

Legislative Council

LC Paper No. CP 233/98-99

Ref : CP/G01/12

Subcommittee on Review of the Operation of the LegCo Redress System

**Minutes of meeting held on
Wednesday, 19 August 1998 at 10:30 am
in Conference Room B of the Legislative Council Building**

Members Present : Dr Hon LEONG Che-hung, JP (Chairman)
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

Members Absent : Hon Cyd HO Sau-lan
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 LAW Kam-sang, JP
Deputy Secretary General

Mr LEE Yu-sung
Senior Assistant Legal Adviser

Ms YUE Sin-yui
Research Officer 2

Mr Charles FOO
Senior Assistant Secretary (Complaints)5

I. Confirmation of minutes of last meeting

The minutes of last meeting were confirmed without amendment.

II. Matters Arising

(a) **Extension of the Legislative Council (Powers & Privileges) Ordinance to cover Members' meetings with deputations and the Administration on complaint cases**

2. SALA advised that meetings held between Members and the public and meetings between Members and the Administration under the LegCo Redress System (i.e. case conferences) were not covered by the Legislative Council (Powers and Privileges) Ordinance (Cap 382) as they were not meetings of the Council or its committees. If Members decided to extend the powers and privileges conferred under the Ordinance to cover these meetings, there were two ways to do so : (1) to amend the Ordinance to cover the meetings or (2) to amend the Rules of Procedure of the Legislative Council such that these meetings were made meetings of a committee of the Council.

3. Members then went on to discuss the need for extension of such powers and privileges to cover these meetings. Members noted that the LegCo Redress System originated in the 1960's from UMELCO and since the beginning of its operation, it had not been covered by the said Ordinance, and review had never been conducted to consider whether it should be covered. Mrs Sophie LEUNG suggested that this item be considered further after the other items on the agenda were discussed, when there should be a clearer picture about whether and how the LegCo Redress System should be modified. Majority of the Members however considered that as the Basic Law provided that LegCo should operate a redress system, it should be taken as Council business. In any case, some of the meetings with deputations were held in the presence of the mass media. Therefore, extension of the powers and privileges conferred under the said Ordinance to cover meetings conducted under the System should in principle be adopted. Members also agreed that these powers and privileges should, in line with the existing practice in Committee meetings, apply to LegCo Members and government officials present at these meetings only, but not to members of the public. Members requested the Secretariat to give further consideration on the appropriate way to implement this proposal and report to the Subcommittee for further discussion.

(b) The operation of other redress systems as compared with the LegCo Redress System

(LC Paper No. CP 166/98-99(02))

4. DSG explained the proposed outline for the research on the operation of other redress systems as compared with the LegCo Redress System and suggested the following :

Part I - Local Comparison

- (i) Of the statutory bodies, research would be done on the Equal Opportunities Commission and the Consumer Council;
- (ii) The Redress Systems in the Water Supplies Department and the Transport Complaints Unit and two statutory bodies, i.e. the Housing Authority and the Hospital Authority, would be studied;
- (iii) A brief study would be made and reported on judicial review and tribunals;
- (iv) In the Analysis section, a comparison of the different systems studied and their working procedures would be made; and

Part II - Overseas Comparison

- (v) The parliamentary redress system in Japan would be studied, in addition to those in UK, USA, and Australia.

5. Members agreed to DSG's suggestions but asked that the study time could be shortened. DSG replied that the time-table for Part I of the study might be shortened but there might be difficulties in shortening the time-table for Part II as information from abroad would have to be obtained. Members emphasized that the study needed not be in great depth, but one of the objectives should be to identify the types of complaints currently handled by the LegCo Redress System that should more appropriately be handled by other redress systems so that they could be referred to these systems. Members also suggested the following :

- (i) The Administrative Appeals Board should be added to the list of the redress systems to be studied (suggestion made by Mrs Sophie LEUNG);

- (ii) Comparison of the patronage figures of the various redress systems studied should be included in the Analysis section of Part I (suggestion made by Mr Jasper TSANG); and
 - (iii) A study should also be made about whether any of the other local redress systems studied were covered by legal provisions similar to those provided in the Legislative Council (Powers and Privileges) Ordinance.
- (c) **Possible duplication of work of the LegCo Redress System with the work of The Office of The Ombudsman**
(LC Paper No. CP 166/98-99(03))

6. CAS(C) briefly introduced the paper.

7. Members noted that due to confidentiality and protection of personal data, it was not possible to find out how many of the complaint cases handled by the LegCo Redress System had duplicated with those handled by The Ombudsman and/or other redress systems. It was, however, known that there was duplication as voluntarily revealed by some complainants seeking assistance from the LegCo Redress System. In these circumstances, staff of the Complaints Division would suggest to hold on to the case pending the outcome of The Ombudsman's findings in order to avoid duplication. However, if the complainants insisted the LegCo Redress System to handle their cases in parallel with other redress channels, their wish would be respected.

