林先生的意見。

663 **甘乃威議員：**

664 剛才我說到我的前助理，我亦希望大家可以給她一點空間，
665 實際上大家都知道她不是公眾人物，在今次事件上，她已面對很
666 大的壓力，我希望大家給她一點空間，我想說我們沒有阻止她出
667 來公開說任何東西。主席、副主席見到她，我知道他們有說，如
668 果你要投訴任何的渠道……其實老實說她也是做傳媒出身的，所
669 以其實她懂得所有的渠道。我希望剛才提到，有關她本身已經在
670 這樣困難的時刻，今日我來到這裏，因為我知道有很多人圍著她，
671 我希望大家給她一點空間。

672 **女主持：**

673 下一位聽眾，張先生。張先生。

674 **聽眾張先生：**

675 其實我想問一問甘乃威，我看電視新聞看到前立法會議員譚
676 香文說，其實你既然對這些求愛不遂的情況，對下屬其實已不是
677 第一次，我覺得……其實你有沒有，即是我當你第一次其實可能真
678 是不是太過……可能做得不好，出了這樣的情況，這次又是這樣，

679 他們覺得會不會真是那麼偶然，又會發生同一樣東西，亦都是誤
680 會呢？

681 **甘乃威議員：**

682 我想我因為我有些東西我也不能掌握譚香文女士所說的內
683 容，我想我過去我是沒有收過任何相關的投訴，當然有投訴我的
684 脾氣不好，過去也有些同事和我談過，我經常收到這個投訴，我
685 希望我自己未來的時間都能夠作出改善。

686 **女主持：**

687 跟著有陳先生，陳先生。

688 **聽眾陳先生：**

689 你好你好，我聽完甘乃威說，我覺得他是一個很誠實，超誠
690 實的人，如果他沒有說大話的話，他對道德操守相當之高。因為
691 你那些只是很普通的flirting而已，如果不是在religious宗教的圈
692 子，我想那位女士太敏感了，香港有些人日日都.....普通很多女
693 子天天都聽這些，很多僱主日日都摸摸手，但已合作十多二十年。
694 我有些朋友是老闆，他的女伙記天天都flirting，摸摸手.....

695 **女主持：**

696 好像不是太對。

697 **聽眾陳先生：**

698 是呀，我和那些女同事說，如果你告你老闆，我做證人，是
699 很嚴重的，他們已經合作十多二十年。那個老闆說don't cheat at the
700 place you eat，他自己心底知道不會在自己做這些東西，有些人作
701 風是這麼，如果甘乃威這樣說，我覺得他是一個很decent，很照顧
702 人的人，如果他是100%這樣的話。

703 **女主持：**

704 陳先生說了他的意見，謝謝陳先生。

705 **女主持：**

706 跟著有另一位也是陳先生，陳先生。

707 **男主持：**

708 喂，陳先生。不要緊，讓我們再接再駁第二位。今晚剛才提到
709 譚香文，你怎樣看她的角色呢？

710 **甘乃威議員：**

711 我自己覺得剛才提到，她也只是……我相信她也只是一心想幫
712 那位女事主，究竟她……譬如今天有些報道說她有沒有得到女事
713 主的同意說出她的名字，我覺得有些對她不大公平。但實際上，
714 為甚麼今天我走出來，其中一個原因，我不想因為我的錯而令那
715 麼多人被指責，這個也是我出來的原因。我希望今次事件，其實
716 我今天想向傳媒說，我今天上完這個節目，我不會就這件事再發
717 表意見，我都要等待接受調查，我希望大家都能給我一點空間。
718 但有些人說，我這兩天都沒有出席立法會，因為這幾天要準備，
719 其實我幾晚沒有睡，我這兩天準備有關這些資料，為了今日上來
720 節目。往後的時間，譬如星期五立法會的財務委員會，我會返回
721 立法會，我會如常工作。

722 **女主持：**

723 陳先生回來了。聽眾陳先生。

724 **聽眾陳先生：**

725 是呀，喂，我只想說兩樣東西，其實第一樣東西，我就想反
726 映大家做主持，我覺得你們不要那麼偏激，不是人家的妻子上去，
727 便一定是丈夫捉她上去要她支持，人家妻子可以衷心上去支持丈
728 夫，這個是第一樣東西我想反映。第二樣東西，甘先生我想問其
729 實你現時怎看自己的政治前途呢？

