

**立法會**  
**Legislative Council**

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**Paper for the House Committee meeting on 17 October 2003**

**Report of the Subcommittee to prepare for the appointment  
of the select committee to inquire into matters relating to the handling  
of the Severe Acute Respiratory Syndrome outbreak  
by the Government and the Hospital Authority**

**Purpose**

This paper reports on the deliberations of the Subcommittee to prepare for the appointment of the select committee to inquire into matters relating to the handling of the Severe Acute Respiratory Syndrome (SARS) outbreak by the Government and the Hospital Authority and invites the House Committee to endorse the Subcommittee's recommendations.

**Background**

2. At the House Committee meeting held on 10 October 2003, Members agreed that -
  - (a) a motion should be moved at a Legislative Council meeting proposing the appointment of a select committee to inquire into the handling of the SARS outbreak by the Government and the Hospital Authority; and
  - (b) a subcommittee should be set up to formulate the terms of reference and the methodology of the proposed select committee and other related matters and to report to the House Committee on 17 October 2003.

**The Subcommittee**

3. The Subcommittee comprises 11 members, with Dr Hon LAW Chi-kwong elected Chairman. The membership list of the

Subcommittee is in **Appendix I**.

### **Deliberations and recommendations of the Subcommittee**

4. The Subcommittee met on 15 October 2003 and its deliberations and recommendations are detailed in paragraphs 5 to 17 below.

#### Terms of reference of the select committee

5. To facilitate deliberation by the Subcommittee, the Legislative Council Secretariat has prepared draft terms of reference of the proposed select committee based on the terms of the motion passed by the Panel on Health Services. The proposed terms of reference are as follows -

"To inquire into the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority in order to examine the performance and accountability of the Government and the Hospital Authority and their senior officers in that regard."

"調查政府與醫院管理局對嚴重急性呼吸系統綜合症爆發的處理手法，藉此審視政府與醫院管理局及其高層人員在此方面的表現及須承擔的責任。"

6. Members share the view that the scope of the proposed terms of reference is appropriate. They also agree that the areas of concern to be investigated should be left to the proposed select committee after it is appointed.

7. Some members are of the view that the word "senior" ("高層") should be deleted, to avoid a wrong message being conveyed to the public that the proposed select committee has a pre-determined view from the outset that senior officers of the Government and the Hospital Authority are culpable in their handling of the SARS outbreak.

8. Other members, however, consider that the word "senior" ("高層") should be retained in order to respond to public call for finding out whether, and if so, which senior officers of the Government and the Hospital Authority should be held accountable for the outbreak of the disease. They are also of the view that deleting the word "senior" ("高層") would create anxiety amongst all employees of the Government and the Hospital Authority. This is unfair, as decisions on the handling of the SARS outbreak by the Government and the Hospital Authority are invariably taken by their senior officers.

9. In view of the divergent views on the wording of the proposed terms of reference, a vote was taken. Four members, viz: Hon Andrew CHENG, Hon Michael MAK, Hon LEE Cheuk-yan and Dr Hon LO Wing-lok were in favour of retaining the word "senior" ("高層"), whereas five members viz: Hon Miriam LAU, Hon Mrs Sophie LEUNG, Hon CHAN Yuen-han, Dr Hon TANG Siu-tong and Hon Cyd HO were in favour of deleting the word.

10. The Subcommittee proposes to recommend to the House Committee the following proposed terms of reference which represent the majority view of members -

"To inquire into the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority in order to examine the performance and accountability of the Government and the Hospital Authority and their officers in that regard."

"調查政府與醫院管理局對嚴重急性呼吸系統綜合症爆發的處理手法，藉此審視政府與醫院管理局及其人員在此方面的表現及須承擔的責任。"

#### Issues not intended to be covered by the proposed terms of reference

11. The Subcommittee agrees that it should be made clear that the proposed terms of reference are not intended to include examination of treatment protocols adopted in treating SARS patients, as there was no agreed treatment for SARS internationally during the SARS outbreak and that, it would not be the function of the proposed select committee to adjudicate on the legal liability of any individual or party summoned to attend as witnesses.

