

34. Mr Andrew CHENG and Dr YEUNG Sum said that given that Article 73(8) of the Basic Law specified that one of the functions of the Council was “to receive and handle complaints from Hong Kong residents”, the powers and privileges conferred under the Ordinance should be extended to cover meetings conducted under the Redress System. They considered the proposal reasonable, as Members enjoyed the same powers and privileges at meetings of Panels and other committees of the Council.

35. Mr Martin LEE added that without the extension of powers and privileges to cover meetings conducted under the Redress System, persons could not be summoned to appear at such meetings to testify or give evidence, which was provided for under Article 73(10) of the Basic Law. Furthermore, he considered that Members should be accorded protection under the Ordinance, as open meetings were sometimes held at the request of the complainants.

36. Mrs Sophie LEUNG, Mrs Selina CHOW and Mr Ronald ARCULLI expressed reservations about the subcommittee’s proposal. Mrs LEUNG said that extending the powers and privileges under the Ordinance to meetings with complainants would put the Redress System at a more advantageous position vis-à-vis other redress systems. Mrs CHOW was of the view that the flexibility inherent in the existing mechanism for dealing with complaints would be removed if the proposed change was adopted. Mr ARCULLI said that he did not see the need for powers and privileges to be conferred on Members attending meetings with the complainants, given that the majority of cases handled under the Redress System involved individual complaints against decisions or actions of government bureaux and departments.

37. Mr Andrew WONG said that Article 73(8) of the Basic Law did not specify that a formal mechanism should be established to deal with public complaints. He pointed out that there already existed both “informal” and “formal” mechanisms for dealing with public complaints. The Redress System with its inherent flexibility had worked well and its operation was neither governed by law nor the Rules of Procedure of the Council. Complaints could be handled in a “formal” manner by way of a petition or a motion under Rule 20 and Rule 29 of the Rules of Procedure respectively. In the case of the former, a Member could present a petition on grievances suffered by the public as a result of Government actions. If not less than 20 Members supported the petition, the petition would be referred to a select committee for further action in accordance with Rule 20(6). In the case of the latter, a Member could move a motion for debate in the Council on a subject matter arising from a complaint lodged by the public against a decision or policy of the Government. In either case, Members were protected under the Ordinance.

38. Mr WONG further said that the proposed extension of powers and privileges to cover meetings conducted under the Redress System would have major implications on the existing mechanisms and procedures for dealing with complaints. He suggested that the subcommittee should reconsider the proposal in greater detail.

39. In reply to Mr NG Leung-sing, the Legal Adviser said that the Ordinance was on the list of ordinances to be adapted under the Adaptation of Laws Programme. The Secretary General added that the Administration had indicated that the introduction of legislative amendments to give effect to the proposed changes to the Redress System was outside the scope of the Adaptation of Laws Programme.

40. The Chairman suggested that the subcommittee should hold further meetings to consider the proposal to extend powers and privileges to cover meetings held under the Redress System in the light of the points raised by members at the meeting. The Secretariat would invite non-subcommittee members to attend these meetings. Members agreed.

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