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**Paper for the House Committee meeting
on 23 April 2004**

Committee on Rules of Procedure

Extension of Rules of Order to Committees

Purpose

This paper informs the House Committee (HC) of the view of the Committee on Rules of Procedure (CRoP) as regards whether Part I (Rules of Order) of the Rules of Procedure (RoP) should be extended to apply to all committees of the Council.

Background

2. At its meeting on 27 June 2003, HC considered a Member's complaint about the handling by the chairman of the Panel on Security of a point of order raised at the joint meeting of the Panel on Administration of Justice and Legal Services and Panel on Security held on 17 June 2003. At that joint Panel meeting, the Secretary for Security raised a point of order as to whether that Member had used offensive language about her by calling her a "crook".

3. HC decided to invite CRoP to study whether it is necessary to provide express authority for a panel chairman to deal with the situation where a Member is alleged to have used offensive or insulting language at a panel meeting, and whether Part I of RoP concerning order at Council meetings, standing committees and select committees should be extended to panels.

Relevant rules

4. Rules 41(4) and (5) in Part H (Rules of Speaking) of RoP provide that:

“41. Contents of Speeches

- (4) It shall be out of order to use offensive and insulting language about Members of the Council.
- (5) A Member shall not impute improper motives to another Member.”

5. Rule 43 provides that Rules 36 to 42 “shall apply to the proceedings in a committee unless the chairman of the committee orders otherwise”. By virtue of Rule 10(2), these rules apply to public officers attending meetings of the Council and its committees as they apply to Members.

6. Rules relating to the observance of rules of order and the maintenance of order during proceedings of the Council, a committee of the whole Council, standing or select committees are in Part I (Rules of Order) of RoP, i.e. Rules 44 (Decision of Chair Final) and 45 (Order in Council and Committee). These rules provide for the President, the Chairman of a committee of the whole Council or the chairman of any standing or select committee to:

- (a) be responsible for the observance of the rules of order, and his decision on a point of order shall be final (Rule 44);
- (b) after having called the attention of the Council or the committee to the conduct of a Member who persists in irrelevance or tedious repetition of his own or other Members’ arguments in the debate, direct him to discontinue his speech (Rule 45(1)); and
- (c) order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting (Rule 45(2)).

7. Rules 44 and 45 do not cover other committees of the Council, such as HC, CRoP, bills committees, panels, and subcommittees of these committees. RoP provide that the practice and procedure of these committees are to be determined by the respective committees.

Previous consideration by CRoP to extend Rules 44 and 45 to other committees

8. In April 1999, CRoP considered whether Rules 44 and 45 should be extended to apply to other committees of the Council, such as HC, CRoP, bills committees, panels, and subcommittees of these committees, as it might be necessary for the chairmen of these other committees to give effect to the rules of order of the Council and to maintain order at meetings of these committees.

9. At that time, CRoP noted that in the legislatures in the United Kingdom, Australia, Canada and the United States of America, the chairman of a committee normally had the power to maintain order and decorum, but his decision was subject to appeal to the relevant committee or the House. The decision for the withdrawal of a Member, however, rested invariably with the House.

10. Having regard to the practices in overseas legislatures and as it appeared to CROP that the then arrangements for meetings of committees had been working well, CRoP decided that it was not necessary to extend Rules 44 and 45 to cover other committees of the Council and their subcommittees.

CRoP's current view

11. As invited by HC, CRoP revisited the issue in March 2004. After discussion, CRoP takes the view that unlike proceedings of the Council, a committee of the whole Council, standing or select committees to which Rules 44 and 45 apply, meetings of the other committees of the Council are working meetings in nature. The existing power given to chairmen of these committees is adequate for them to deal with disputes at meetings. For instance, to deal with the situation in which the use of offensive or insulting language is alleged, the committee chairman concerned may suspend the meeting to let the controversy die down, or the chairman may remind the Member that his/her remarks are inappropriate. It is therefore not necessary to extend these Rules to cover other committees of the Council and their subcommittees.

12. CRoP notes that, to assist committee chairmen in presiding at meetings, the Secretariat will be preparing a Chair's Guide which will include, inter alia, guidelines for them in dealing with controversies about Members' speeches or conduct during meetings.

Advice sought

13. Members are invited to take note of CRoP's view that it is not necessary to extend Part I (Rules of Order) of RoP to apply to all committees of the Council.

Legislative Council Secretariat
20 April 2004