

**Resolution under Legislative Council (Powers and Privileges) Ordinance
passed on 25 May 1994 and amended on 20 November 1996
and further amended on 16 April 1997**

That with effect from 25 May 1994 the usage and practice in regard to the determination of claims of "public interest privilege" made by persons appearing before a committee of the Council shall be as set out in the Schedule annexed to this Resolution.

1. In this Schedule –

"relevant body", (有關方面) in relation to a committee before which a witness is attending to give evidence or to produce any paper, book, record or document, means -

- (a) the chairman and deputy chairman of the committee, where both are present (and references to the delivering of the opinion of the relevant body shall be taken to mean the opinion of the chairman where the chairman and deputy chairman disagree);
- (b) the chairman alone where the deputy chairman is absent;
- (c) the deputy chairman alone where the chairman is absent; or
- (d) where both the chairman and deputy chairman are absent, the member elected to act as chairman during such absence.

"witness" (證人) means –

- (a) a person lawfully ordered to attend to give evidence or to produce any paper, book, record or document before a committee; and
- (b) any public officer designated by the Governor under section 8A(2)(b) of the Legislative Council (Powers and Privileges)

Ordinance (Cap. 382) for the purpose of attending sittings of a committee.

2. If, at a public sitting of a committee, a witness refuses to answer publicly or privately any question that may be put to him, or to produce any paper, book, record or document, and claims privilege on the ground that the giving of the answer or the production of the paper, book, record or document would be contrary to the public interest the following procedure will apply -

- (1) The chairman shall inform the witness that he may explain his reasons in confidence to the relevant body and that the relevant body will then deliver an opinion to the committee without disclosure of any information or paper, book, record or document claimed by the witness to be privileged from disclosure.
- (2) If the witness agrees to explain his reasons to the relevant body the relevant body shall make arrangements to consider the reasons and deliver its opinion to the committee.
- (3) If the relevant body delivers its opinion that the claim of privilege by the witness is justified in respect of an answer to a question or the production of any paper, book, record or document the committee shall excuse the answering of such question or the production of such paper, book, record or document.
- (4) If the relevant body delivers its opinion that the claim of privilege by the witness is not justified in respect of any answer to a question or the production of any paper, book, record or document the committee may order the answering or production thereof.
- (5) If the witness continues to refuse to answer any question or produce any paper, book, record or document the committee may take such action within its powers as it considers appropriate.

- (6) If the witness does not agree to explain his reasons to the relevant body under subparagraph (2) the committee may take such action within its powers as it considers appropriate.

3. If, at a public sitting of a committee, a witness refuses to answer in public any question that may be put to him, or to produce in public any paper, book, record or document on the ground of public interest privilege, but requests to answer such question or produce such paper, book, record or document at a private sitting of the committee, the following procedure will apply -

- (1) The committee will deliberate in private whether to agree to the request by the witness.
- (2) The decision of the committee will be taken by formal vote.
- (3) If the committee decides to agree to the request by the witness no answer given by the witness at a private sitting nor any paper, book, record or document produced by him thereat shall be made public unless the committee decides during the private sitting that the request by the witness for confidentiality is not justified. Before reaching such a decision the committee shall give the witness an opportunity to state the grounds upon which he claims public interest privilege in respect of the particular answer or paper, book, record or document.