

# **立法會**

## ***Legislative Council***

LC Paper No. CB(2)173/16-17

(These minutes have been cleared  
with the presiding member)

Ref : CB2/PL/SE

### **Panel on Security**

#### **Minutes of meeting**

**held on Tuesday, 18 October 2016, at 8:30 am  
in Conference Room 1 of the Legislative Council Complex**

**Members  
present**

: Hon James TO Kun-sun  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Hon CHAN Kin-por, BBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, JP  
Hon WU Chi-wai, MH  
Hon YIU Si-wing, BBS  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Chi-chuen  
Hon CHAN Han-pan, JP  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon KWOK Ka-ki  
Hon KWOK Wai-keung  
Hon Dennis KWOK Wing-hang  
Hon Christopher CHEUNG Wah-fung, SBS, JP

Dr Hon Fernando CHEUNG Chiu-hung  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, SBS, JP  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Alvin YEUNG  
Hon Andrew WAN Siu-kin  
Hon Jimmy NG Wing-ka, JP  
Dr Hon Junius HO Kwan-yiu, JP  
Hon HO Kai-ming  
Hon LAM Cheuk-ting  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan  
Hon CHAN Chun-ying  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
Hon LUK Chung-hung  
Dr Hon LAU Siu-lai  
Hon LAU Kwok-fan, MH  
Hon Kenneth LAU Ip-keung, MH, JP  
Dr Hon CHENG Chung-tai  
Hon KWONG Chun-yu  
Hon Jeremy TAM Man-ho  
Hon Nathan LAW Kwun-chung

**Members  
absent** : Hon WONG Ting-kwong, SBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon LEUNG Kwok-hung  
Hon CHUNG Kwok-pan  
Hon CHU Hoi-dick  
Dr Hon YIU Chung-yim

**Clerk in  
attendance** : Miss Betty MA  
Chief Council Secretary (2) 1

**Staff in attendance** : Miss Flora TAI  
Assistant Secretary General 2

Ms Rita LAI  
Senior Council Secretary (2) 1

Mr Raymond LAM  
Senior Council Secretary (2) 7

Ms Mina CHAN  
Council Secretary (2) 1

Ms Kiwi NG  
Legislative Assistant (2) 1

Miss Lulu YEUNG  
Clerical Assistant (2) 1

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## **I. Election of Chairman and Deputy Chairman for the 2016-2017 session**

### Election of Chairman

Mr James TO, member of the highest precedence in the Panel, presided over the election of Chairman of the Panel. Mr TO called for nominations for the chairmanship of the Panel. Mr CHAN Hak-kan was nominated by Mr Jeffrey LAM and the nomination was seconded by Miss Alice MAK. Mr CHAN Hak-kan accepted the nomination.

2. Mr James TO was nominated by Mr Kenneth LEUNG and the nomination was seconded by Mr Alvin YEUNG. Mr James TO accepted the nomination. As Mr James TO was nominated for the office, Mr LEUNG Yiu-chung, member of the highest precedence among those present not nominated for the office, took over from Mr James TO to preside over the election.

3. Mr LEUNG Yiu-chung said that to ensure the proper conduct of the election of the Panel chairman at this meeting, he considered that there were certain issues requiring immediate clarification. He said that he was advised by the Secretariat that as the presiding Member at the election of the President of the Legislative Council ("LegCo") at the Council meeting of 12 October 2016, his power was confined to

announcing the list of valid nominations received by the Secretariat, conducting the election and declaring the election results. As he had not been provided with a list of valid nominations at this meeting, there was no opportunity for him to verify the validity of the nominations. As the powers of a presiding member and a chairman of a committee were different, he asked the Secretariat to clarify whether he was performing the role of a presiding member or a chairman of a committee at this meeting.

