

立法會
Legislative Council

LC Paper No. CB(2) 1985/08-09

Ref : CB2/H/5/08

House Committee of the Legislative Council

**Minutes of the 28th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 19 June 2009**

Members present :

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mrs Sharon TONG	Principal Council Secretary (Complaints)
Mr Kelvin LI	Acting Chief Public Information Officer
Miss Odelia LEUNG	Chief Council Secretary (2)6
Mr Timothy TSO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Mr YICK Wing-kin	Assistant Legal Adviser 8
Ms Clara TAM	Assistant Legal Adviser 9
Ms Amy YU	Senior Council Secretary (2)3
Mr Arthur KAN	Legislative Assistant (2)8

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I. Confirmation of the minutes of the 27th meeting held on 12 June 2009
(*LC Paper No. CB(2) 1895/08-09*)

The minutes were confirmed.

II. Matters arising

(a) Report by the Chairman on her meeting with the Chief Secretary for Administration (CS)

Visit by a Legislative Council (LegCo) delegation to Sichuan in connection with reconstruction support for the earthquake

2. The Chairman said that she had conveyed to CS Members' views raised at the last House Committee meeting concerning the proposed visit by LegCo Members to Sichuan in connection with reconstruction support for the earthquake. CS had indicated that the Administration recognized Members' wish to visit Sichuan and be apprised of the progress of the reconstruction work supported by funds approved by LegCo. The Administration would explain in detail at the meeting of the Panel on Development the utilization of the funds approved by LegCo and the reasons for the need to seek LegCo's approval for further funding at the present stage. CS had advised that further funding was necessary in order to confirm as soon as practicable the remaining reconstruction projects to be supported by the Hong Kong Special Administrative Region (HKSAR). He pointed out that should approval of funding be deferred to the next legislative session, the implementation of the projects would be deferred by four months, which would directly affect the earthquake victims. CS also said that the Administration had conveyed to the

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relevant authorities of the Mainland Members' proposal to visit Sichuan and the HKSAR Government's support for the proposed visit.

3. The Chairman said that before the House Committee meeting, she had requested the LegCo Secretariat to enquire with the Administration about the progress of the matter, and the Administration had advised that a reply had yet to be received.

4. Ms Emily LAU requested the Chairman to follow up the matter with CS at their next meeting.

5. The Chairman said that she would continue to follow up the matter.

Public consultation on review of Hong Kong's air quality objectives

6. On behalf of members of the Subcommittee on Improving Air Quality appointed under the Panel on Environmental Affairs, Ms Audrey EU requested the Chairman to convey to CS the Subcommittee's dissatisfaction with the response of Dr Kitty POON, the Undersecretary for the Environment, to members' enquiries about the time frame for the public consultation on review of Hong Kong's air quality objectives. Ms EU elaborated that one of the important tasks of the Subcommittee was to monitor the 18-month review of Hong Kong's air quality objectives undertaken by the Administration. At the Subcommittee meeting on 18 June 2009, members noted that the 3-month public consultation exercise was about to commence. It was necessary for the Panel to know whether the consultation exercise would be launched during the summer recess, and to schedule its meetings accordingly as the consultation exercise would run for three months. At the meeting, the Undersecretary was approached as many as six times by members about the time frame for launching the consultation exercise, but she refused to provide the information. Ms EU requested the Chairman to forward to CS a copy of the draft verbatim transcript of the relevant proceedings of the Subcommittee meeting which recorded the responses of the Undersecretary to members' enquiries on the matter (**Appendix**).

7. Ms EU further said that members of the Subcommittee were highly dissatisfied with the way the Undersecretary responded to members' questions, especially when she was a political appointee under the Political Appointment System. Ms EU stressed the need for members to know the timetable for the consultation exercise as the summer recess was drawing near and arrangements would have to be made if meetings were to be held in the summer months. She requested the Chairman to convey the Subcommittee's dissatisfaction to CS.

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8. Ms Cyd HO also expressed dissatisfaction with the refusal of the Undersecretary to provide the Subcommittee with a simple piece of information about the work schedule which was neither sensitive nor confidential. She opined that with such an attitude on the part of an official appointed under the Political Appointment System, the communications with members would not be meaningful. She doubted if it accorded with the principle of accountability as stated in the Basic Law if the Executive Authority would not even provide such simple information to the Legislature. She requested the Chairman to seek a written response from CS on the matter.