8. Members had divergent views on whether the LegCo Redress System should exclude those cases which had been or were being examined by The Ombudsman. Mr Martin LEE was of the opinion that the LegCo Redress System was a more effective system in handling cases of an urgent nature because Members could call urgent meetings with the Administration to discuss the issues concerned. In addition, publicity given to certain cases in Members' meetings with the complainants in the presence of the media might help the case which could not be achieved by other redress systems. He cited the example of a recent case, namely Public Housing Development at Woodside in Quarry Bay, handled by Duty Roster Members. In that case, the deputation had exhausted all channels of complaints without result and the Duty Roster Members had been able to call and conduct a effective meeting with the Administration on the subject. Mrs Sophie LEUNG stated that even if cases which had been or were being examined by The Ombudsman should not be totally excluded, care must however be taken in processing cases so as to avoid duplication of efforts of The Ombudsman and other redress systems. She stressed that the main task of the Legislative Council was to legislate.

9. On the level of publicity which should be given to the LegCo Redress System, Mr Jasper TSANG commented that while the Legislative Council

should not boost the System, adequate publicity should be given to inform the public of its existence and scope. Referring to the Report on the Review of Services of the LegCo Secretariat (Appendix II(ii) to the paper), the Chairman pointed out that the decision in 1994 to cease the publicity of the System was a conscious one resulting in a substantial drop in the caseload and the consequential reduction in manpower of the Complaints Division. Mrs Sophie LEUNG was concerned that any form of publicity would invariably have the effect of competing with other redress systems and would bring about manpower problem to the Complaints Division. SG added that, from past experience, the caseload of the Complaints Division significantly increased (usually doubled) during the period of Television Announcements in the Public Interest and radio broadcasts.

10. Members concluded that cases examined or being examined by The Ombudsman and prima facie maladministration cases should not be totally excluded. Cases which appeared to be more appropriately handled by other redress systems should be referred to those systems with the consent of the complainants. Members also agreed that there should be adequate publicity on the System but care should be taken to avoid causing competition with other redress systems.

(d) Alternatives to the Duty Roster Members system
(LC Paper No. CP 166/98-99(04))

11. CAS(C) briefed the meeting on the paper.

12. Members noted the present working procedures of the Duty Roster Members (DRM) System and the Ward System. Mrs Sophie LEUNG said that her own office handled all cases involving her functional constituency, amounting to some 60 cases per week. Mr Martin LEE opined that he would prefer the Complaints Division to assist him to handle the cases. Members agreed that the DRM System and the Ward System should be maintained and that it should be up to the Members concerned to decide whether cases lodged by complainants should be handled by them at their own offices or at the Complaints Division. However, Members should use their own ward offices to deal with complaints about local and individual issues as far as possible and refer only complex cases for action to the Complaints Division or where there may be background information on the case in the records of the Division, so that the Division would not be loaded with cases which could be dealt with by the Members' own ward offices.

13. CAS(C) explained that when more than one deputation sought interviews with Members on the same subject or similar subjects, subject to the timing of the requests, they would normally be grouped together to be seen by one single group of Duty Roster Members. She quoted the recent example of complaints in relation to the construction of the West Rail. However, when the requests for seeing Members were received separately with a long lapse of time, two different groups of Duty Roster Members would be arranged to see the deputations. In the circumstances, the first group of Duty Roster Members seeing the first deputation would also be invited to attend the second interview. The second group of Duty Roster Members seeing the second deputation would be advised of any follow-up action decided by the first group of Duty Roster Members.

14. Mr Martin LEE was of the view that the existing practice was unsatisfactory. He suggested that, depending on the nature of the case, Members returned by the relevant geographical constituencies and functional constituencies should also be notified. The Chairman remarked that it would be difficult for the Secretariat to decide which Members should be invited. Mrs Sophie LEUNG commented that some Members would then be overloaded with a large number of cases. Mr Jasper TSANG stated that Members returned by geographical constituencies should be well aware of the issues happening in their constituencies and should not rely on the Secretariat's notification. After some discussions, Members agreed that the Eight - Weekly Forecast of Activities should be a sufficient notification to all other Members about Duty Roster Members Interviews. SG suggested that for ease of reference, the Complaints Division might consider issuing a separate Eight - Weekly Forecast of Activities on Duty Roster Members Interviews. Mr Martin LEE suggested that the Forecast should include more information about the contents of the subjects to be discussed at the interviews.