4. Assistant Secretary General 2 ("ASG2") pointed out that the procedure for election of the chairman of a Panel was different from that for election of the President of LegCo. As regards the procedure for election of the chairman of a Panel, a presiding member called for nominations for the chairmanship, which was made orally, at the start of the election. In this connection, Mr CHAN Hak-kan and Mr James TO had been nominated at the earlier part of this meeting as candidates for the chairmanship. She said that the role and power of a presiding member should be confined to the conduct of the election of the chairman of the Panel as provided for in Appendix IV to the House Rules ("HR"). The duties of the presiding member included ordering a vote by secret ballot if there were two or more valid nominations, checking the voting result for confirmation and declaring the candidate who received the highest number of votes elected as the chairman.

5. Mr LEUNG Yiu-chung said that he was advised by the Secretariat that as the presiding Member at the election of the President of LegCo, he did not have the power to adjourn the meeting. He asked whether he, being a presiding member at the election of the chairman of a Panel, had the power to adjourn a meeting, if the meeting was seriously disrupted. ASG2 said that the Clerk to LegCo had issued a paper on 13 October 2016 on the role and power of a presiding Member at an election. When presiding at an election, the presiding member should have such powers as might be reasonably necessary for him to perform his role and function of presiding at the election. Such reasonably necessary powers included maintaining the order of the proceedings on the election and taking necessary action to ensure that the election be conducted in an orderly manner, but not the power to adjourn the election as the whole purpose of the election was to elect a chairman.

6. Mr Martin LIAO said that a presiding member had a duty to preside over an election in accordance with the Rules of Procedure ("RoP"). However, what Mr LEUNG Yiu-chung had done so far at this

meeting had weakened other members' confidence in his suitability for presiding at the election. He suggested that Mr LEUNG should consider stepping down and making way for the member of the next highest precedence to preside over the election or familiarize himself with RoP before presiding over an election.

7. Mr Abraham SHEK said that reference was made in RoP 3(3) to the powers of a presiding Member in the election of the President of LegCo. Mr Holden CHOW requested Mr LEUNG Yiu-chung to proceed immediately with the election procedure set out in Appendix IV to HR.

8. Miss LAU Siu-lai said that Mr Jasper TSANG, a former President of LegCo, was reportedly said that Mr LEUNG Yiu-chung was performing the role of a chairman of a meeting at the election of President of LegCo. She said that the Secretariat had not provided the relevant rule in RoP which set out the powers of a presiding member in an election. Instead of quoting the contents of a relevant paper issued by the Clerk to LegCo, the Secretariat should explain, with reference to the relevant rule, why the powers of a presiding member were confined to those relating to the conduct of the election.

*(Post-meeting note: The President of LegCo had made his ruling after the Panel meeting that the LegCo Oath taken by Miss LAU Siu-lai was invalid.)*

9. Mr LEUNG Yiu-chung sought clarification on whether he was performing the role of a presiding member or a chairman of the meeting. ASG2 explained that Mr LEUNG Yiu-chung was performing the role of a presiding member, who had such powers as might be reasonably necessary for performing his role. As the presiding member had to perform the role and function of presiding at the election, he should have the power to maintain order of the proceedings on the election and take necessary actions to ensure that the election be conducted in an orderly manner, such as suspending the meeting for the purpose of restoring order. The presiding member, however, did not have the power conferred to the chairman of a committee to adjourn the meeting, as this would be inconsistent with the purpose of the election. She then drew members' attention to the fact that there was a series of Panel meetings for election of their respective chairmen and deputy chairmen scheduled for the same day, Mr LEUNG might wish to consider continuing with the election process.

10. Mr CHAN Chi-chuen sought information on the mechanism for a presiding member to give up his role of presiding over an election. ASG2 said that a member who wished to do so could leave the meeting venue for the member present who had the next highest precedence among the members not nominated for the office to take over and preside over the election.

11. Mr CHAN Chi-chuen sought further information on the mechanism for removal of a presiding member. ASG2 said that the procedure for the election of a chairman was set out in Appendix IV to HR. Subject to RoP, the practice and procedure of a Panel could be determined by that Panel.