9. Mr Ronny TONG considered the attitude of the Financial Secretary (FS) at the special meeting of the Panel on Financial Affairs on 18 June 2009 even worse than that of the Undersecretary for the Environment. He said that Panel members attending the meeting had expressed strong dissatisfaction with FS, who had spoken only two sentences during the one-hour meeting. He pointed out that FS had not even responded to questions raised by members on the mechanism for the appointment of the Chief Executive Officer of the Hong Kong Monetary Authority which did not involve the actual appointment.

10. Mr Albert CHAN considered that it was futile to convey to CS Members' dissatisfaction with the attitude of Government officials because CS himself had poor attitude. He recalled that during a number of Council meetings held last year, CS would leave the Chamber whenever he or Mr LEUNG Kwok-hung spoke. In his view, the attitude of the Undersecretary for the Environment reflected that of the Administration towards the Legislature. He considered the Executive Authority autocratic and had failed to show any respect to the Legislature.

11. Ms Emily LAU shared the views of Mr Ronny TONG. She was dissatisfied with the rigidity on the part of the Government officials who had responded sluggishly to the views of members of the Subcommittee on Proposed Resolutions under Section 29 of the Public Finance Ordinance (Cap. 2) and Section 3 of the Loan Ordinance (Cap. 61). Noting that a Chief Executive's Question and Answer (CE's Q&A) Session would be held on 7 July 2009, she said that CE should be asked to respond to Members then on the attitude of Government officials with which Members were dissatisfied, as shown in quite a number of incidents recently.

12. The Chairman noted Ms Emily LAU's view and said that Members would be consulted at the next House Committee meeting on the topics which Members would wish to cover in the CE's Q&A Session. She also said that she would convey to CS the views and requests of Members.

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(b) Airport Authority Ordinance (Map of Restricted Area) (Amendment) Order 2009

(Letter dated 16 June 2009 from the Administration (LC Paper No. CB(2) 1922/08-09(01))

[Previous papers:

paragraphs 12 and 13 of LC Paper No. LS 83/08-09 issued vide LC Paper No. CB(2) 1857/08-09 dated 11 June 2009; and

paragraphs 13 to 15 of the minutes of the 27th House Committee meeting on 12 June 2009]

13. The Chairman said that at the last House Committee meeting, Members agreed to defer a decision on the Order to this meeting pending further information from the Administration on whether the Restricted Area as specified by the Amendment Order concerned the regulation of parking spaces. In its reply dated 18 June 2009, the Administration advised that the major changes to the boundaries of the Restricted Area were related to the operational needs of the new SkyPier which served transit passengers and the Amendment Order did not affect any areas relating to vehicular traffic or parking of vehicles.

14. Members did not raise any further queries on the Amendment Order.

15. The Chairman reminded Members that the deadline for amending the Amendment Order was 8 July 2009.

(c) Proposed resolution to be moved by the Secretary for Commerce and Economic Development at the Council meeting on 24 June 2009 under the Interpretation and General Clauses Ordinance

(LC Paper No. LS 87/08-09)

[Previous papers:

Wording of the proposed resolution issued vide LC Paper No. CB(3) 661/08-09 dated 5 June 2009;

LC Paper No. LS 81/08-09 issued vide LC Paper No. CB(2) 1857/08-09 dated 11 June 2009; and

paragraphs 28 to 39 of the minutes of the 27th House Committee meeting on 12 June 2009]

16. The Chairman said that at the last House Committee meeting, Members agreed to defer a decision on the proposed resolution to this meeting pending receipt of the Administration's reply to the legal issues raised by the Legal Service Division. The Legal Service Division had received the Administration's reply and had provided a further report.

17. The Chairman further said that according to the Administration's reply, it intended to remove paragraph (2)(d)(iv) and (v) from the proposed

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resolution relating to the transfer to the Head of Create Hong Kong of the right of appeal to the Commissioner for Television and Entertainment Licensing (CTEL) and the right to review by CTEL as the Entertainment Special Effects Ordinance (the Ordinance) did not provide for such rights. The Administration had also advised that the resolution would not affect any public interest as it did not involve any amendments to the statutory functions provided for in the Ordinance. The Chairman added that the Administration would introduce the amendment by way of withdrawing the proposed resolution and re-submitting a new resolution to be moved at the Council meeting on 8 July 2009.

18. Dr Margaret NG said that she still had some queries about the proposed resolution and would sort these out in the meantime.

