

**THE PROCEDURE OF
THE COMMITTEE ON MEMBERS' INTERESTS
FOR HANDLING COMPLAINTS RECEIVED
IN RELATION TO THE REGISTRATION ~~AND-OR~~ DECLARATION
OF MEMBERS' INTERESTS OR
MEMBERS' CLAIMS FOR REIMBURSEMENT OF OPERATING EXPENSES**

~~July 1999~~ December 2005

**The procedure of the Committee on Members' Interests
for handling complaints received
in relation to the registration ~~and-or~~ declaration of Members' interests or
Members' claims for reimbursement of operating expenses**

Convening the first meeting

- (1) Upon receipt of a written complaint by the Committee on Members' Interests (the Committee) from a Member or a member of the public (~~thereafter~~ hereinafter referred to as "the complainant") about the registration or declaration of interests of a Member or a Member's claims for reimbursement of operating expenses (~~thereafter~~ hereinafter referred to as "the Member under complaint"), the Clerk to the Committee (the Clerk) shall forthwith contact and verify the identity of the complainant. The Clerk shall then distribute the complaint in the form of a confidential document to members of the Committee (the members) and he shall ask the Chairman of the Committee (the Chairman) to decide within two working days whether a meeting on the matter should be held (in the event of the absence of the Chairman from Hong Kong or the Member under complaint being the Chairman, the Clerk shall seek instruction from the Deputy Chairman; the same principle shall apply in subsequent paragraphs). If the Chairman or the Clerk receives a complaint by an anonymous or unidentifiable person or by a person who cannot be contacted, the Chairman shall instruct the Clerk to circulate the complaint to other members in the form of a confidential document for information. However, the Committee will not consider the complaint.
- (2) In deciding whether a meeting should be held to consider the complaint received, the Chairman may decide not to hold such a meeting for the following reasons:
 - (a) the complaint is not related to the registration ~~and-or~~ declaration of a Member's interests, or a Member's claims for reimbursement of operating expenses;
 - (b) the complaint is merely based on speculations, inferences or unfounded judgements;
 - (c) the complaint is made by an anonymous or unidentifiable person or by a person who cannot be contacted; ~~or~~
 - (d) the complaint or related matters is/are being investigated by a law enforcement agency, or is/are relating to a case pending in a court of law;
 - (e) the complaint involves substantially repeated allegations which have already been dealt with by the Committee, save for fresh evidence produced;
 - (f) the complaint is made against a former Member(?), or about a Member's act(s) or omission(s) allegedly took place seven years or more prior to the date of the complaint(?); or
 - (g) other reasons he deems appropriate.
- (3) If the Chairman decides that the Committee should meet, he shall instruct the Clerk to arrange for the first meeting to be held within the next seven working days to consider the complaint.

- (4) If the Chairman decides not to hold such a meeting and conveys to the Clerk his decision as well his reasons for making such a decision, the Clerk shall inform other members of the Chairman's decision and his reasons. If any member indicates disagreement with the decision in writing, the Clerk shall, by way of a circular, ask the members to forward replies to him within three working days on whether a meeting should be held to consider the complaint. In the event that the Clerk receives replies in which the majority of members indicate their support for holding a meeting, he shall ask the Chairman to fix the date, the time and the venue for the meeting. The first meeting shall be held within the next seven working days.
- (5) If the Chairman makes a decision of not holding a meeting and the Clerk does not receive replies from a majority of members indicating disagreement with this decision after the expiry of the three-day deadline since the issue of the circular, the Committee will not take any further action on the complaint.

Preliminary consideration

- (6) The Committee may hold a meeting or a series of meetings to consider the complaint.
- (7) The purposes of such meetings are:
- (i) To ascertain the subject of the complaint and the provisions of the Rules of Procedure relevant to the allegations in question; and
 - (ii) To gather information relevant to the complaint and the allegations in question, such as the dates, amounts of money (if any), persons involved, etc. Such information should not include media reports, information provided by anonymous persons and speculations, inferences or judgements made by individuals.
- (8) *In considering a complaint relating to a Member's claims for reimbursement of operating expenses, the Committee shall, in addition to any other matter that the Committee may consider relevant, have regard to the provisions of the Guide for Reimbursement of Operating Expenses for Members of the Legislative Council.*
- (89) The Committee may invite the complainant to attend a meeting(s) to provide information. The Committee may also invite the Member under complaint to attend ~~the a~~ meeting(s) to give explanations, and ~~to~~ provide information. *The Member under complaint may be accompanied and advised by his legal adviser, but he must give explanations and provide information himself, and not through the legal adviser. The legal adviser shall not address the Committee.* If the Member under complaint admits all the allegations at this stage, and the Committee is of the opinion that it is able to determine whether the complaint is substantiated and decides that an enquiry is not necessary, the Committee shall report to the Council and make a recommendation as to a sanction to be imposed on the Member under complaint.