730 **甘乃威議員：**

731 我自己從政那麼多年，今次是我自己面對最大的風浪。剛才
732 我曾說，如果選民或者市民給我一個機會，我希望能夠繼續走下
733 去。我自己作為民主黨的人，爭取民主的人，可能李慧玲又說我"
734 老土"，其實如果計較個人的得失，我就不會入民主黨。我只是希
735 望能夠用我自己過去的工作經驗，繼續服務香港市民，繼續爭取
736 民主，這是我們民主黨人一貫堅持的信念。

737 **女主持：**

738 是不是民主黨支持這個總辭，你便會好像湯家驊那樣退出民
739 主黨？

740 **甘乃威議員：**

741 我看不到現在民主黨會這樣做。

742 **女主持：**

743 好，我們先播一下廣告，回來再說。

744 [廣告]

745 **女主持：**

746 甘乃威，其實在這件事曝光後，報紙有很多民主黨的消息傳
747 出來，有個說法就是，其實這個反映了民主黨的黨爭很厲害，不
748 少人"睇住"你的職位。

749 **甘乃威議員：**

750 這些都只是報章的報道或忖測而已。

751 **女主持：**

752 有人告訴報章，報章才可以報道。

753 **甘乃威議員：**

754 可能有一個民主黨人這麼說……

755 **女主持：**

756 那麼那人是誰？最"睇住"你職位的人是誰？

757 **甘乃威議員：**

758 我不知道。實際問題是，我們是相當團結一致的，在這次事
759 件上，很多地區的議員都，其實他們知道我平時的為人是怎樣，
760 知道我喜歡"鬧人"，說我鬧出禍來。所以我想我在這件事情上，
761 在這個過程中，只會令我們更加團結，我看不到會出現黨爭的問
762 題，因為實際上，你看到最重要如果那篇報道是基於事實的話，
763 我想實際上在現在這個過程中，我看不到民主黨出現不同派別想
764 爭我這個位的問題。

765 **女主持：**

766 但你會否覺得這新聞出了之後，給你一個反省，就是其實原
767 來都有不少敵人。

768 **甘乃威議員：**

769 如果我自己沒有做錯，那便不會被人批評，我覺得我應該自
770 己先作出檢討，我想這是最重要的。所以，做完檢討後怎樣繼續
771 走這條路，我自己覺得其實在今次事件上，我再次非常多謝主席、
772 副主席，他們給了我很多意見，亦承受了很多壓力。但是，我們
773 都……譬如剛才李慧玲或者聽眾都講，其實我們民主黨……我最記
774 得劉慧卿對我講，用哪把尺對民建聯，就應用該把尺對民主黨……

775 **女主持：**

776 但最慘是我們外界看不到。即……

777 **甘乃威議員：**

778 不是，因為……

779 **女主持：**

780 因為正在用兩把尺。

781 **甘乃威議員：**

782 ……不是，因為在這過程中，我們現在要調查。現在那個調查
783 因為可能時間拖得較長，所以我想實際上我們希望能夠……即譬如
784 其實好像有商討過找哪些人士進行獨立調查，可能有時有些東西
785 也是困難的。我希望大家能給我們一些時間和空間來進行這項工
786 作。

787 **女主持：**

788 嗯，即整件事到了這個階段，其實整件事的總結，你自己覺
789 得自己最錯是甚麼呢？

790 **甘乃威議員：**

791 我自己覺得最錯的地方，就是我經常以為我的脾氣是這樣就
792 是這樣，是無法改的，這可能就是我的招牌貨，其實這點是我自
793 己最錯的地方。

794 **女主持：**

795 但是，你好像經常把這件事定位到是你的脾氣暴躁，即與女
796 助理爭執的問題，卻好像沒有放在感情那方面，好像把焦點一定

797 要轉到脾氣暴躁方面，但在感情方面，你卻好像沒有檢討或者反省呢？在處理男女間的感情。

799 **甘乃威議員：**

800 當然有，我剛才.....你正在講我吸收了甚麼經驗，我剛才正在
801 講會在脾氣方面吸收經驗，我亦要小心處理有關我下屬，即大家
802 講工作以外的東西。我剛才其實聽到一位聽眾說你拍下屬的膊頭
803 等各樣東西，我想這點是我絕對不會這樣做的。但是，現在不單
804 止拍膊頭，可能言語之間更要謹言慎行，這是我特別留意的地方。
805 我想在今次事件中，經過今次的事件後，我想在未來的時間，
806 我相信，我希望在未來處理工作時能更加成熟。