15. Mr Martin LEE further suggested that standing core groups (±³]ᄁp²Ö) should be established to receive and handle complaints from deputations. These groups might be on a subject basis or on a geographical constituency basis, and other Members could join discussions of any cases handled by these standing groups. Mrs Sophie LEUNG commented that the existing Duty Roster Members System worked well and should be retained. She said that the System with six Members of different political affiliation on duty each week together with Members invited by deputations to the interviews should have already provided a good mix of Members to hear and deal with group representations. She also said that there would be demarcation problems in setting up the proposed standing groups and settling the kind of cases to be handled by the different groups. Mr Martin LEE suggested that standing groups on different subjects might perhaps be established under the corresponding panels. He also suggested that after the formation of these standing groups, Members should be allowed to choose whether to continue to perform the duties of a Duty Roster Member. Members requested the LegCo

Secretariat to prepare another paper on the subject for further discussion by the Subcommittee.

(e) Identification of a uniform procedure for following up cases

(LC Paper No. CP 166/98-99(05))

16. CAS(C) briefed Members on the paper.

17. Members noted the existing procedure of processing complaints lodged by individual members of the public. Such complaints were usually received and followed up by staff of the Complaints Division on behalf of Members. A Ward Member would be consulted usually when a complaint was found justified but the Administration had refused to take appropriate remedial action, or when a complaint had been fully examined and found unjustified but the complainant insisted that his complaint be pursued without providing fresh information or justification.

18. As regards group cases, Members noted the usual follow-up actions mentioned in the discussion paper. Members also noted that all cases would only be closed with Members' approval after a report on the outcome was made by staff of the Complaints Division to the Members concerned. The Secretariat would then issue a reply to the deputations concerned according to Members' instructions. CAS(C) advised Members that most of the group cases were completed within 3 months upon its receipt. Members were satisfied with the existing practice.

(f) Public's right of meeting one Member after another on ruled cases

(LC Paper No. CP 166/98-99(06))

19. CAS(C) introduced the paper.

20. Members noted the present practice that public's requests for meeting one Member after another on ruled cases would not normally be entertained unless the complainant could provide fresh evidence or facts about his case. This practice, which had worked well, was to avoid a member of the public from keeping on requesting to see different Members on ruled cases. Exceptionally, if the complainant was very insistent, the Complaints Officer would consult the specified alternative Member with the background of the case whether he would like to see the complainant. Mr Martin LEE opined that such requests should, as a rule, be referred to the Member(s) whom the complainant requested to see for a decision because different Members might have different perspective on a case. Mrs Sophie LEUNG opined that there should be a limit for entertaining such requests in order to avoid abuse of the system and giving the impression to the public that different Members would handle a case differently. She quoted the example of the restriction imposed by the Hospital Authority on the selection of doctors by patients.

21. Members finally agreed that all such requests should be referred to the Member(s) whom the complainant requested to see and the Secretariat should provide the Member(s) with a full record on the case and the advice of the previous Members seen so as to facilitate the Member(s) to make the decision whether to see the complainant.

(g) Public's right of excluding any Members from a Duty Roster Members interview

(LC Paper No. CP 166/98-99(07))

22. CAS(C) briefed Members on the paper.

23. Members noted that, for various reasons, some deputations sought to exclude a particular Member from an interview. Members agreed that such requests should not be entertained. The LegCo Secretariat should continue to alert the Member(s) concerned of such views of the deputations but it should be up to the Member(s) concerned to decide whether to attend the interviews.

(h) Jurisdiction of the LegCo Redress System

(LC Paper No. CP 166/98-99(08))

24. Discussion of this paper was deferred to next meeting. Mr Martin LEE suggested that more analysis should be given about the exclusion of the matters listed in the discussion paper from the jurisdiction of the LegCo Redress System.

III. Date of next meeting

25. The next meeting would be held at 8:30 am on Friday, 11 September 1998.

26. There being no further business, the meeting was closed at 12:30 pm.

Legislative Council Secretariat

21 September 1998