

立法會
Legislative Council

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**Report of the Committee on Members' Interests
for submission to the Legislative Council
1998-2000**

Purpose of the Report

This Report outlines the work of the Committee on Members' Interests (the Committee) during its term of office since 10 July 1998.

The Committee on Members' Interests

Terms of Reference

2. The Committee is a standing committee of the Legislative Council. Its terms of reference are set out in Rule 73(1) of the Rules of Procedure.

Membership

3. On the recommendation of the House Committee and in accordance with Rule 73(2) of the Rules of Procedure, the President of the Legislative Council appointed Hon David CHU Yu-lin as the Chairman, Hon SIN Chung-kai as the Deputy Chairman and five Members as members of the Committee on 10 July 1998. The membership list is at the Appendix.

Meetings and major areas of work considered

4. During the period, the Committee held five meetings and, through circulation of papers, considered a number of issues the major ones of which are set out below:

- (a) revised the Registration Form on Members' Interests (Registration Form);
- (b) updated the "Advisory Guidelines on Matters of Ethics in relation to the Conduct of Members of the Legislative Council of the Hong Kong Special Administrative Region in their capacity as such" (the Advisory Guidelines);
- (c) deliberated whether Members should accept financial sponsorship from an anonymous source; and
- (d) drawn up the procedure for handling complaints received in relation to the registration and declaration of Members' interests.

Details of deliberations

A. Registration Form on Members' Interests

- (a) Inclusion of Members' election donations as interests registrable under "Financial Sponsorships" on page 4

5. Members of the former Legislative Council were required under the Standing Orders to register financial sponsorships received "as a candidate for election to the Council, where to the knowledge of the Member the sponsorship exceeds \$10,000 or 25% of his election expenses". This rule was not included in the Rules of Procedure for the Provisional Legislative Council (PLC) as it was not applicable to PLC Members. Consequently, the Rules of Procedure for this Council adopted on 2 July 1998, which were based on those of the PLC, did not have such provision. In reviewing how the Registration Form on Members' Interests, which had been used by the previous legislatures, could be

adopted for use by the current Legislative Council, the Committee decided that a Legislative Council Member should register each donation he received as a candidate for election to the Council, and a Member would be deemed to have satisfied this requirement by attaching to page 4 of the Registration Form a copy of statement of donations (excluding copies of vouchers) which he submitted to the returning officer appointed by the Election Affairs Commission under section 29(2) of the Corrupt and Illegal Practices Ordinance (Cap. 288). The Committee accordingly updated page 4 of the Form and sought the President's approval for the amendment. The new page was circulated to Members on 14 May 1999.

(b) Amendments to page 7 of the Registration Form on Members' Interests, relating to Land and Property

6. The Committee decided that more detailed notes should be provided to page 7 of the Registration Form pertaining to land and property where a Member has a right over its disposition or has any pecuniary interest deriving from it.

7. The Committee accordingly updated the page and sought the President's approval for the amendment. The new page was circulated to Members on 14 May 1999.

(c) Repeal of the Corrupt and Illegal Practices Ordinance (Cap. 288)

8. The term "donation" used in page 4 (Donations/Financial Sponsorships) of the Registration Form, as set out in the Notes of the page, had the same meaning as that in the Corrupt and Illegal Practices Ordinance (Cap. 288). In view of the fact that the Ordinance had been repealed and replaced by the Elections (Corrupt and Illegal Conduct)(E(CIC)) Ordinance (Cap. 554) enacted on 16 February 2000, the Committee agreed that the Notes on page 4 should be amended to make reference to the definition of "Election donation" in the E(CIC) Ordinance. The President's agreement to revise the page was obtained on 26 May 2000. The revised page was circulated to Members on 30 May 2000.

B. Advisory Guidelines on Matters of Ethics in relation to the conduct of Members of the Legislative Council of the Hong Kong Special Administrative Region in their capacity as such

9. The Committee issued to Members on 13 May 1999 a set of Advisory Guidelines, which were an updated version of the Guidelines issued by the former legislatures.

C. Acceptance of financial sponsorship from an anonymous source

10. At the request of the Committee on Rules of Procedure, the Committee considered whether Members should accept financial sponsorship from an anonymous source. The Committee studied in detail the practices of four countries, namely the United Kingdom, Australia, Canada and the United States. It also observed that the current practice of the Legislative Council was that Members were required to register all donations. After careful consideration, the Committee decided that the present arrangement was adequate and should continue. The Committee on Rules of Procedure was informed of the Committee's decision accordingly.

D. Procedure of the Committee on Members' Interests for handling complaints received in relation to the registration and declaration of Members' interests

11. Under Rule 73(1)(c) of the Rules of Procedure, the Committee is empowered and entrusted with the responsibility to investigate complaints relating to the registration and declaration of Members' interests. Members of the Committee considered that it was necessary to provide a detailed procedure for handling complaints in relation to the registration and declaration of Members' interests. The Procedure should set out when to start an investigation, how to conduct an investigation, and whether meetings held for the purpose of an enquiry should be held in public or in camera. It should be fair to the Member under complaint and the complainant, and should be able to cope with the most antagonistic situation and guard against abuse or favoritism by a dominant party. Reference was made to the procedure for handling complaints about Members in the legislatures in four countries, namely, the

United Kingdom, Australia, Canada and the United States, and the procedure adopted by the former Committee on Members' Interests.

12. After consideration, Members decided that the procedure should include the following aspects:

- (a) The Committee would only deal with written complaints in which the complainants could be contacted and identified.
- (b) The Chairman of the Committee would decide whether a meeting should be held for the purpose of considering the complaint. The Chairman's decision of not to hold a meeting could be overturned by a majority of members.
- (c) At the preliminary consideration stage, the Committee might invite the complainant to attend a meeting to provide information. The Committee might also invite the Member under complaint to attend the meeting to give explanations and to provide information. The Committee might then decide whether to proceed with an investigation.
- (d) In the course of conducting an enquiry at the investigation stage, the Committee might invoke the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to order any person to attend before the Committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.
- (e) Upon receipt of the Committee's notification of its decision that the complaint was substantiated, the Member under complaint might request the Committee to review its decision.
- (f) If the Committee was of the opinion that the complaint was substantiated, it should present a report to the Council on the complaint and might also make a recommendation to the Council as to a sanction to be imposed on the Member concerned under Rule 85 of the Rules of Procedure.

13. The Procedure was drawn up and circulated to Members for information on 2 August 1999.

Other matters considered

14. In addition to the above, the Committee noted that two Members had belatedly filed registration of interests due to oversight. As the late registration did not involve a conflict of interest in the performance of duties of the Members concerned, the Committee decided that it was not necessary to take any action.

Legislative Council Secretariat

14 June 2000

Committee on Members' Interests

**Membership List
(July 1998 to June 2000)**

Hon David CHU Yu-lin (Chairman)
Hon SIN Chung-kai (Deputy Chairman)
Hon HO Sai-chu, SBS, JP
Hon Cyd HO Sau-lan
Hon NG Leung-sing
Hon Bernard CHAN
Hon YEUNG Yiu-chung

Total: 7 Members