

立法會

Legislative Council

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Paper for the House Committee meeting on 20 January 2017

Report of the Subcommittee to Prepare for the Operation of the Select Committee on the Petition Presented at the Council Meeting of 2 November 2016

Purpose

This paper reports on the deliberations of the Subcommittee to Prepare for the Operation of the Select Committee on the Petition Presented at the Council Meeting of 2 November 2016 ("the Subcommittee").

Background

2. At the Council meeting of 2 November 2016, Hon Kenneth LEUNG and Hon Andrew WAN jointly presented a petition in connection with the receipt of payments by Mr LEUNG Chun-ying from the Australian firm UGL Limited and related issues ("the petition") (**Appendix I**). The request of Hon Andrew WAN for the petition to be referred to a select committee was supported by 28 Members. The petition has thus been referred to a select committee ("the Select Committee") under Rule 20(6) of the Rules of Procedure ("RoP").

3. At the House Committee meeting on 11 November 2016, Members agreed to appoint a subcommittee to undertake preparatory work for the operation of the Select Committee, including making recommendations on the terms of reference ("TOR") of the Select Committee, the membership size, and the procedure for nominating and electing its Chairman, Deputy Chairman and members for appointment by the President.

The Subcommittee

4. The Subcommittee comprises 11 members, with Hon Paul TSE

elected as Chairman. The membership list of the Subcommittee is in **Appendix II**.

Deliberations and recommendations of the Subcommittee

5. The Subcommittee held two meetings on 2 December 2016 and 5 January 2017 respectively. Its major deliberations and recommendations are set out in paragraphs 6 to 12 below.

Terms of reference and name of the Select Committee

6. The Subcommittee notes that the Select Committee is formed pursuant to the referral by the Council of the petition presented to it under RoP 20(6), and the scope of work of the Select Committee is thus defined by the substance of the petition. To facilitate the Subcommittee's deliberations, the Legislative Council Secretariat has drafted the following proposed TOR based on the substance of the petition for members' consideration:

"To inquire into matters relating to Mr LEUNG Chun-ying's signing of an agreement with the Australian firm UGL Limited in 2011 ("UGL Agreement") and his receipt of payments amounting to £4 million from UGL Limited ("Payments") in connection with the UGL Agreement after assuming the office of Chief Executive, including whether he had complied with the declaration requirements under Article 47 of the Basic Law and the system of declaration of interests by Members of the Executive Council, whether the UGL Agreement had given rise to any conflict of interests on the part of Mr LEUNG as the Chief Executive, and whether the Payments were taxable under the laws of Hong Kong."

"調查梁振英先生在 2011 年與澳洲企業 UGL Limited 簽訂協議("UGL 協議"), 並於就任行政長官後從該企業收取與 UGL 協議有關的 400 萬英鎊款項("該款項")的相關事宜, 包括他有否遵從《基本法》第四十七條及行政會議成員 利益申報制度下的申報規定、UGL 協議與梁先生行政長官的身份有否構成任何利益衝突, 以及該款項根據香港法例是否應予課稅。"

7. Members generally agree that the Select Committee's TOR should only cover the matters proposed to be examined as set out in the petition. The Select Committee's TOR should also precisely reflect the substance of

the petition and clearly define the scope of the Select Committee's inquiry. In order to confine the Select Committee's inquiry to the matters specified in the petition, members agree to delete "相關事宜" and "包括" from the Chinese text of the proposed TOR. Members also agree to make corresponding amendments to the English text of the proposed TOR.

8. The Subcommittee agrees to recommend the following as TOR of the Select Committee:

"To inquire into the following matters regarding Mr LEUNG Chun-ying's signing of an agreement with the Australian firm UGL Limited in 2011 ("UGL Agreement") and his receipt of payments amounting to £4 million from UGL Limited ("Payments") in connection with the UGL Agreement after assuming the office of Chief Executive: (i) whether Mr LEUNG had complied with the declaration requirements under Article 47 of the Basic Law and the system of declaration of interests by Members of the Executive Council, (ii) whether the UGL Agreement had given rise to any conflict of interests on the part of Mr LEUNG as the Chief Executive, and (iii) whether the Payments were taxable under the laws of Hong Kong."

