

立法會
Legislative Council

LC Paper No. FC218/15-16
(These minutes have been
seen by the Administration)

Ref : FC/1/1(11)

Finance Committee of the Legislative Council

Minutes of the 19th meeting
held at Conference Room 1 of the Legislative Council Complex
on Friday, 18 December 2015, at 5:11 pm

Members present:

Hon CHAN Kin-por, BBS, JP (Chairman)
Hon CHAN Kam-lam, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon CHEUNG Kwok-che
Hon WONG Kwok-kin, SBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP

Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS

Members absent:

Hon LEUNG Yiu-chung
Dr Hon LAU Wong-fat, GBM, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Hon CHAN Hak-kan, JP

Dr Hon LEUNG Ka-lau
Hon James TIEN Pei-chun, GBS, JP
Hon Kenneth LEUNG
Dr Hon KWOK Ka-ki
Hon Dennis KWOK
Dr Hon Helena WONG Pik-wan

Public officers attending:

Ms Elizabeth TSE Man-yee, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Ms Esther LEUNG, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) ¹
Mr Alfred ZHI Jian-hong	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Mr John LEE Ka-chiu, PDSM, PMSM, JP	Under Secretary for Security
Ms Mimi LEE Mei-mei, JP	Deputy Secretary for Security
Mr Andrew TSANG Yue-tung	Principal Assistant Secretary for Security (E)
Mr Edwin LAM Man-wing	Assistant Commissioner of Police (Information Systems Wing)
Mr Frankie FONG Yiu-hang	Chief Systems Manager (Information Technology Branch), Hong Kong Police Force
Mr Donnie CHOY Yuk-kwong	Chief Superintendent (Crime Support) (Crime Wing), Hong Kong Police Force
Ms Irene HO Yuen-ha	Chief Superintendent (Crime Headquarters) (Crime Wing), Hong Kong Police Force

Clerk in attendance:

Ms Anita SIT	Assistant Secretary General 1
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Staff in attendance:

Mr Derek LO	Chief Council Secretary (1)5
Mr Ken WOO	Senior Council Secretary (1)5
Mr Raymond SZETO	Senior Council Secretary (1)7
Mr Jason KONG	Council Secretary (1)4
Mr Frankie WOO	Senior Legislative Assistant (1)3
Ms Michelle NIEN	Legislative Assistant (1)5
Miss Yannes HO	Legislative Assistant (1)6

Action

Item No. 1 – FCR(2015-16)42

**RECOMMENDATION OF THE ESTABLISHMENT
SUBCOMMITTEE MADE ON 18 NOVEMBER 2015**

The Committee continued the discussion on item FCR(2015-16)42, i.e. the recommendation of the Establishment Subcommittee ("ESC") made on 18 November 2015.

2. The Chairman advised that since no members had requested separate voting on the item in the Finance Committee ("FC") after it was voted on in ESC, and as at yesterday's deadline (i.e. 5 pm of 17 December 2015), the Secretariat had neither received any request for separate voting nor any request for public officers to attend the meeting pursuant to paragraph 17 of the Finance Committee Procedure ("FCP"), no public officers attended today's meeting to answer questions raised by members. The Chairman said that according to the established practice of FC, items recommended by subcommittees with no request for separate voting would be put to vote in FC immediately. However, as a special arrangement, he allowed members to speak once. As members kept repeating the same views in their speeches, he considered that the item had been sufficiently discussed and decided to end the discussion in order that the Committee would be able to proceed to deal with motions proposed by members on the agenda item under paragraph 37A of FCP. Mr IP Kwok-him expressed agreement with the Chairman's decision.

3. Mr Albert CHAN, Ms Claudia MO and Mr Alan LEONG expressed opposition against the Chairman's decision. These members asked the Chairman to explain why he was of the view that when no public officers attended the meeting, members could not deliberate on the agenda item and speak more than once.

4. Without the Chairman's permission, Mr CHAN Chi-chuen spoke loudly in protest against the Chairman's decision. The Chairman reminded Mr CHAN not to speak without permission.

5. At the invitation of the Chairman, Legal Adviser ("LA") explained that according to Rule 38 of the Rules of Procedure ("RoP"), a Member might not speak more than once except on the specific occasions set out in that Rule. Moreover, by virtue of Rule 43 of the RoP, the above Rule should apply to the proceedings of FC unless the Chairman ordered otherwise.