807 **男主持：**

808 你覺得總結這件事，你有否需要對你的選民或者香港市民道歉呢？
809

810 **甘乃威議員：**

811 必然的了，我必然需要向過去支持我的人，第一，我要講先
812 對我太太，我的家庭，特別我亦要對那位即我的前女助理，表示
813 萬二分的歉意。當然，對選民來講，在今次來說，在這個過程中，
814 令到他有失望的地方，我自己覺得我自己作為一個僱主，其實我
815 過去都講過，如果作為僱主被僱員投訴的話，這已不是一個好僱
816 主了。所以，我都希望我自己作為一個僱主的身份，在未來能把
817 工作做得更加好。我亦向從前曾被我罵過的一些僱員，我再次對
818 他們作萬二分的歉意。

819 **女主持：**

820 你仍然強調其實你罵過那個僱員，你亦向那個女助理致萬二
821 分的道歉，但其實在整件事上，現在你的信譽或者你的操守方面
822 不停受到批評，其實在比例上是很大的。如果只是脾氣暴躁，按
823 道理是不應受到如此嚴厲的批評。但是，反而你現在走出來說要
824 向女事主、助理道歉或者怎樣怎樣，那麼，其實你都是接受你在
825 處理男女之間的關係上出了問題，是嗎？

826 **甘乃威議員：**

827 當然，我剛才講過，在這事件中，當我與特別是女下屬方面，
828 在處理方法上，我是一定要很小心處理，特別是在感情上的問題。
829 有時，我自己都要小心看看怎樣才能不令對方有這樣的感覺，這
830 是我在未來要做得更加好的地方。

831 **女主持：**

832 我想問如果跳出來，當作不是甘乃威與他的女助理，如果你
833 看一個上司曾經向下屬表示好感，然後便“炒”了她，你覺得這算
834 不算性騷擾呢？

835 **甘乃威議員：**

836 我想，我重申我自己絕對沒有做過性騷擾的言行，我亦沒有
837 求愛不遂而解僱員工。當然，如果在剛才李慧玲所講的個案中，
838 我想亦不應讓人有令人懷疑的感覺。就這一點，吸收今天的教訓，
839 我會希望大家選民、市民都給我一個機會。

840 **女主持：**

841 喲，甘乃威相對是比較，我覺得是這麼多日以來，最詳細講
842 了究竟他和女助理之間發生了甚麼事。關鍵點是覺得他仍然堅持
843 他當時其實只是對女助理講對她有好感，而這不是求愛。所以，
844 他覺得自己一直沒有對公眾說謊，這就是甘乃威的版本，聽眾聽
845 完他的講法後，自己就作一個判斷吧。

846 今晚謝謝甘乃威。

847 (完)



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立法會秘書處
吳文華女士鈞鑒：

**就譴責甘乃威議員的議案
而根據《議事規則》第 49B(2A)條成立的調查委員會**

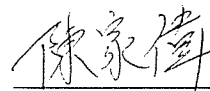
閣下於 2010 年 6 月 8 日致函給民主黨主席何俊仁議員的信函經已收妥。本人獲授權回覆 閣下。

民主黨中央委員會於 2010 年 6 月 10 日的會議，通過向立法會有關調查委員會呈交民主黨中央委員會 2009 年 10 月 8 日及 11 月 9 日會議討論有關甘乃威議員事件的會議紀錄。由於整份會議紀錄涉及其他事情及部份個人資料，有關資料將會隱去。隨函附上上述兩次會議紀錄有關甘乃威議員事件的部份。附上文件的文字與本黨存有上述兩次會議文件有關甘乃威議員事件的文字完全相同，沒有絲毫增刪或更改。

若 閣下就上述文件有任何問題，請隨時致電 [REDACTED] 與本人聯絡。

敬祝
大安！

總幹事


陳家偉



2010 年 6 月 14 日

副本：交民主黨主席 何俊仁議員



民主黨
第八屆中央委員會第十八次會議紀錄(摘錄)

日期：二零零九年十一月十九日(星期四)

時間：晚上七時四十五分

地點：太子恆利

出席：何俊仁 (主席) 單仲偕 劉慧卿 張賢登 蔣月蘭 鄭家富 周錦紹 趙忠林
徐百弟 馮煒光 林子健 林頌鎧 羅致光 李永達 梁淑楨 李建賢 李華明
李永成 莫兆麟 吳永輝 柯耀林 狄志遠 蔡雨龍 徐漢光 黃成智 胡志偉
任啟邦 楊 森