19. Members did not raise any further queries on the proposed resolution.

III. Business arising from previous Council meetings

(a) **Legal Service Division report on bills referred to the House Committee in accordance with Rule 54(4)**

Domestic Violence (Amendment) Bill 2009

(LC Paper No. LS 86/08-09)

20. The Chairman said that the Bill sought to amend the Domestic Violence Ordinance to extend the scope of protection provided under the Ordinance to cover a cohabitation relationship between two persons who lived together as a couple in an intimate relationship.

21. The Chairman said that the Panel on Welfare Services had been consulted on the legislative proposals at its meeting on 8 December 2008 and had held two special meetings in January 2009 to receive public views. Members of the Panel had indicated that a Bills Committee should be formed to study the legislative proposals.

22. Ms Emily LAU considered it necessary to form a Bills Committee to study the Bill.

23. The Chairman proposed that a Bills Committee be formed to study the Bill in detail. Members agreed. The following Members agreed to join: Mr LEE Cheuk-yan, Dr Margaret NG, Ms Miriam LAU, Ms Emily LAU, Mr Abraham SHEK, Mr Frederick FUNG, Ms Audrey EU, Mr Alan LEONG, Mr Ronny TONG, Ms Cyd HO, Mr Paul CHAN, Dr Priscilla LEUNG and Mr WONG Sing-chi (as advised by Mr CHEUNG Man-kwong).

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24. The Chairman said that as there were vacant slots, the Bills Committee could commence work immediately.

(b) **Legal Service Division report on subsidiary legislation gazetted on 12 June 2009 and tabled in Council on 17 June 2009**
(*LC Paper No. LS 85/08-09*)

25. The Chairman said that a total of four items of subsidiary legislation were gazetted on 12 June 2009 and tabled in the Council on 17 June 2009.

26. Members did not raise any queries on these four items of subsidiary legislation.

27. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was 21 October 2009.

IV. Further business for the Council meeting on 24 June 2009

(a) **Questions**
(*LC Paper No. CB(3) 700/08-09*)

28. The Chairman informed Members that Mr IP Kwok-him, Mr KAM Nai-wai and Ms Starry LEE had replaced their oral questions.

(b) **Bills - First Reading and moving of Second Reading**

Immigration (Amendment) Bill 2009

29. The Chairman said that the Administration had given notice to present the Bill to the Council on 24 June 2009. The House Committee would consider the Bill at its meeting on 26 June 2009.

(c) **Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

(i) Voting by Imprisoned Persons Bill

30. The Chairman said that the Chairman of the relevant Bills Committee on the Bill had made a verbal report at the last House Committee meeting, and Members did not raise objection to the resumption of the Second Reading debate on the Bill. The written report would be provided under agenda item VI(a) below.

(ii) Supplementary Appropriation (2008-2009) Bill

31. The Chairman said that at the last House Committee meeting, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(d) Members' motions

Proposed resolution to be moved by Hon Audrey EU Yuet-mee under section 34(4) of the Interpretation and General Clauses Ordinance relating to the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 687/08-09 dated 12 June 2009.)

32. The Chairman said that Ms Audrey EU, Chairman of the relevant Subcommittee, would move a motion at the Council meeting to extend the scrutiny period of the Amendment Regulation to the first meeting of the next legislative session, i.e. 14 October 2009.

V. Advance information on business for the Council meeting on 8 July 2009

Bills - First Reading and moving of Second Reading

(a) Arbitration Bill

(b) Minimum Wage Bill

(c) Employment (Amendment) Bill 2009

33. The Chairman said that the Administration had given notice to present the above three Bills to the Council on 8 July 2009. The House Committee would consider these Bills at its meeting on 10 July 2009.

VI. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on Voting by Imprisoned Persons Bill

(LC Paper No. CB(2) 1896/08-09)

34. The Chairman said that Mr IP Kwok-him, Chairman of the Bills Committee, had given a verbal report at the last House Committee meeting. A written report was provided for the House Committee meeting.

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35. Mr IP Kwok-him drew members' attention to a replacement sheet for Appendix III to the Bills Committee's report which was tabled at the meeting. Mr IP said that the Appendix was the final version of the Committee Stage amendments (CSAs) to be moved by the Administration which was concerned with the commencement date of the Bill.

(b) Report of the Bills Committee on Mandatory Provident Fund Schemes (Amendment) Bill 2009
(LC Paper No. CB(1) 1951/08-09)

36. Mr CHAN Kam-lam, Chairman of the Bills Committee, reported that the Bills Committee had held two meetings with the Administration and the Mandatory Provident Fund Schemes Authority.