6. Mr Alan LEONG asked how Rules 36 to 42 of RoP should be applied to FC meetings by virtue of paragraph 38 of FCP.

7. In response, LA pointed out that the above rules of RoP were general rules. By virtue of Rule 43 of RoP, these rules apply to FC proceedings unless the Chairman ordered otherwise. The FC Chairman had the discretion to decide how the relevant rules would actually be applied.

8. Mr Alan LEONG and Dr Fernando CHEUNG expressed disagreement with the Chairman's decision, and that was, if no member had requested in advance for public officers to attend the meeting pursuant to paragraph 17 of FCP, Rule 38 of RoP would be invoked to limit the number of times members might speak.

9. The Chairman reiterated that his decision was the final decision, and if members did not agree with his decision, they could express their views in writing.

Motions proposed by members under paragraph 37A of the FCP on the item FCR(2015-16)42

Motion proposed by Mr CHAN Chi-chuen

10. The Chairman put to vote the question that the motion proposed by Mr CHAN Chi-chuen numbered [0001](#) be proceeded forthwith. As requested by members, the Chairman ordered a division and the division bell was rung for five minutes.

11. With the agreement of the Chairman, Mr CHAN Chi-chuen read out his proposed motion during the ringing of the division bell. The question was negatived.

Motion moved by Mr IP Kwok-him pursuant to paragraph 47 of FCP

12. Mr IP Kwok-him moved without notice a motion under paragraph 47 of FCP that in the event of further divisions being claimed in respect of any motions or questions under the same agenda item, the Committee should proceed to each of such divisions immediately after the division bell had been rung for one minute. The Chairman proposed the question on Mr IP Kwok-him's motion.

13. Mr LEUNG Kwok-hung, Dr Fernando CHEUNG, Mr CHAN Chi-chuen, Ms Claudia MO, Mr Alan LEONG and Mr Albert CHAN spoke against Mr IP Kwok-him's motion. These members criticized that, in deciding to limit the number of times members might speak, the Chairman abused the discretion provided under Rule 43 of RoP. They considered it unreasonable for the Chairman to make the decision of restricting members from discussing the relevant item just because no members had, in pursuant to paragraph 17 of FCP, requested public officers to attend the meeting. Mr Albert CHAN opined that even if the Chairman was exercising his discretion provided under the rule, his decision to limit the number of times members might speak was a show of disrespect for the Council's tradition.

14. Mr Albert CHAN and Mr CHAN Chi-chuen spoke loudly to express dissatisfaction towards the Chairman and LA. The Chairman warned these members not to speak without permission.

15. Mr LEUNG Kwok-hung queried the view that the non-intervention principle confirmed by the court in several earlier court judgments on judicial reviews was tantamount to the court's tacit consent granted to the FC Chairman for possessing unfettered power when chairing meetings.

16. In response to the views of members, LA clarified that paragraph 17 of FCP did not restrict members from speaking on the agenda items when no relevant official was present. According to Rule 43 of RoP, the Chairman might decide how the rules set out in Part H of RoP should be applied, including how the requirements under Rule 38 of RoP should be applied. Moreover, in the relevant judicial review case (HCAL78/2014), the Court of First Instance confirmed that the premise of the non-intervention principle was that the Court was satisfied that the FC Chairman had the power to regulate the proceedings of FC meetings in accordance with FCP. Therefore, according to the non-intervention principle, it was not appropriate for the court to determine how the FC Chairman should exercise his power. As regards questions raised by members at the meeting, the Chairman instructed the Legal Services Division to provide the relevant information after the meeting.

[*Post-meeting Note*: The relevant paper prepared by the Legal Services Division (LC Paper No. LS 25/15-16) was circulated to members on 11 January 2016.]

17. Miss Alice MAK, Mr WONG Kwok-hing, Mr CHAN Kam-lam and Mr CHAN Han-pan expressed their support for Mr IP Kwok-him's motion. These members criticized pan-democrat members for not putting forward prior requests for the attendance of public officers at the meeting for deliberating this item pursuant to paragraph 17 of FCP, yet they still requested to discuss the item in detail in FC just for the sole purpose of filibustering. They opined that the manner in which the Chairman had chaired the meeting in accordance with the rules and procedures was in order and reasonable. Mr IP Kwok-him spoke on his own motion to express a similar view. These members thanked LA for providing professional advice.

18. Dr LAM Tai-fai spoke to express regret that members of the Committee were currently engaging in a battle of words in their scrutiny of items.