請假：陳樹英

缺席：涂謹申

列席：職員：孫嘉燕(記錄) 陳家偉 陳鳳屏

黨員：18名黨員列席是次會議

會議內容：

第三部份 討論事項

3.3 甘乃威事件

- 主席表示，由於女事主不願協助香港人權監察組的調查，因此香港人權監察組表示不會再作調查。至於立法會方面，則繼續進行有關調查。
- 主席表示獲紀委會通知，待立法會調查完畢後，會主動展開內部紀律調查。

跟進人士 / 職員

主席：何俊仁

記錄：孫嘉燕

註：本會議紀錄為民主黨 2009 年 11 月 19 日中央委員會紀錄的摘錄，除列席會員名單及其他與甘乃威事件無關的內容經刪去外，其他文字為紀錄原文，此紀錄經 2009 年 12 月 10 日民主黨中委會正式通過。



民主黨

第八屆中央委員會第十五次會議(特別)會議紀錄

日期：二零零九年十月八日(星期四)

時間：晚上七時半

地點：太子恆利

出席：何俊仁 (主席) 單仲偕 劉慧卿 陳樹英 張賢登 蔣月蘭 鄭家富 周錦紹
趙忠林 徐百弟 林子健 林頌鎧 羅致光 李永達 梁淑楨 李建賢 李華明
李永成 莫兆麟 吳永輝 柯耀林 狄志遠 涂謹申 蔡雨龍 徐漢光 黃成智
胡志偉 任啟邦

請假：馮煒光 楊 森

列席：黨員：甘乃威，另有5名黨員列席

職員：孫嘉燕(記錄) 陳家偉 陳鳳屏

會議內容：

第一部份 程序事項

1.1 通過是次會議議程(8CC/145/09)

- 會眾在無異議下通過是次會議議程。

第二部份 討論事項

2.1 甘乃威事件

- 主席簡介處理事件的情況，表示是基於下列原則處理：
 - 如對外回答問題，必須如實回答
 - 遵守對女事主保密的承諾
 - 同意有獨立及公正的調查，並在不違反原則下向外公佈。
- 甘乃威簡述事件，並就事件表示歉意，同時承諾會作出檢討及改善。此外，亦表示如有獨立調查及立法會進行調查，會完全配合有關調查。
- 會眾就事件作出提問及討論。
- 有會眾建議應制訂終止聘用僱員的實務守則，以供支部及議辦參考。

跟進人士 / 職員

政務部

- 動議：通過委託香港人權監察組成的獨立委員會跟進，以進行獨立及公正的調查，並會承擔全部的財政支出及提供一切行政支援，同時，授權常委會跟進一切細節。

動議人：何俊仁 和議人：劉慧卿

結果：一致通過

- 劉慧卿簡報立法會擬展開調查的進展。

第三部份 其他事項

3.1 下次會議日期

日期：2009年10月15日(星期四)(例會)

時間：晚上七時半

地點：太子恆利

主席：何俊仁

記錄：孫嘉燕

註：本會議紀錄為民主黨 2009 年 10 月 8 日中央委員會紀錄全文，除列席會員名單經刪去外，其他文字為紀錄原文，此紀錄經 2009 年 10 月 15 日民主黨中委會正式通過。



A handwritten signature in black ink, appearing to be '陳' (Chan), written over the bottom right corner of the seal.

劉汝琛律師行
Y. S. LAU & PARTNERS

Appendix 2.11

SOLICITORS, AGENT FOR TRADEMARKS & PATENTS

香港中環雪廠街十六號西洋會所大廈十樓
10/F, Club Lusitano, 16 Ice House Street, Central, Hong Kong
Tel: 2110 1899 Fax: 2110 9081 DX009258 Central 1

Our Ref.: 08050/2010/SW/L

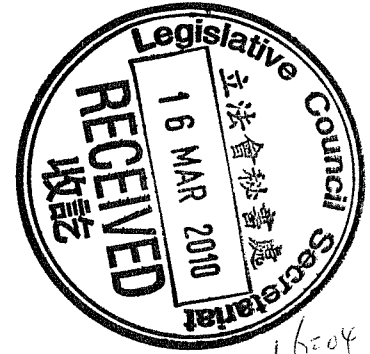
Your Ref.: CB(3)/IC/09/5

Date: 15th March 2010

Investigation Committee,
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central,
Hong Kong.

By Hand

Attention: the Honourable Mrs. Sophie Leung Lau Yau-fun,
GBS, JP – Chairlady



Dear Sirs,

Re : **Investigation Committee established
under 49B(2A) of the Rules of procedure
in respect of the Motion to censure
the Honourable Kam Nai Wai (“the Committee”)**

We refer to the captioned matter and enclose herewith our client’s written reply to the two Censure Motions moved by the Honourable Miriam Lau for the Committee’s consideration, together with annexures. Our client emphatically rejects the contents of the two Censure Motions.