12. Mr Paul TSE said that it was inappropriate for Mr LEUNG Yiu-chung to abuse the opportunity of presiding over the election by turning the election into a forum on his previous experience at the election of the President of LegCo. He pointed out that as provided for in Appendix IV to HR, a presiding member should have such powers as might be reasonably necessary for performing his role and function of presiding at the election. A Member who had more than 20 years' experience in LegCo should be fully aware that it was not viable in practice to set out all scenarios regarding the election of a chairman. He said that Mr LEUNG should not, because of his unpleasant experience in the election of the President of LegCo, make things difficult for the Secretariat.

13. Dr CHENG Chung-tai said that there was a need to clarify whether Mr LEUNG Yiu-chung was performing the role of a presiding member or a chairman of the meeting. If a member presiding over an election did not have the power to order the removal of any member whose conduct was grossly disorderly, Mr Abraham SHEK would have made a wrong decision in ordering the removal of some Members when presiding over the election of the President of LegCo at the Council meeting of 12 October 2016.

14. Mr LEUNG Yiu-chung said that to his understanding, a presiding member did not have the power to determine whether a member who had not taken the LegCo Oath should be allowed to attend a meeting, whereas a chairman of a committee had such a power. Without knowing whether he was performing the role of a presiding member or a chairman, it was

not possible for him to determine whether such members should be allowed to attend the meeting.

15. ASG2 said that according to RoP, no Member of the Council should attend a meeting or vote therein until he had taken the LegCo Oath in accordance with the legal requirements.

16. Mr LEUNG Yiu-chung asked whether he had the power to remove a member who did not disrupt the election process. ASG2 responded that under such circumstances, the presiding member might consider whether the need to remove such a member arose. She drew members' attention to the fact that it was about five minutes to 9:00 am, at which another Panel had scheduled a meeting for election of its chairman and deputy chairman would start.

17. Mr LEUNG Yiu-chung asked whether he had the power to extend the meeting time. He said that it would be difficult for him to continue with the election process, if some issues were not yet clarified.

18. ASG2 said that although the presiding member could consider exercising the discretion to extend the meeting time for the purpose of completing the election process, there was a series of Panel meetings scheduled at half-hourly intervals for election of their respective chairmen and deputy chairmen on the same day. As another Panel had scheduled a meeting at 9:00 am to elect its chairman and deputy chairman and there was substantial overlapping in the membership of the two Panels, extension of meeting time might hinder the election process of the other Panel. The presiding member might consider whether it was the time to close the meeting, if there was insufficient time for the process of election of chairman to complete.

19. Mr Nathan LAW referred to HR 22(g), which provided that "Election of chairman and deputy chairman of a Panel should normally take place at the first meeting of the Panel in the session", and expressed concern about the meaning of the term "normally". As the President of LegCo had not yet ruled on the validity of the LegCo Oath taken by some Members at the Council meeting of 12 October 2016, he queried whether it was appropriate to continue with the election process under such uncertainty.

20. Mr Michael TIEN expressed concern about whether the meeting time should be allowed to exceed half an hour, given that the starting time

of all meetings on that day were all scheduled at consecutive half-hourly intervals.

21. Ms Starry LEE expressed deep regret that Mr LEUNG Yiu-chung had taken the opportunity of presiding over the election to turn the election into a forum for discussing a previous election. She said that instead of using up the time for election, there were many channels for Mr LEUNG to follow up his grievances about his unpleasant experience during the time when he presided over a previous election.

22. Mr Steven HO drew Mr LEUNG Yiu-chung's attention to the lack of a quorum. After confirming that a quorum was not present and noting that a large number of members who were also members of the Panel on Development were attending a meeting of the latter scheduled for 9:00 am, Mr LEUNG Yiu-chung declared the meeting closed at 9:02 am.

Council Business Division 2  
Legislative Council Secretariat  
14 November 2016