37. Mr CHAN elaborated that in principle, the Bills Committee supported the proposed amendments to the Mandatory Provident Fund (MPF) legislation to allow employees to transfer accrued benefits derived from their employee's mandatory contributions during their current employment, from a contribution account under an MPF scheme on a lump-sum basis, to another MPF scheme of their own choice once per calendar year. Members considered that the proposed amendments would promote greater market competition and encourage employees to take a more active interest in their MPF investments.

38. Mr CHAN further reported that some members had expressed concern that the proposals did not allow employees to transfer the accrued benefits derived from their employer's contributions to an MPF scheme of their own choice. Concerns had also been raised by some members about the fees and charges arising from a transfer and the frequency of permissible transfer per calendar year. In response to members' views, the Administration would move CSAs on measures to facilitate employees' checking of their MPF account balance and to remind employers to consolidate their preserved accounts. He added that the Bills Committee did not raise objection to the proposed CSAs to be moved by the Administration and supported the resumption of the Second Reading debate on the Bill at the Council meeting on 8 July 2009.

39. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Saturday, 27 June 2009.

(c) Report of the Subcommittee on Proposed Resolutions under Section 29 of the Public Finance Ordinance (Cap. 2) and Section 3 of the Loans Ordinance (Cap. 61)

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40. Mr Jeffrey LAM, Chairman of the Subcommittee, reported that the Subcommittee had held four meetings with the Administration to study the proposed resolutions under section 29 of the Public Finance Ordinance and section 3 of the Loans Ordinance relating to the launching of the Government Bond Programme.

41. Mr LAM elaborated that the Subcommittee had discussed the implementation arrangements of the Bond Programme and issues relating to the administration and investment of the Bond Fund. In the light of members' views, the Administration would elaborate on the policy intent of the Bond Programme and the investment methods of the Bond Fund in the proposed resolutions. The Subcommittee had also discussed the amendments proposed by some members in this regard. The Subcommittee would provide as soon as practicable a written report after receipt of the relevant supplementary information from the Administration. He added that in principle, the Subcommittee did not object to the Administration giving fresh notice to move the proposed resolutions at the Council meeting on 8 July 2009.

42. Mr Abraham SHEK expressed dissatisfaction with the Administration's sloppy preparatory work for the legislative proposals, which made it necessary for the Subcommittee to hold four meetings to examine the proposed resolutions. This had created tremendous difficulties for Members. The drafting work this time was quite different from that of some other similar legislative proposals, such as the "Five Tunnels One Bridge", for which the preparatory work was much better. He requested that his view be conveyed to the Administration.

43. The Chairman noted Mr SHEK's request.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1897/08-09)

44. The Chairman said that there were five Bills Committees, seven subcommittees under the House Committee (i.e. four subcommittees on subsidiary legislation and three subcommittees on policy issues) and eight subcommittees under Panels in action.

VIII. Proposed adjournment debate under Rule 16(4) of the Rules of Procedure at the Council meeting on 24 June 2009 regarding the relocation of Christian Zheng Sheng College to the former New Territories Heung Yee Kuk Southern District Secondary School in Mui Wo

(Letter dated 16 June 2009 from Hon CHEUNG Man-kwong to the Chairman of the House Committee (LC Paper No. CB(2)1909/08-09(01))

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45. At the invitation of the Chairman, Mr CHEUNG Man-kwong said that there were diverse views in the community on the relocation of Christian Zheng Sheng College to the former New Territories Heung Yee Kuk Southern District Secondary School in Mui Wo. He therefore proposed the moving of a motion for adjournment under Rule 16(4) of the Rules of Procedure (RoP) at the Council meeting on 24 June 2009 for the purpose of enabling Members to speak on the matter. Given that the subject of the adjournment debate was neutrally-worded, Members were free to express their views, and each Member could speak for up to five minutes in the debate. He also requested that all responsible Government officials should attend the adjournment debate and provide a response. He appealed to Members to support his proposals.

46. The Chairman invited Members' views on the following -

- (a) the adjournment debate be held in addition to two other debates on Members' motions with no legislative effect;
- (b) the President be requested to consider exercising his discretion to extend the duration of the adjournment debate beyond one and a half hours, in order to enable all Members wishing to speak at the adjournment debate to do so; and
- (c) the President be requested to dispense with the 7 days' notice for moving the proposed motion.