We are of the firm view that the two Censure Motions are groundless and vexatious. Our client has clearly expressed in his reply that he did not make any inconsistent remarks as alleged in the two Motions. Our client also stated clearly in his reply that he did not dismiss his employee as a result of the alleged rejection to his advances for love.

In regard to the first Motion, we can see no basis for the Committee to consider that the expression “好感” which is literally translated as showing affection has the same meaning as “示愛” “making advances for love”. In our opinion, it is entirely illogical, unreasonable and fallacious to equate “好感” with “示愛”. More importantly, there is absolutely no evidence to support the allegation that our client when expressing “好感” to his female assistant intended to make advances to her.

PRINCIPALS

Lau Yue Sum LL.B (Hons) 劉汝琛律師
Lung Man On LL.B (Hons) 龍文安律師

CONSULTANTS

Yau Man Fai LL.B (Hons)
Chan Suk Kam Ida CPAACIS

ASSISTANT SOLICITOR

Sum Kwan Ming Patrick LL.B (Hons) 岑君銘律師

游文輝律師
陳淑琴律師

Our Ref.: 08050/2010/SW/L

Your Ref.: CB(3)/IC/09/5

Date: 15th March 2010

In regard to the second Motion, our client terminated the employment contract of his female employee, solely because they could not co-operate anymore as employer and employee. Our client had repeatedly, orally and by way of e-mails, requested the employee to improve her working attitude but to no avail. Save and except that our client and the female assistant were unable to work together anymore, we do not see any evidence showing other cause for termination of the employment in question. The charge contained in the second Motion is not supported by any factual evidence, and the allegation that the reason of termination was caused by the rejection of our client's advance for love to the female assistant is totally speculative and has no rational basis.


In any event, our client will fully co-operate with the Committee if the Committee shall consider holding such a hearing necessary. However, we have advised our client that in view of the seriousness of the charges against him and the consequence arising from the passing of the Motions, the proceedings of the inquiry should comply with all the applicable rules of fairness and natural justice. Therefore, our client is entitled to insist on exercising on his right to cross-examine any witness whose statement will be considered by the Committee or whoever will give evidence at the hearing.

All our client's rights are expressly reserved.

Thank you for your attention. If you have any queries, please contact our Mr. Y. S. Lau or Mr. Stephen Wong.

Please be informed that our office will be relocated to 14th Floor, CMA Building, No.62 Connaught Road Central, Hong Kong effective from 27th March 2010. Our telephone and fax numbers will remain unchanged.

Yours faithfully



Y S Lau & Partners

YSL/ec

c.c. client

本人甘乃威，就調查委員會於2010年2月12日所發出的信中，內附由劉健儀議員對本人提出的譴責動議，作出以下的回應，以供調查委員會參考。

一) 甘乃威議員向傳媒發表的言論前後不一，有所隱瞞，使公眾對其誠信產生懷疑：—

1. 就上述動議，本人強烈否認向傳媒發表的言論前後不一，有所隱瞞，使公眾對本人誠信產生懷疑。
2. 在2009年10月4日當天有傳媒報導有關本人求愛不遂而解僱女助理(以下稱事主)的事件。
3. 在本人舉行記者招待會向傳媒作出回應後，多份報章和電台的烽煙節目連續兩日對本人的誠信作出負面報導，更甚至報導本人會向立法會請辭。本人在2009年10月6日出席了商業電台節目左右大局(以下稱商台節目)作出澄清，當中提及事件的因由，以及本人憶記起與事主的部份對話。
4. 在商台節目中本人曾提及“我是曾經有說過對她有好感這句說話”(見商業電台2009年10月6日左右大局節目逐字紀錄P.3)。本人在商台節目指出這句話是“在那特定的環境下，我希望大家有一個……可能我出於一些安慰，或者我是出於……即大家都能夠在那一刻，即比較感觸的情況下，說了那些說話……”(見P.4)。
5. 本人在商台節目中亦提及“她有一些困擾，是有關感情的問題”(見P.20)。是由於本人於早前與事主談話間，得悉事主有感情困擾，而本人亦覺察到事主因感情困擾，以致情緒不穩定。
6. 本人在此聲明，由始至終，有關事主的感情困擾，是事主動及自願向本人訴說，本人並沒有要求事主講述她的困擾。
7. 作為事主的僱主及工作伙伴，本人希望可以幫助事主解決困擾，重拾自信，以免影響事主的工作。所以本人於2009年6月15日邀請事主飲下午茶，以舒緩她的情緒。由於這是事主的私事，事主曾要求本人不能夠向任何人披露事件，因此本人亦沒有邀請其他同事或本人太太出席。