(910) The Committee may decide not to proceed with an investigation ~~if it is of the opinion that the complaint is not substantiated on the ground that there is no prima facie case or on such other grounds that the Committee thinks fit.~~

Investigation

(1011) If the Committee decides to conduct an investigation into the complaint, the Committee shall instruct the Clerk to convey the decision to the complainant and the Member under complaint and to provide the Member under complaint with information received in relation to the complaint.

(1112) In the course of conducting an enquiry, the Committee may, in accordance with section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), 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. ~~At such a hearing, t~~The Committee may cause witnesses to be examined ~~at a meeting~~ upon oath. The Committee may ask the complainant, the Member under complaint and other persons to confirm upon oath the information and statements they have provided at previous meetings.

(1213) The Member under complaint shall have the right to give explanations, make clarification and provide information on the subject of the complaints and the related matters. ~~The Member under complaint shall have the right to be accompanied and advised by his legal adviser, but he must give evidence, or produce any paper, book, record or document himself, and not through the legal adviser. The legal adviser shall not address the Committee.~~

Suspension of work on the complaint

(14) ~~If, during the preliminary consideration or the investigation stages, the Committee has come to the knowledge that the complaint or related matters is/are being investigated by a law enforcement agency, or is/are relating to a case pending in a court of law, the Committee may suspend its investigation until the conclusion of such investigation or legal proceedings.~~

The Committee's decision as to whether a complaint is substantiated

(1315) If the Committee decides that there is sufficient evidence to ~~show and~~ substantiate that the Member under complaint has provided false information in registering and declaring interests, ~~or~~ has failed to register or declare registrable or declarable interests, ~~or has conducted himself short of the standard expected of a Member in handling claims for reimbursement of operating expenses,~~ it shall inform the

complainant and the Member under complaint of its decision ~~that the complaint is substantiated~~.

- (1416) Upon receipt of the Committee's notification of its decision that the complaint is substantiated, the Member under complaint may make a request in writing to the Committee for a review of the decision within the next seven working days, and he may submit written statements and provide any other information which ~~is unavailable~~ could not have been obtained by him with reasonable diligence at hearing(s) held earlier. Upon receipt of the written request for a review of the Committee's decision from the Member under complaint, the Chairman shall instruct the Clerk to arrange for a meeting to be held for such purpose within the next seven working days to hear the explanation made by the Member under complaint and to review its earlier decision.
- (1517) If the Committee is of the opinion that the complaint is substantiated, or it is still of the opinion after the review that the complaint is substantiated, the Committee shall present a report to the Council on the complaint, in which the evidence and its opinion should be set out. The Committee may also make a recommendation to the Council as to a sanction to be imposed on the Member concerned under Rule 85 or Rule 85A of the Rules of Procedure.
- (1618) If the Committee is of the opinion that the complaint is not substantiated, it shall convey the decision to the complainant and the Member under complaint. The Committee may decide whether it should submit a report on this to the Council. If the Committee decides not to submit a report on this to the Council, members or any other person must not disclose any information regarding the complaint, except the evidence taken before the Committee and documents presented to it during meetings of the Committee held in public.

Confidentiality Requirement

- (1719) The evidence taken before the Committee and documents presented to it, or its deliberations and decisions, shall not, except in the case of meetings of the Committee held in public, be disclosed by a member or by any other person before the Committee has presented its investigation report to the Council. Any member who fails to comply with this requirement may be admonished or reprimanded by the Council on a motion to that effect.
- (1820) Meetings of the Committee, including those at which hearings are conducted, shall be held in camera. However, hearings shall be conducted at meetings held in public if the Member under complaint makes such a request.
- (1921) The transcript of evidence taken at such hearings shall be published in full as far as possible and form part of the report of the Committee.

Participation of members in the deliberations of the Committee

~~(2022)~~ No member of the Committee shall participate as a member of the Committee in the handling of a complaint or in the meetings of the Committee to deliberate on or inquire into a complaint where the complaint was made by or against him.