

Committee on Members' Interests

Outcome of further consultation with Members on the handling of anonymous complaints and allegations reported by the media against individual Members

Purpose

This paper invites the Committee on Members' Interests ("CMI") to note the outcome of the further consultation with Members on the handling of anonymous complaints and allegations in media reports against individual Members.

Background

2. Under the Rules of Procedure ("RoP"), CMI is responsible for, among other things, consideration and investigation of complaints made in relation to the registration and declaration of Members' interests as well as complaints concerning Members' claims for operating expenses ("OER claims") or applications for advance of operating funds ("AOF applications") (Rule 73(1)(c) and (ca) of RoP).

3. Since the First Legislative Council ("LegCo"), CMI has adopted the practice that it will not deal with anonymous complaints on the ground that there is no one to come forward to provide evidence. Such complaints are circulated to members for information and any member may decide to take over the complaint and lodge the complaint in his own name if he considers that the complaint contains substantiated information. However, the member who lodges the complaint may not participate, as a member, in the handling of the complaint. In relation to allegations made in media reports, as Rule 73(1)(c) and (ca) of RoP does not empower CMI to act without complaints, CMI may not on its own initiative investigate these allegations unless a specific complaint relating to the allegations is received.

4. Members of the current CMI are of the view that LegCo Members should be answerable to the public on matters of conflict of interests and use of public funds for the performance of their duties. As anonymous complaints may contain serious allegations, some members consider it unsatisfactory for CMI not to take further action on a complaint solely on the ground that the complainant cannot be contacted and identified. Some members consider that if a certain number of members are of the view that an anonymous complaint is of a serious nature and worth pursuing, CMI should act on the complaint and the Clerk to CMI, upon the advice of the Chairman, should make initial enquiries. The findings should then be presented to CMI to decide whether a detailed investigation should be conducted. Some CMI members are of the view that notwithstanding the preliminary enquiries conducted by the Clerk, if no person comes forward to be the complainant, CMI should not consider the complaint further even if a *prima facie* case has been established as a result of the initial enquiries. Some CMI members also consider that allegations in media reports should be handled in the same manner as anonymous complaints. At its meeting on 21 April 2009, CMI agreed that all Members should be consulted on the above views.

5. A consultation exercise was conducted in June 2009, with 59 Members responding to the questionnaire. The findings in this consultation indicated that the majority of Members did not consider it appropriate for CMI to deal with anonymous complaints and allegations in media reports. However, close to half of all Members were in support of requesting the Secretariat to conduct initial enquiries about anonymous complaints, including contacting the Member concerned for clarification, if a certain number of CMI members had given consent. In addition, some 40% of all Members were of the view that CMI should pursue a complaint further if a *prima facie* case had been established.

6. When CMI reviewed the findings at its meeting on 16 December 2009, it noted that while Members were strongly against investigating anonymous complaints and allegations made in media reports, Members also found the present arrangement of not dealing with anonymous complaints not entirely satisfactory. It was also noted that half of the Members expressed support for the Secretariat, being a neutral party, to

conduct initial enquiries to help dispel unnecessary misunderstanding about Members and dispose of frivolous or groundless complaints which are made anonymously. As the opinions of Members were divided, CMI decided to consolidate the views of members into a proposal and consult Members further on the arrangements.

Second round of consultation

7. In the second round of consultation conducted in March 2010, Members were asked to give their views on whether anonymous complaints should be dealt with according to the following arrangement:

- (a) the Secretariat will conduct initial enquiries if five or more CMI members have given consent to it;
- (b) during initial enquiries, the Member under complaint or subject of the allegation may be contacted for clarifications or explanations;
- (c) upon completion of initial enquiries, the Secretariat will submit its findings to CMI; and
- (d) CMI will not take further action unless a pertinent non-anonymous complaint is received or a Member lodges the complaint in his own name to CMI.