8. 在當日下午茶的聚會中，本人向事主分享本人與太太的感情生活，這是本人運用專業社工訓練常用的同理心(Empathy)技巧，目的是希望事主覺得本人也經歷感情的起伏，設身處地感受到她面對感情的困擾，是誠心開解她，希望她能早日重拾自信和心情，投入工作。
9. 本人在當日下午茶的聚會中提及“我對她有好感”，所提到的“好感”是一個概括的名詞，本人在意念上，認同事主的個人能力、肯定事主對同事的相處或對聯繫傳媒等工作上的表現。“好感”一詞是本人對事主在工作上的一種友好態度，本人是希望開解事主的情緒困擾，從而增強事主的自信，
10. 本人一再強調，本人在當日的環境下所說的“好感”一詞，從本人的意念上，不是男女之間愛意的表達，本人完全沒有示愛或求愛的含意。
11. 在 2009 年 10 月 4 日本人在召開記者招待會時，不少記者提出以下問題：—
 - a. “是否真是追求過這女孩子？”
 - b. “...其實你覺得你做了些什麼令到她誤會，所以投訴你呢？”
 - c. “你是否從來沒有曾經向她示愛？”
 - d. “你是否從來沒有向這位女同事示愛？”
12. 以上所有的問題，皆圍繞著本人有沒有向事主示愛，誠如本人在以上的陳述，本人雖曾向事主提及“好感”，但在本人的意念中，“好感”並不同示愛或求愛，並且本人在過去由始至終對事主沒有作出示愛或求愛的追求行為，所以在回答記者提問時表示“沒有”。本人肯定向傳媒發表的言論並非前後不一。
13. 本人言論前後是一致的，因為本人在 2009 年 10 月 4 日的記者會及 2009 年 10 月 6 日商業電台左右大局的節目中，前後兩日向記者及節目主持人均公開向公眾表示並沒有向事主求愛或示愛。
14. 本人再次指出，本人主觀及意念上，“好感”並不是示愛或求愛的意思，所以在回答記者問題時是絕對沒有隱瞞。

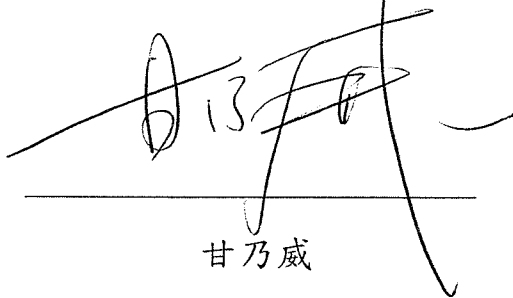
二) 甘乃威議員對他評為整體工作表現良好的女助理表示好感遭抗拒後而將她解僱，處事不公：一

15. 就上述動議，本人強烈否認對他評為整體工作表現良好的女助理表示好感遭抗拒後而將她解僱，處事不公。
16. 事主在 2008 年 12 月中到職，是首次擔任一個地區直選立法局議員助理，在首六個月的互相適應及合作中，她的工作是可接受及滿意的。誠然，本人亦是首次進身立法會，所以本人和事主在工作上亦有很多需要共同學習的事情及處理問題。
17. 在 2009 年 10 月 6 日，本人在商台節目中表示事主的整體表現良好，是指事主在 2008 年 12 月中至 2009 年 6 月的工作表現好，在商台節目中本人也有指出事主在被解僱前三個月的工作態度上是出現問題。
18. 本人認為作為一個前僱主應有的責任，是不應在記者會及商台節目中公開發論對前僱員即事主工作上的不足及不滿的地方。
19. 本人公開表示事主的整體表現良好，一方面認同事主在任職首半年的工作表現，另一方面是令已離職的僱員可以容易另覓工作。
20. 事實上，在 2009 年 6 月份，由於事主情緒上的困擾，以致工作態度出現問題，包括不出席金融監管機構會議、未能專注工作、拒絕寫新聞稿、負責籌備舉辦活動前夕時突然要求放假及未能夠依時進行宣傳活動等等。此類工作均是事主的工作範疇。
21. 本人就事主工作上的態度問題，曾多次向事主發出有紀錄的電郵提出本人對事主工作上的不滿及要求事主作出改善（見附件 -- 電郵副本），而持續三個月時間內事主沒有作出合理解釋及一直沒有改善工作態度。
22. 本人在此指出，是次解僱事主，是基於在解僱前三個月內事主在工作態度的轉變，以本人的觀察事主是有能力處理本人所提出的工作要求，但礙於事主採取不合作的態度，以致未能完成所委派的工作。
23. 議員助理與本人在工作上的關係必須要融洽合作及有默契