19. The Chairman put the question to vote. As requested by members, the Chairman ordered a division and the division bell was rung for five minutes. The Chairman announced that 24 members voted in favour of and 7 members voted against the question. The voting results of individual members were as follows –

For:

Mr CHAN Kam-lam	Mr TAM Yiu-chung
Mr WONG Kwok-hing	Mr Andrew LEUNG Kwan-yuen
Mr WONG Ting-kwong	Ms Starry LEE Wai-king
Dr LAM Tai-fai	Dr Priscilla LEUNG Mei-fun
Mr WONG Kwok-kin	Mr IP Kwok-him
Mr NG Leung-sing	Mr Steven HO Chun-yin
Mr Frankie YICK Chi-ming	Mr YIU Si-wing
Mr MA Fung-kwok	Mr CHAN Han-pan
Mr LEUNG Che-cheung	Mr KWOK Wai-keung
Mr Christopher CHEUNG Wah-fung	Mr POON Siu-ping
Mr TANG Ka-piu	Ir Dr LO Wai-kwok
Mr Christopher CHUNG Shu-kun	Mr Tony TSE Wai-chuen
(24 members)	

Against:

Mr CHEUNG Kwok-che

Mr LEUNG Kwok-hung

Ms Claudia MO

Dr Fernando CHEUNG Chiu-hung

(7 members)

Mr Alan LEONG Kah-kit

Mr Albert CHAN Wai-yip

Mr CHAN Chi-chuen

20. The Chairman declared that the motion was carried.

Continuation of handling the motions proposed by Mr CHAN Chi-chuen

21. The Chairman put to vote, one by one, the questions that the motions proposed by Mr CHAN Chi-chuen numbered [0002 to 0008](#) be proceeded forthwith. As requested by members, the Chairman ordered a division for each of the proposed motions, and the division bell was rung for one minute for each division. With the agreement of the Chairman, Mr CHAN Chi-chuen read out each of his proposed motions during the ringing of the division bell. All the questions were negatived.

Motions proposed by Mr Albert CHAN

22. The Chairman put to vote, one by one, the questions that the motions proposed by Mr Albert CHAN numbered [0009 to 0013](#) be proceeded forthwith. As requested by members, the Chairman ordered a division for each of the proposed motions, and the division bell was rung for one minute for each division. With the agreement of the Chairman, Mr Albert CHAN read out each of his proposed motions during the ringing of the division bell. All the questions were negatived.

Motions proposed by Mr LEUNG Kwok-hung

23. The Chairman put to vote, one by one, the questions that the motions proposed by Mr LEUNG Kwok-hung numbered 0014 to 0017 be proceeded forthwith. As requested by members, the Chairman ordered a division for each of the proposed motions, and the division bell was rung for one minute for each division. With the agreement of the Chairman, Mr LEUNG Kwok-hung read out each of his proposed motions during the ringing of the division bell. All the questions were negatived.

Voting on FCR(2015-16)42

24. The Chairman put the item to vote. As members claimed a division, the Chairman ordered a division and the division bell was rung for one minute.

The Chairman announced that 22 members voted in favour of and 11 members voted against the item. The voting results of individual members were as follows –

For:

Mr CHAN Kam-lam	Mr TAM Yiu-chung
Mr WONG Kwok-hing	Mr Andrew LEUNG Kwan-yuen
Mr WONG Ting-kwong	Dr Priscilla LEUNG Mei-fun
Mr WONG Kwok-kin	Mr IP Kwok-him
Mr Michael TIEN Puk-sun	Mr NG Leung-sing
Mr Steven HO Chun-yin	Mr Frankie YICK Chi-ming
Mr YIU Si-wing	Mr CHAN Han-pan
Mr KWOK Wai-keung	Mr Martin LIAO Cheung-kong
Mr POON Siu-ping	Mr TANG Ka-piu
Mr Dr LO Wai-kwok	Mr CHUNG Kwok-pan
Mr Christopher CHUNG Shu-kun	Mr Tony TSE Wai-chuen
(22 members)	

Against:

Mr LEE Cheuk-yan	Ms Emily LAU Wai-hing
Mr Frederick FUNG Kin-kee	Ms Cyd HO Sau-lan
Mr Alan LEONG Kah-kit	Mr LEUNG Kwok-hung
Mr Albert CHAN Wai-yip	Mr Gary FAN Kwok-wai
Mr CHAN Chi-chuen	Dr Kenneth CHAN Ka-lok
Dr Fernando CHEUNG Chiu-hung	
(11 members)	

25. The Chairman declared that the item was approved.

Item No. 2 – FCR(2015-16)34

CAPITAL WORKS RESERVE FUND

HEAD 710 – COMPUTERISATION

Hong Kong Police Force

Replacement of the Infrastructure Platform for the Police Operational Nominal Index Computer System and the Criminal Intelligence Computer System

26. The Chairman said that the Committee would continue with the deliberation on the item FCR(2015-16)34, which was an unfinished item of the previous meeting. This item invited members to approve a new commitment of \$81,672,000 for the replacement of an obsolete infrastructure platform that supported Hong Kong Police's computer systems.