"調查有關梁振英先生在 2011 年與澳洲企業 UGL Limited 簽訂協議("UGL 協議"), 並於就任行政長官後從該企業收取與 UGL 協議有關的 400 萬英鎊款項("該款項")的以下事宜: (i) 梁先生有否遵從《基本法》第四十七條及行政會議成員利益申報制度下的申報規定、(ii) UGL 協議與梁先生行政長官的身份有否構成任何利益衝突, 以及(iii) 該款項根據香港法例是否應予課稅。"

9. The Subcommittee also agrees to recommend the following as the name of the Select Committee:

"Select Committee to Inquire into Matters about the Agreement between Mr LEUNG Chun-ying and the Australian firm UGL Limited"

"調查梁振英先生與澳洲企業UGL Limited所訂協議的事宜專責委員會"

Membership size of the Select Committee and the procedure for nomination and election of Members for appointment to the Select Committee

10. In accordance with RoP 78(2), the President shall decide the size of every select committee and shall appoint the chairman, deputy chairman and members thereof, taking into account the recommendations of the House Committee.

11. There are suggestions that the membership size of the Select Committee be set either at 11 or 13. While some members are of the view that by setting the membership size of the Select Committee at 13, more Members can be allowed to participate in its work, some other members consider it necessary to ensure that the membership size should not be too large as it may affect the efficient operation of the Select Committee. Given the divided views amongst the Subcommittee members, the question was put to vote. The majority of members voted for the proposal to set up a select committee comprising 11 members. The Subcommittee thus proposes that the membership size of the Select Committee should be 11.

12. Drawing reference from the procedure adopted by the two select committees previously formed under RoP 20(6) as well as that adopted by the House Committee for the nomination and election of Members for appointment to the Public Accounts Committee, the Committee on Members' Interests and the Committee on Rules of Procedure at the beginning of the Sixth Legislative Council¹, the Subcommittee proposes that the following procedure be adopted for the nomination and election of Members for appointment to the Select Committee:

- (a) the nomination and election of Members for appointment to the Select Committee shall be conducted at a meeting of the House Committee, the date of which shall be appointed by the House Committee;
- (b) a valid nomination shall be made orally by a Member, seconded by at least one other Member who should not be the Member being nominated, and accepted by the Member being nominated. A Member who nominates a Member who is absent from the meeting when the nomination is made may only do so if the nominating Member confirms

¹ The nomination and election of Members for appointment to the Public Accounts Committee, the Committee on Members' Interests and the Committee on Rules of Procedure was held at the House Committee meeting on 28 October 2016.

that the absent Member's acceptance of the nomination has been secured;

- (c) if the number of nominations exceeds that required for appointment, a poll shall be taken at the House Committee meeting at which the election is conducted. Members shall cast their votes by using the Electronic Voting System. A Member may vote for as many nominees as, but not more than, the number required for appointment. The nominees who get the highest number of votes will be declared elected;
- (d) 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 sub-paragraph (c) above;
- (e) if, after a separate poll is held, 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(s);
- (f) after the nomination and election of members to the Select Committee, the House Committee meeting should be suspended for 10 to 15 minutes to allow the elected members to elect from amongst themselves the chairman and deputy chairman of the Select Committee. The House Committee will then resume its meeting and be asked to endorse the results of election of the chairman and deputy chairman of the Select Committee; and
- (g) the election of the chairman and deputy chairman of the Select Committee will follow the procedure set out in **Appendix III** to this report, which is modelled on the procedure for election of the chairman and deputy chairman of a committee given in Appendix IV to the House Rules.

Advice sought

13. The House Committee is invited to:

- (a) note the Subcommittee's recommendations on the name and TOR of the Select Committee set out in paragraphs 8 and 9 above; and
- (b) endorse the Subcommittee's recommendations on the membership size of the Select Committee and the procedure for nomination and election of Members for appointment to the Select Committee set out in paragraphs 11 and 12 above.

Council Business Division 2
Legislative Council Secretariat
18 January 2017



附錄 I
Appendix I

(只備中文本)
(in Chinese only)

呈
香港特別行政區
立法會主席及全體議員

呈請書
(根據議事規則第 20 條提交)

澳洲媒體於 2014 年 10 月 8 日報導，行政長官梁振英在 2011 年參選特首期間，與澳洲企業 UGL 簽訂秘密協議，收取該企業 400 萬英鎊秘密費用，並於在任期間分兩期收取有關款項。

但事件發生至今，仍有不少疑團仍未解開，包括為何行政長官沒有根據《基本法》第 47 條，透過終審法院首席法官及行政會議利益申報制度，就協議或所收取款項作出申報；協議條款內涉及的酬勞及為商業機構提供服務，會否與行政長官的身份構成利益衝突；以及協議內訂明的酬金中，有那些屬於應繳稅項目。但行政長官及政府當局一直未有提交充足資料，向公眾詳細交待。因此，立法會有必要繼續跟進事件。