的，否則會影響本人立法會的工作，立法會議員的工作是非常繁重，議員助理能高效地為本人分擔工作是非常重要的。

24. 事主的工作是處理立法會相關的事務，然而事主未能處理及完成本人所委派的工作，在本人多次發電郵表達不滿及口頭警告後，事主持續三個月的時間內工作上未有改善，事主也未有合理的解釋，所以本人最終決定解僱事主。
25. 事實上，在本人口頭知會事主解僱的過程中，雙方曾討論假若事主能改善工作態度，雙方應可在工作上繼續合作，但事主並沒有表態，只是稍後自行收拾私人物件離開辦公室。故此，本人就只能當作事主不接受要求改善工作態度的要求，並接受解僱決定。
26. 本人解僱事主是基於上述的原因，絕對不是因對女助理表示好感遭抗拒後而將她解僱。

日期:2010年3月15日



甘乃威



附件 1

MPA assignments

2009年6月22日 星期一 下午10:26

寄件人: "Kam Nai Wai" <[redacted]>

收件人: "kimmie wong" <[redacted]>

2 個檔案 (67KB)



Assignme...



CV of Cla...

Dear Kimmie

我完全明白妳面對的困擾。

我今天只是想說清楚我未來只會專注於我的工作，希望你協助我提升民望，繼續為我的民主事業打拼。別無他想。

無論如何，我會一如既往，樂意協助解決妳的困難。但我也希望你能夠於工作上投入多一些。

另外，我剛收到MPA最新一科 Mass Media & Public Administration 的 assignments (見附件)，未知可否協助一下？

甘威

Yahoo!香港提供網上安全攻略，教你如何防範黑客![了解更多](#)



附件-2

Report Amendment

2009年8月10日 星期一 下午8:42

寄件人: "Kam Nai Wai" <[REDACTED]>

收件人: "Wong Kimmie" <[REDACTED]>

Dear Kimmie

There are lot of mistake in the C & W report. I remember I made a written amendment on it.

But the revision, which u sent to me, haven't made any amendment? Why?

Pls check it carefully. and check all the gammer of district report.

Regards
Kam Wai

Yahoo!香港提供網上安全攻略，教你如何防範黑客![了解更多](#)



附件-3

2009年8月13日 星期四 上午9:47

Job

寄件人: "Kam Nai Wai" <[REDACTED]>

收件人: "Wong Kimmie" <[REDACTED]>, "kimmie wong" <[REDACTED]>

Dear Kimmie

我昨天要求妳協助寫擦鞋檯的稿，我認為是妳最基本要做的工作。
我不在香港，也希望有人可以協助我繼續與傳媒有聯繫。
如果妳認為這工作不是妳的範圍，那我認為大家要認真討論如何處理。

甘威

Yahoo!香港提供網上安全攻略，教你如何防範黑客![了解更多](#)

Re: tree forum-reminder - Yahoo! Mail

附件-4

YAHOO! MAIL
雅虎香港

2009年8月25日 星期二 上午11:00

Re: tree forum-reminder

寄件人: "Kam Nai Wai" <[REDACTED]>

收件人: "Kimmie Wong" <[REDACTED]>

Dear Kimmie

Pls launch the publicity including my blog, email and DP website ASAP (within today).

Too late.

Regards
Kam Wai



附件 - 5

Re: A leave

2009年8月27日 星期四 下午9:20

寄件人: "Kam Nai Wai" <[redacted]>
收件人: "Kimmie Wong" <[redacted]>

Dear Kimmie

I prepare to discuss with u on Friday regarding the Sunday tree forum, but suddenly u ask for leave.

I think when there is a event will be organised by u, pls reserve the time which i have enough time to discuss with u.

Normally, i will finalise the event on the day before the event.

Regards
Kam Wai

--- 2009年8月26日 星期三 · Kimmie Wong <[redacted]> 寫道:

寄件人: Kimmie Wong <[redacted]>
主題: A leave
收件人: kamna [redacted]
副本(CC): "Lui Anita" <[redacted]>
日期: 2009年8月26日, 星期三, 下午12:59

Dear Mr Kam,

I would like to take an annual leave on the 28th of August (friday). Thank you.