8. Members were also asked to give their views on whether RoP should be amended to empower CMI to deal with allegations in media reports and whether such allegations should be dealt with in the same manner as anonymous complaints.

Findings and analysis of consultation

9. With the exception of the President and two other Members, namely Dr Hon Margaret NG and Hon Audrey EU, all the other 52 Members¹ responded to the questionnaire. Dr NG and Ms EU indicated

¹ During the consultation period, there were only 55 Members, as five Members, namely, Hon Alan LEONG, Hon LEUNG Kwok-hung, Hon Tanya CHAN, Hon Albert CHAN and Hon WONG Yuk-man, resigned from their office as LegCo Members on 28 January 2010, and were not re-elected

that the principles and mechanisms for dealing with such complaints or allegations must be discussed in detail and should not be established through the asking of a few questions. A summary of the responses of the 52 Members are given in **Appendices I and II**.

10. According to the findings, about 70% of Members are of the view that CMI should not handle anonymous complaints according to the arrangements set out in paragraph 7 above, while about 80% of Members consider that CMI should not deal with allegations in the media against Members and CMI's terms of reference provided in Rule 73 of RoP should not be amended to empower CMI to do so.

11. Compared to the findings of the first round of consultation, 15% more Members² consider that CMI should not handle anonymous complaints in the second round of consultation. Furthermore, while over 50% of Members indicated in the first round of consultation that they were open to the suggestion that the Secretariat should conduct initial enquiries about the anonymous complaints received if there is a majority of members of CMI giving consent to it, only 13% of Members agree to such an arrangement in the second round of consultation. Some Members have explained to the Secretariat that they no longer support the proposed arrangement set out in the second questionnaire because they are concerned that the arrangement may be abused.

12. Comparing the two rounds of consultation, it is also noted that the number of Members who are opposed to the handling of allegations reported by the media has increased from 37 (about 60% of Members) to 46 (about 80% of Members).

13. The findings of the further consultation clearly indicate that the majority of Members do not support CMI changing the practice adopted since the First LegCo of not considering anonymous complaints, although

until 19 May 2010.

² Sixteen out of the 24 Members who agreed in the first round of consultation that CMI should consider anonymous complaints consider that CMI should not handle such complaints in the second round of consultation. On the other hand, out of the 34 Members who agreed in the first round of consultation that CMI should not consider anonymous complaints, three have changed their stance and four have not responded to the questionnaire in the second round of consultation. As a result, nine (15%) more Members consider that CMI should not handle anonymous complaints in the second round of consultation.

it may do so under its existing terms of reference. The majority of Members also do not support empowering CMI to consider allegations against Members made in media reports. It seems that most Members remain concerned that considering a complaint or an allegation without a complainant coming forward is unfair to the Member under complaint and the arrangement for considering such complaints or allegations may be abused.

Advice sought

14. Members are invited to note the outcome of the further consultation.

Legislative Council Secretariat

30 December 2010

**對於議員個人利益監察委員會（“監察委員會”）考慮針對議員
的匿名投訴及被媒體報道的指控議員的意見總結**

意見	議員數目						60
	1	11	21	31	41	51	
1. 監察委員會應否以下述安排處理針對個別議員的匿名投訴？	應 (8) [13%]			不應 (43) [72%]			
2. 監察委員會應否處理傳媒報道的指控，而載於《議事規則》第73(1)條的監察委員會職權範圍應否予以修訂，以授權監察委員會這樣做。	應 (6) [10%]			不應 (46) [77%]			
3. 監察委員會應否以問題1所述的安排處理傳媒報道的指控？ (如議員對問題2的答案是“不應”則不需回答本題)	應 (6) [10%]						

() 持有關意見的議員人數

[] 以60位立法會議員為基礎計算所得的百分比

Summary of Members' responses to the questionnaire on anonymous complaints and allegations reported by the media against Members issued by the Committee on Members' Interests ("CMI") in March 2010