我們懇請各位議員支持，在立法會轄下成立一個專責委員會，調查上述事宜。

呈請人：

梁繼昌
尹兆堅

2016 年 10 月 14 日

**Subcommittee to Prepare for the Operation of the Select Committee
on the Petition Presented at the Council Meeting of 2 November 2016**

Membership list

Chairman Hon Paul TSE Wai-chun, JP

Members Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon MA Fung-kwok, SBS, JP
Hon Kenneth LEUNG
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon YUNG Hoi-yan

(Total : 11 members)

Clerk Miss Josephine SO

Legal adviser Mr Timothy TSO

Date 2 December 2016

Appendix III

Procedure for election of the chairman and deputy chairman of the Select Committee

Election of chairman

Presiding member

For the election of chairman of the Select Committee, the member present who has the highest precedence shall preside at the election. If he is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside.

2. For the election to fill a vacancy in the office of chairman, the deputy chairman shall preside at the election. If the deputy chairman is absent or is being nominated for the office, the member present who has the highest precedence shall preside at the election. If he is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside.

Election procedure

3. At the start of the election, the presiding member shall call for nominations for the chairmanship. A valid nomination shall be made orally by a member, seconded by at least one other member who should not be the member being nominated, and accepted by the member being nominated. A member who nominates an absent member for the office is required to state that the absent member's acceptance of the nomination has been secured.

4. If the presiding member is being nominated for the office, he shall be replaced in accordance with paragraph 1 or 2 above, as appropriate, unless otherwise decided by the committee.

5. If there is only one nomination, the presiding member shall declare the nominee elected as chairman.

6. If there are two or more nominations, the presiding member shall announce a vote by secret ballot and shall order the clerk to distribute a ballot paper to each of the members present, including the presiding member. Each nominee shall be assigned a nominee number according to the order of their nominations made during the election.

7. A member present who wishes to vote shall mark on a ballot paper using a chop with a "✓" in the box opposite the nominee number of his choice, and place the ballot paper into the ballot box. Any ballot paper not marked, not properly marked or marked with a "✓" in the respective boxes opposite two or more nominee numbers shall be discarded.

8. After all the members present who wish to vote have done so, the clerk shall count the ballot papers in front of all the members present and report the result to the presiding member who shall check the result for confirmation.

9. The presiding member shall declare elected as chairman the nominee who receives the highest number of valid votes among all the nominees.

10. If two or more nominees receive the same highest number of valid votes, the presiding member shall announce that lots will be drawn by him to decide how he shall give the casting vote in respect of these nominees.

11. The presiding member shall then draw lots and give the casting vote to one of the nominees in accordance with the lot drawn, and shall forthwith declare that nominee elected as chairman.

Election of deputy chairman

Presiding member

12. The member to preside at the election of the deputy chairman of the committee is the chairman thereof. If the chairman is absent, the member present who has the highest precedence shall preside. If such a member is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside.

Election procedure

13. The presiding member shall call for nominations for the deputy chairmanship. A valid nomination shall be made orally by a member, seconded by at least one other member who should not be the member being nominated, and accepted by the member being nominated. A member who nominates an absent member for the office is required to state that the absent member's acceptance of the nomination has been secured.

14. If there is only one nomination, the presiding member shall declare the nominee elected as deputy chairman.

15. If there are two or more nominations, the presiding member shall announce a vote by secret ballot and shall order the clerk to distribute a ballot paper to each of the members present, including the presiding member. Each nominee shall be assigned a nominee number according to the order of their nominations made during the election.

16. A member present who wishes to vote shall mark on a ballot paper using a chop with a "✓" in the box opposite the nominee number of his choice, and place the ballot paper into the ballot box. Any ballot paper not marked, not properly marked or marked with a "✓" in the respective boxes opposite two or more nominee numbers shall be discarded.

17. After all the members present who wish to vote have done so, the clerk shall count the ballot papers in front of all the members present and report the result to the presiding member who shall check the result for confirmation.

18. The presiding member shall declare elected as deputy chairman the nominee who receives the highest number of valid votes among all the nominees.

19. If two or more nominees receive the same highest number of valid votes, the presiding member shall announce that lots will be drawn by him to decide how he shall give the casting vote in respect of these nominees.

20. The presiding member shall then draw lots and give the casting vote to one of the nominees in accordance with the lot drawn, and shall forthwith declare that nominee elected as deputy chairman.