Best Regards,

Kimmie Wong

Office of Kam Nai-wai, Legislative Councillor

Tel: [redacted]

Fax: [redacted]

Yahoo!香港提供網上安全攻略, 教你如何防範黑客! [了解更多](#)

start: 0000-00-00 end: 0000-00-00 start: 0000-00-00 end: 2009-05-31 start: 0000-00-00 end: 0000-00-00

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附件-6

2009年8月28日 星期五 下午10:07

Publicity of tree forum

寄件人: "Kam Nai Wai" <[REDACTED]>

收件人: "Kimmie Wong" <[REDACTED]>

Dear Kimmie

I disappoint with the arrangement of publicity of tree forum.

It is too late. I just received SMS by DP today afternoon.

Why there is no English version for the email? Why there was no final approval for the email? Do u know there are some wrong in the email?

In my blog, the banner have been posted on Tuesday.

Today, I know our vice-chairlady Emily will conduct a forum for the school drug on this Sunday. So, we need to inform our DP member earlier.

Pls evaluate the event.

Regards
Kam Wai



附件-7

2009年8月28日 星期五 下午10:23

Air Quality Forum

寄件人: "Kam Nai Wai" <[redacted]>

收件人: monkey [redacted]

副本 "kimmie wong" <[redacted]>

(CC):

Dear Monkey

Pls draft a planning of the forum for my approval ASAP.

The forum will be organised by DP. Pls liaise with the DP staff for division of labour.

The budget will be funding by DP (how to get it, pls inform me)

Pls confirm the day(at the end of Sept), the venue , the topic, the guest speakers, the contractor and the publicity.

I expect the publicity including street banners(in whole HK or only in HK island), email to HK Island voters, SMS to DP members, DP website, DP newsletter, Posters at HK island (including ward office), in my hardcopy newsletter (if the timing is match)

The planning including the working time schedule will be submitted within next week.

Kimmie

Pls liasie with Monkey and ah keung to suggest the topic and the guest speakers (proposed 潘潔 will be one of the guest). Also, monitor the progress and report to me.

Regards
Kam Wai

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附件 - 8



2009年9月11日 星期五 上午11:19

MSN

寄件人: "Kam Nai Wai" <[redacted]>

收件人: "Lui Anita" <[redacted]>, "Wong Kimmie" <[redacted]>

Dear anita & kimmie

Can u open your MSN when i in Legco meeting?

Regards
Kam Wai

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附件 - 9

2009年9月20日 星期日 上午12:35

Staff meeting

寄件人: "Kam Nai Wai" <[REDACTED]>

收件人: "Lui Anita" <[REDACTED]>, monkey [REDACTED]

"Wong Kimmie" <[REDACTED]>, kelvi [REDACTED]

Dear Anita

Pls arrange a meeting with the Kimmie, Kelvin Yim, Monkey to discuss the DP central program and location program and the preparation for the new Legco term.

The meeting will be held on 22/9 at 12:30 at CGO.

Regards
Kam Wai

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**Advisory Guidelines on Matters of Ethics in relation to the
Conduct of Members of the Legislative Council of the
Hong Kong Special Administrative Region in their capacity as such**

*(Issued by the Committee on Members' Interests under
Rule 73(1)(d) of the Rules of Procedure of the Legislative Council)*

1. A Member should ensure that his conduct must not be such as to bring discredit upon the Legislative Council ("the Council").
2. A Member should conduct himself in such a way as not to place himself in a position which may be contrary to the generally assumed standard of conduct expected of a Member of the Council. When deciding whether to engage in activities of a commercial nature such as advertisement activities, Members should accord due consideration as to whether the nature and contents of such activities might be regarded as not in keeping with the position or prestige of a Member of the Council and thereby bringing discredit upon the Council.
3. A Member should adhere to the spirit and the letter of any rules or regulations made by the Council, its committees or subcommittees, or the President for the regulation of the practice and procedure of the Council, its committees and subcommittees, or Members' behaviour in their conduct of the business of the Council.
4. A Member should not, in his capacity as such, seek to influence another person to further the Member's private interest.
5. A Member should not take advantage of, or benefit from, information that is obtained in his capacity as a Member of the Council and which is not generally available to the public.
6. A Member should ask for information only about matters of public interest and should not seek information for private or personal interest.

7. A Member should ensure that the personal information (e.g. qualifications) he provides to the Council (including the Legislative Council Secretariat) is correct and true.

June 2009