

立法會
Legislative Council

LC Paper No. CMI/55/11-12

Ref: CB(3)/C/2(08-12)

Committee on Members' Interests

**Minutes of the tenth meeting
held on Tuesday, 29 May 2012 at 10:45 am
in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Chairman)
Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Hon WONG Yung-kan, SBS, JP
Hon WONG Sing-chi
- Members absent** : Dr Hon Margaret NG
Hon Abraham SHEK Lai-him, SBS, JP
Hon Paul CHAN Mo-po, MH, JP
- Clerk in attendance** : Miss Mary SO
Chief Council Secretary (3)3
- Staff in attendance** : Ms Pauline NG
Secretary General

Mr Jimmy MA, JP
Legal Adviser

Mrs Justina LAM
Assistant Secretary General 3

Ms Connie FUNG
Senior Assistant Legal Adviser 1

Miss Wylie HO
Senior Council Secretary (3)2
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Action

I. Outcome of consultation with Members on registration of Members' interests

(LC Paper No. CMI/38/11-12)

The Chairman said that at the meeting of the Committee on Members' Interests ("CMI") of 16 March 2012, members agreed to the proposed changes to the registration of Members' interests and the existing Registration Form on Members' Interests ("the Registration Form"). Also, members agreed that all Members should be consulted before adopting these proposed changes. Accordingly, the Secretariat issued a questionnaire to all Members seeking their views on CMI's proposed changes, and the outcome of the consultation was set out in LC Paper No. CMI/38/11-12.

2. At the invitation of the Chairman, the Clerk said that on 13 April 2012 the Secretariat issued a circular (CMI/31/11-12) together with the questionnaire (which had been endorsed by members by circulation) to all Members to invite their views on CMI's proposed changes as set out in paragraphs 3 to 5 of the paper. A total of 54 Members returned the questionnaire, while five Members verbally informed the Secretariat that they had no comment on the proposed changes. A summary and the details of Members' responses were set out in Appendices I and II of the paper respectively; and an analysis of the findings in paragraphs 8 to 9 of the paper. The Clerk further said that according to the findings of the consultation, a majority of Members agreed to or had no comment on CMI's proposed changes.

3. Members noted the outcome of the consultation and decided that CMI should seek the views of the Committee on Rules of Procedure ("CRoP") and the House Committee ("HC") on 12 June and 22 June 2012 respectively on the proposed amendments to Rule 83 of the Rules of Procedure ("RoP") (Appendix III of the paper) and the revised Registration Form (Appendix IV of the paper) for implementing the proposed changes to the registration requirements and making the Registration Form a part of RoP (as agreed to by members at the CMI meeting on 16 March 2012). Members further agreed that subject to the views of CRoP and HC, a motion would be moved by CMI's Chairman at the Council meeting of 11 July 2012 to amend Rule 83 for implementing the proposed changes effective from the Fifth Term of LegCo.

The
Clerk

II. Further report on the study of the feasibility of appointing a Commissioner to handle complaints against Members (LC Paper No. CMI/39/11-12)

4. The Chairman said that at the last meeting held on 23 April 2012, members agreed that an independent person should be appointed as Commissioner to receive and investigate complaints under the remit of CMI. Members also agreed in principle to the proposed scope of responsibilities of the Commissioner as well as the proposed appointment arrangements and financial implications as set out in LC Paper No. CMI/34/11-12. To facilitate further deliberation on the detailed arrangements for appointing a Commissioner, members agreed to seek the advice of Sir Malcolm Jack, a retired Clerk of the House of Commons of the Parliament of the United Kingdom ("UK"). Sir Malcolm's advice and the Secretariat's analysis of how to take forward the proposal of appointing a Commissioner were detailed in LC Paper No. CMI/39/11-12.

Advice from Sir Malcolm Jack

5. At the invitation of the Chairman, the Clerk said that before Sir Malcolm met members at CMI's internal meeting on 24 April 2012, he had been fully briefed on the background of CMI's proposal of appointing a Commissioner. Sir Malcolm also noted the background that the former LegCo had twice negated CMI's proposals of expanding its terms of reference to cover the conduct of Members in their capacity as such. Sir Malcolm was of the view that it would be very difficult for the Commissioner to consider complaints about other types of misconduct of Members in the absence of a code of conduct for Members. In view of the difficulty for LegCo to agree on a code of conduct for Members, Sir Malcolm advised, among others, that it would be most practical to adopt a phased approach by first entrusting the Commissioner with the investigation responsibility currently undertaken by CMI, and requiring the Commissioner to report to CMI. Details of Sir Malcolm's advice were set out in paragraphs 6 to 7 of the paper.

Analysis by the Secretariat

6. The Clerk further said that having regard to Sir Malcolm's advice and members' views expressed at the last meeting, the Secretariat had made an analysis of how the proposal of appointing a Commissioner could be taken forward. In the analysis, the Secretariat suggested, among others, that as a practical first step to address the public criticism about LegCo Members conducting investigation into complaints against the conduct of their fellow legislators, an independent person should be appointed as Commissioner to take over CMI's existing functions of receiving and investigating complaints

relating to registration and declaration of Members' interests, claims for reimbursement of operating expenses and applications for advance of operating funds, which were under CMI's remit. Members agreed to the proposed arrangements set out in the analysis (paragraphs 8 to 11 of the paper).

Discussion

7. Ms Emily LAU said that CMI should consult all Members on the proposal of appointing a Commissioner. Secretary General ("SG") suggested that CMI could invite all Members to give their views on the proposal by using a questionnaire. Also, all Members could be invited to indicate on a reply slip whether they would attend a briefing session on the proposal. SG added that the consultation circular could set out the background and details of the proposal, including the proposed arrangements and financial implications as set out in the papers CMI/34/11-12 and CMI/39/11-12, and agreed by members at the last meeting and this meeting. Members agreed.

The
Clerk

[Post-meeting note: on 13 June 2012, the Secretariat issued LC Paper No. CMI/44/11-12 together with a questionnaire, after seeking members' endorsement by circulation, to consult all Members on CMI's proposal of appointing a Commissioner.]

8. The Chairman asked whether CMI should go further than completing a consultation exercise on the proposal before the end of the term. Mr WONG Sing-Chi said that given the limited time left before the end of the term, it would be more realistic for CMI to aim at gauging Members' views to facilitate CMI of the new term to decide the next step. Mr WONG Yung-kan said that whether LegCo should appoint a Commissioner should be decided by Members of the new LegCo term. SG suggested that the outcome of the consultation could be incorporated into CMI's term-end report to the Council, and Members' views collected could be submitted to CMI of the new term for consideration and follow-up. Members agreed.

The
Clerk

III. Any other business

9. There being no other business, the meeting ended at 11:15 am.

Council Business Division 3
Legislative Council Secretariat
29 August 2012