47. Members supported the above proposals.

IX. Any other business

48. There being no other business, the meeting ended at 2:54 pm.

(草擬本)

環境事務委員會

改善空氣質素小組委員會

2009年6月18日會議的部分內容

主席：

副局長，你說諮詢文件會在下半年出台。若未能在7月出台，是否會在10月之前或之後。不如你告訴我們，讓我們有心理準備究竟是何時出台。還有諮詢時間……只有3個月，這麼短！

副局長：

我們會盡快，因為知道大家都很着緊這個公眾諮詢。我們亦想盡快，會第一時間通知大家。

何秀蘭議員：

主席，如果諮詢文件可盡快在7月出台，3個月的諮詢期完結，便剛好是10月14日的施政報告，中間有一個真空期。我們當然不會因這個真空期而妨礙諮詢工作，我們亦都盡快，但我認為小組委員會亦要知道...

主席：

我認為這不單是小組委員會的問題。對香港來說，在暑假期間展開一個大型的諮詢，議員是否在香港是一個問題，是否有足夠關注事件的公眾人士在港發表意見亦是另一個問題，諮詢文件便可能在沒有足夠諮詢下通過。副局長可否作具體說明。我相信很多人都關注這事項，若只有3個月的諮詢期，而諮詢又安排在暑假期間進行，我相信會有相當大的反彈，雖然大家都想諮詢文件盡快出台。

何秀蘭議員：

主席，那我們只好放棄暑假，在7月和8月安排會議討論有關諮詢文件。

主席：

我個人不介意在暑假召開會議。

何秀蘭議員：

因為政府當局不能達標，我們只好用自己的時間遷就。

主席：

副局長，如何？

副局長：

我們正在趕工，希望能盡快完成整個流程。

主席：

是否可在 7 月出台？

副局長：

一俟有時間，便會第一時間通知你們，我不想大家有個錯覺..

何秀蘭議員：

主席，這麼大的一個政策局，怎可能不知道下個月的事情。況且，今天已是 6 月 18..19 日。

主席：

今天是 6 月 18 日。

何秀蘭議員：

我們知道政策有分短、中、長期。但有關空氣質素檢討，已討論多時，若政府說不知道何時出台，是否在開玩笑？

主席：

對，是有點不公平。副局長，請你告訴我們。況且，就算不能按你提供的時間表出台，我們亦不會咬着不放，我們明白預算未必一定能達到。這麼大型的諮詢，你不可能只籠統說會在下半年推出。我只想問你，是否會在 7 月份推出？

何秀蘭議員：

就政改方案，行政長官雖然一直在拖延，但仍可作出一個第四季的承諾。我很難想像整個政策局不能就何時開展諮詢工作提供時間表，除非你認為這是國家機密不願意說，我只會認為當局是不願意說。

副局長：

主席，因為整個過程我們是要向前趕，希望盡快開展回顧、完成諮詢，我們的同事正在辛勤地工作，希望能及早準備好文件諮詢大家，我們

正正就是不按既定步伐在加快工作。我們承諾一俟落實諮詢時間表，便會通知大家，我相信議員一定有時間安排會議，與政府商議有關事項。

主席：

在政府而言，第一時間是下午 2 時通知議員，在 2 時半有文件那一種，但這樣亦沒有問題。委員不是要求政府不要趕工，委員其實很高興當局正在趕工。但我們的問題很簡單，有關諮詢文件是否有機會在 7 月份出台？

何秀蘭議員：

主席，就算政府不知在何時能完成該諮詢文件。撇開有 150000 的公務員及問責官員的團隊不說，一間只有 20 人的小公司，都會有工作計劃，有目標完成日期。我想問政府是否有目標完成日期。若沒有，倒不如換政治問責官員算了。

副局長：

主席，我們的目標便是盡快。

何秀蘭議員：

主席，我並不想發火，但我覺得這是十分不負責任。這樣做法如何問責。連一個完成目標的指標亦不肯提供。若你說 7 月 15 日可以完成，但不能完成亦不用殺頭，我們不會因此而彈劾你。但你現在連問責亦不肯，資料亦不願提供，一直在推搪閃避，那你便不符合基本法下行政機關向立法機關問責的要求。況且，我只是問一個日期。

副局長：

我正是向你負責才不能隨便說。

何秀蘭議員：

這是不是國家機密？

副局長：

不是國家機密，我只是要向我的同事負責，他們正在努力趕工。

何秀蘭議員：

主席，我認為我們應在內會會議上，要求內會主席向政務司司長反映為何這個問責班子連一個這樣簡單的資料亦不肯提供。多謝主席。

主席：

好！我們便在這星期五的內會會議上反映。