

Legislative Council

LC Paper No. CP 949/98-99

Ref : CP/G01/12

Subcommittee on Review of the Operation of the LegCo Redress System

**Minutes of meeting held on
Tuesday, 2 February 1999 at 11:00 am
in Conference Room B of the Legislative Council Building**

Members Present : Subcommittee Members

Dr Hon LEONG Che-hung, JP (Chairman)
Hon Cyd HO Sau-lan
Hon Martin LEE Chu-ming, SC, JP
Hon LEE Kai-ming, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, JP
Hon Jasper TSANG Yok-sing, JP
Hon Andrew CHENG Kar-foo

Non-subcommittee Members

Hon LEE Cheuk-yan
Hon NG Leung-sing
Hon Andrew WONG Wang-fat, JP

Members Absent : Hon CHOY So-yuk

Clerk in Attendance : Mrs Anna LO
Chief Assistant Secretary (Complaints)

Staff in Attendance : Mr Ricky C C FUNG, JP
Secretary General

Mr LEE Yu-sung
Senior Assistant Legal Adviser

Mr Charles FOO
Senior Assistant Secretary (Complaints)5

I. Confirmation of minutes of last meeting held on 22.12.98
(LC Paper No. CP 846/98-99)

The minutes of last meeting were confirmed without amendment.

II. Matters Arising

Further consideration on the proposal to extend the Legislative Council (Powers & Privileges) Ordinance as raised by Members at the House Committee meeting on 27.11.98

(LC Paper No. CP 867/98-99)

2. The Chairman invited Members' views on the pros and cons of the two systems outlined in LC Paper No. CP 867/98-99. The meeting noted that the functions of the informal system referred to in the paper were less than those of the existing Redress System.

3. Mr Andrew WONG maintained his view that meetings of the Redress System should not be made committee meetings, and it was not necessary to extend the Legislative Council (Powers & Privileges) Ordinance (the Ordinance) to cover these meetings. He reiterated the impracticability of formalising meetings with complainants. He envisaged that the proposal to extend the Ordinance to cover meetings of the Redress System would result in increasing number of tripartite case conferences among Members, government officials and the complainants. Moreover, as far as he knew there was no other legislature in the world with a Duty Roster Member System to handle public complaints. He strongly advised that the present informal Redress System should be preserved as it was. Mr Martin LEE did not agree with Mr WONG. He objected to the informal system outlined in the paper. Having consulted some legal professionals, he held a different view from SALA's advice given at the last meeting that if Members made remarks in response to the complainant's statements, the Court was not likely to judge that the Members had committed the offence of defamation. Mr Martin LEE reiterated that the privileges and immunities to protect Members at meetings of the Redress System was necessary in the same way as at meetings of the Council and its committees. He did not object to maintaining the present Redress System provided that the Ordinance was extended to cover its meetings. The proposed conversion of these meetings to meetings of a committee was only a mechanism to enable these meetings to be covered by the Ordinance. Irrespective of whether there was a redress system in other legislature, the Hong Kong Special Administrative Region had to observe the Basic Law which stipulated in its Article 73(8) that one of the functions of the Legislative Council was "to receive and handle complaints from Hong Kong residents." In any case, the principle of "one country, two systems" was peculiar to Hong Kong. SALA advised that he had checked the law again after the last meeting. Under the law of defamation a person is also liable for defamation if he republished, i.e. repeated, a defamatory statement made by someone else. However, the exact wording of the sample

conversation raised in the last meeting was a Member making a response to a complainant but not repeating his statement. In that case it is unlikely to be considered as republishing.

4. Mr NG Leung-sing raised the question of whether the Ordinance should be extended to cover Members' interviews with complainants at their own offices. The Chairman reiterated that consideration was only given to extending the immunities and privileges to cover meetings conducted under the Redress System as a function carried out by the Council under Article 73(8) of the Basic Law, but not Members' individual meetings with the public. Mr Martin LEE said that this was appropriate as Members speaking outside a meeting of the Council or its committees were not covered by the Ordinance. Mr Andrew CHENG echoed that Members' interviews with complainants at their offices should not be covered, and that in those circumstances Members should be careful in their speech to avoid committing the offence of defamation. Citing his experience of handling complaints in his capacity as a Duty Roster Member, Mr NG Leung-sing tended to support Mr WONG's proposal to maintain the status quo of the Redress System; but he was open-minded on the issue.

5. The Chairman concluded that the majority of Members agreed, after lengthy discussions, to maintain the existing Redress System but to extend the scope of the Ordinance to cover meetings under the system (i.e. Option 1 proposed by the Subcommittee in its report to the House Committee on 27 November 1998 (para 10 of LC Paper No. CP 608/98-99)). The Chairman agreed to Mr Martin LEE's suggestion to invite the Director of Administration to the next meeting of the Subcommittee to discuss further the possibility of government introducing an amendment bill to extend the Ordinance to cover meetings under the Redress System.

III. Date of next meeting

6. In consultation with the Administration, the next meeting of the Subcommittee was arranged to be held at 10:45 am on 11 February 1999.

7. There being no further business, the meeting was closed at 12:05 pm.