

立法會

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Committee on Members' Interests

Paper for the fourth meeting on 16 December 2009

Handling of complaints against Members and their offices under the Redress System of the Legislative Council

Purpose

This paper invites members to note the present arrangements for handling complaints against Members and their offices under the Redress System of the Legislative Council ("LegCo") and how such complaints are referred to the relevant committees, such as the Committee on Members' Interests ("CMI"), or officers of the Secretariat for follow-up actions. The paper also proposes the establishment of a central register of the complaints against and views about Members and their offices, and seek members' views on whether and how far the complaints under consideration or investigation of CMI should be included in the register.

Background

2. From time to time, the LegCo Secretariat receives letters, emails or telephone calls from members of the public expressing views on individual Members or their offices. The majority of the views are related to the following:

- (a) complaints in relation to a Member's claims for reimbursement of operating expenses ("OER") or applications for advance of operating funds ("AOF");
- (b) complaints in relation to a Member's registration or declaration of interests;
- (c) complaints or views on Members' performance and conduct at meetings (e.g. low attendance rate, disorderly behaviours, etc.) or Members' decision not to meet with complainants or not to offer assistance in cases outside the scope of the LegCo Redress System; and
- (d) complaints or views on Members' offices, such as the standard of service provided by the office of a Member.

3. When the LegCo Secretariat receives a complaint or a view which falls within the terms of reference of a committee, the complaint or view will be referred to that committee for follow-up action, irrespective of whether the complaint or view is

addressed specifically to the committee. Further, in respect of a complaint or an allegation made in relation to a Member's OER claims or AOF applications, the Secretary General, in execution of her duty as the Controlling Officer for the financial provisions allocated to The Legislative Council Commission, may instruct the Accounts Office of the Administration Division to seek clarification from the Member concerned, and at the same time refer the complaint or allegation to CMI.

4. At the meeting of CMI on 21 April 2009, members were briefed on the arrangements adopted by the Secretary General in respect of anonymous complaints or media reports in relation to a Member's OER claims or AOF applications, and noted that such complaints and reports were often followed up by the Secretariat provided that there was sufficient information to do so.

5. As regards the complaints against or views about Members or their offices as those listed in paragraph 2(c) and (d) above, such cases are centrally handled by the Complaints Division under the Duty Roster Members ("DRM") system.

Proposed establishment of a central register of complaints against and views on Members and their offices

6. At present, Members, in groups of six, take turns to be on duty each week as DRMs to oversee the LegCo Redress System and give guidance to staff of the Complaints Division in processing cases and complaints. In respect of complaints or views received which are about Members, there is a standing practice for such complaints and views received in the previous week to be circulated to the DRMs of the present week on Tuesday or, if Tuesday happens to be a public holiday, the first working day that follows, unless the complainants request that the complaints ought to be kept confidential. If the complaint or view received is about a Member's office, the Complaints Division may, with the consent of the client, forward the complaint or view to the Member concerned directly for him to follow up. Other Members who are not DRM will not be given a copy of such complaints or views. At times, individual DRMs may ask the Complaints Division to prepare an analysis of the complaints or views received, or ask that a meeting of DRMs be held to consider the way forward.

7. The above arrangement is to ensure that all complaints or views are at least noted by some Members, but the handling of such complaints or views by DRMs on a week-by-week basis is quite arbitrary and sometimes may make follow-up actions rather difficult. To enable all Members to have a complete picture of the complaints against and views about Members or their offices received from the public and to consider whether the issues contained therein ought to be followed up, the Secretariat plans to set up an electronic central register of complaints against and views about Members and their offices on the Secretariat's Intranet. The register will be accessible to all Members and authorized staff of the Secretariat through the use of a password.

8. From the central register, Members will have access to a brief description of each complaint or view received with the name(s) of the Member(s) concerned. A hard copy of the complaint letter or record of telephone conversation, if it is a verbal complaint, is kept on a file, with personal data obliterated, in the office of the Complaints Division for inspection by Members. A Member may instruct staff of the Complaints Division to send a copy of the complaint letter or record direct to him, provided that consent has been obtained from the client for such letter/record to be disclosed to all Members. However, the Member who is in possession of the letter or record will have to exercise care in the handling of the document and the information contained therein.

9. The Complaints Division will also inform Members on a regular basis, such as once every week, of the number of complaints and views received during the previous week.

Provision of information on complaints under consideration by CMI

10. As some complaints or views are CMI cases and ought to be referred to CMI upon receipt, some guidance from CMI is needed on how far the complaints under consideration or investigation by CMI ought to appear on the central register. Under the existing procedure, CMI shall hold meetings in camera to consider complaints against Members and no person shall disclose any information on a complaint case until CMI presents its report to the Council. Where it is considered that all Members should have access to all complaints lodged against Members, there may be a need to also increase the transparency of the work of CMI by allowing a brief description of any complaints under consideration or investigation by CMI (i.e. complaints of a type listed in paragraph 2(a) or (b) above) to be kept in the central register proposed above. The brief description may include the name of the Member under complaint, the main concern of the complaint and the status of consideration of the complaint by CMI. If it is considered that such disclosure may affect CMI's consideration of the case, any record of complaint taken up by CMI will not appear in the central register.

Advice sought

11. Members are invited to note the current arrangements for the handling of complaints or views on individual Members, and advise on whether cases under the consideration or investigation of CMI should be included in the central register.