Concerns about political surveillance

27. Mr LEUNG Kwok-hung noted that the relevant infrastructure platform supported the criminal intelligence computer system through which crime information collected and analysed would be used to combat crimes. He expressed concern about how the Administration would make use of this system to analyse political movements, such as whether the Administration would use the system to collect information of members of the public who had participated in the promotion of the Occupy Central movement, or personal data of Legislative Council Members who had taken part in the Occupy Central movement. Mr LEE Cheuk-yan, Mr CHAN Chi-chuen and Dr Fernando CHEUNG expressed a similar concern and asked the Administration to clarify whether political surveillance would take place, i.e. the Police would collect in advance the personal data of members of the public who planned to take part in political movements.

28. Under Secretary of Security ("US for S") remarked that the pertinent intelligence system would only focus on collecting intelligence of criminal offences. No political consideration would be involved. According to the Police Force Ordinance (Cap. 232), the Police should be responsible for preventing and combating crimes, and thus, it was necessary for the Police to collect and analyse intelligence in relation to criminal offences already committed as well as those that might possibly take place.

29. Dr Priscilla LEUNG expressed support for the item. She appealed to members not to query the neutrality of the Police's law enforcement actions.

Collection of intelligence

30. Mr LEE Cheuk-yan, Mr CHAN Chi-chuen and Dr Fernando CHEUNG asked the Administration to give an account of the scope of information collected by the intelligence system to ensure that the Police had not collected excessive information or abused the intelligence collected.

31. US for S said that the Police had put in place a stringent monitoring mechanism to ensure that any act of collecting intelligence was legal and was not abused. However, the Police could not disclose the details of intelligence collection. If members of the public thought that their personal data had been abused, they could lodge their complaints, and the Police would process their cases in accordance with the established mechanism.

32. Dr Fernando CHEUNG and Mr LEE Cheuk-yan asked the Administration to give further details of the monitoring mechanism, including the mechanism of destroying the intelligence. US for S said that all law enforcement departments were very careful in handling criminal intelligence. In the course of collecting criminal intelligence, the officer concerned must prove that the method used in collecting intelligence and the scope of information to be collected were both legal and of intelligence value, and all these would be subject to review by his supervisor. The unit responsible for criminal intelligence collection would also regularly examine criminal intelligence collected to ensure that the information so collected was in compliance with the relevant ordinances and rules, and that information that was no longer of any intelligence value would be destroyed.

33. Mr Albert CHAN questioned whether the intelligence system would be used to support the Police's detection of terrorist activities and "white-collar offences", i.e. commercial crimes or offences involving public officers. US for S replied in the affirmative.

Interception of communications

34. Dr Fernando CHEUNG asked the Administration to respond to media reports that the Police and the ICAC had enquired about hacking software and there were suspicions that they might want to use such software for interception of communications.

35. US for S replied that the Administration would not comment on individual media reports. But law enforcement departments would monitor the technological development of hacking software in different parts of the world so as to ensure that they could have the effective defence against hacker attacks. Regardless of the methods adopted by law enforcement departments for collecting intelligence, they must be in compliance with the laws of Hong Kong.

Privacy protection

36. In light of previous leakage incidents of personal data collected by the Police, Dr Fernando CHEUNG queried how the Police could ensure that there would not be any leakage of personal data stored in the intelligence system. US for S responded by pointing out that the Police attached great importance to the protection of personal privacy, and the collection of any personal data would be in compliance with the requirements of the Personal Data (Privacy) Ordinance (Cap. 486). Should there be any information leakage, reports would be submitted to the Office of the Privacy Commissioner

for Personal Data, and corresponding measures would then be adopted to prevent any recurrence of such leakage in future.

37. At 7:10 pm, the Chairman announced that the meeting be adjourned.

38. The meeting was adjourned at 7:10 pm.

Legislative Council Secretariat

20 May 2016