#### Proposed motion

12. A proposed motion is attached for endorsement by the House Committee (**Appendix II**).

13. The Subcommittee proposes that the motion should be moved by its Chairman at the Council meeting on 22 October 2003 or 29 October 2003, depending on whether any Members would propose amendments to the proposed motion. In order to enable the proposed select committee to commence work early, the House Committee will be invited to seek the President's permission to waive the 12 clear days' notice for moving the proposed motion on either 22 October 2003 or 29 October 2003.

#### Practice and procedure of the select committee

14. Members recommend that the practice and procedure of the select

committee be determined by the select committee itself, with reference to the practice and procedure of previous select committees.

15. As regards a Member's suggestion made at the House Committee meeting on 10 October 2003 that the select committee should be empowered to engage counsel to assist in the examination of witnesses, members consider that as assistance to select committees had been effectively rendered by the clerks and legal advisers of the Legislative Council Secretariat in the past, the arrangement should continue. There is also concern about duplication of work between the person appointed as counsel to the select committee and members of the select committee, in particular with regard to the questioning of witnesses. Such duplication of work would undermine the efficiency of the select committee. This point is particularly pertinent, given the limited time for the proposed select committee to complete its work within the 2003-2004 legislative session.

Size of the select committee and the procedure for nominating its Chairman, Deputy Chairman and members

16. In accordance with Rule 78(2) of the Rules of Procedure, the President shall decide the size of every select committee and shall appoint the chairman, deputy chairman and members thereof, taking into account the recommendations of the House Committee.

17. The Subcommittee proposes that -

- (a) the number of members to be appointed to the proposed select committee should be an odd number not exceeding 15;
- (b) nomination of Members to the select committee should be made orally at the House Committee meeting on Friday, 24 October 2003, should the proposed select committee be appointed by the Council on 22 October 2003; or at the House Committee meeting on Friday, 31 October 2003, should the proposed select committee be appointed by the Council on 29 October 2003;
- (c) after the nomination of Members to the select committee, the House Committee should adjourn for 10 minutes to enable the nominated Members to consider which of them should be nominated as Chairman and Deputy Chairman of the select committee;
- (d) the House Committee will then resume and be asked to endorse the proposed composition of the select committee; and
- (e) the Chairman of House Committee will make a recommendation

to the President on the chairmanship, deputy chairmanship and membership of the select committee.

**Advice sought**

18. Members are invited to endorse the Subcommittee's recommendations in paragraphs 10, 11, 13, 14 and 17 above.

Council Business Division 2  
Legislative Council Secretariat  
16 October 2003

**Subcommittee to prepare for the appointment  
of the select committee to inquire into matters relating to the handling  
of the Severe Acute Respiratory Syndrome outbreak  
by the Government and the Hospital Authority**

**Membership List**

**Chairman** Dr Hon LAW Chi-kwong, JP

**Members** Hon Cyd HO Sau-lan

Hon LEE Cheuk-yan

Hon CHAN Kwok-keung, JP

Hon CHAN Yuen-han, JP

Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP

Hon Miriam LAU Kin-yee, JP

Hon Andrew CHENG Kar-foo

Dr Hon TANG Siu-tong, JP

Hon Michael MAK Kwok-fung

Dr Hon LO Wing-lok, JP

(Total : 11 Members)

**Clerk** Ms Doris CHAN

**Legal Advisers** Mr Jimmy MA, JP  
Miss Monna LAI

**Date** 15 October 2003

**Proposed motion for the appointment  
of the select committee to inquire into matters relating to the handling  
of the Severe Acute Respiratory Syndrome outbreak  
by the Government and the Hospital Authority**

"That this Council appoints a select committee to inquire into the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority in order to examine the performance and accountability of the Government and the Hospital Authority and their officers in that regard; and that in the performance of its duties the committee be authorised under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."