Response	Number of Members						60
	1	11	21	31	41	51	
1. Whether CMI should handle anonymous complaints against individual Members by the following arrangements?	Should (8) [13%]			Should not (43) [72%]			
2. Whether CMI should handle allegations against individual Members reported by the media and CMI's terms of reference provided in Rule 73(1) of the Rules of Procedure should be amended to empower CMI to do so?	Should (6) [10%]			Should not (46) [77%]			
3. Whether the arrangements set out in Question 1 should be followed by CMI in handling allegations reported by the media? <i>(No need to answer this question if Members' reply to Question 2 is "Should not")</i>	Should (6) [10%]						

() Number of Members holding the particular view

[] Percentage calculated on the basis of 60 Legislative Council Members

Committee on Members' Interests

**Further consultation with Members on
the handling of anonymous complaints and
allegations reported by the media against individual Members**

Detailed results

Question 1:

Whether CMI should handle anonymous complaints against individual Members by the following arrangements?

The Secretariat conducts initial enquiries on an anonymous complaint if five or more CMI members consent to it. During the initial enquiries, the Member under complaint may be contacted for clarifications or explanations. Upon completion of the initial enquiries, the Secretariat submits its findings to CMI. CMI will not take further action on an anonymous complaint unless a pertinent non-anonymous complaint is received or a Member takes over it and lodge a complaint to CMI.

No. of Members who have responded to this question	51
Should	8
Should not	43
No. of Members who have not responded	3

Should (8 Members)	Should not (43 Members)	Has not responded (3 Members)
Dr Hon David LI Hon Timothy FOK Hon Jeffrey LAM Hon Paul CHAN Hon CHAN Kin-por Hon Mrs Regina IP Hon Paul TSE Dr Hon Samson TAM <i>(Political affiliation undeclared/ Independents)</i> <i>(8 Members)</i>	Hon CHAN Kam-lam Hon WONG Yung-kan Hon LAU Kong-wah Hon TAM Yiu-chung Hon CHEUNG Hok-ming Hon WONG Ting-kwong Hon Starry LEE Hon CHAN Hak-kan Hon IP Kwok-him <i>(DAB) (9 Members)</i> Hon Albert HO Hon Fred LI Hon James TO Hon CHEUNG Man-kwong Hon Emily LAU Hon LEE Wing-tat Hon KAM Nai-wai Hon WONG Sing-chi <i>(DP)¹ (8 Members)</i> Hon WONG Kwok-hing Hon WONG Kwok-kin Hon IP Wai-ming Dr Hon PAN Pey-chyou <i>(HKFTU) (4 Members)</i>	Dr Hon Margaret NG Hon Audrey EU <i>(CP)² (2 Members)</i> Hon Cyd HO ³ <i>(CA) (1 Member)</i>

¹ The eight Members who belong to the Democratic Party have indicated that after discussion, they decided that anonymous complaints should not be handled by CMI.

² Both Hon Margaret NG and Hon Audrey EU consider that the principles and mechanisms for dealing with anonymous complaints and allegations reported by the media against individual Members must be discussed in detail and should not be established through the asking of a few simple questions. Against this background, both Ms NG and Ms EU will not respond to the questionnaire at the time being.

³ Hon Cyd HO considers that anonymous complaints should not be handled by CMI.

Should (8 Members)	Should not (43 Members)	Has not responded (3 Members)
	<p>Hon Miriam LAU Hon Tommy CHEUNG Hon Vincent FANG (<i>LP</i>) (3 Members)</p> <p>Hon LEE Cheuk-yan (<i>HKCTU</i>) (1 Member)</p> <p>Hon LEUNG Yiu-chung (<i>NWSC</i>) (1 Member)</p> <p>Hon Frederick FUNG (<i>HKADPL</i>) (1 Member)</p> <p>Hon Ronny TONG (<i>CP</i>) (1 Member)</p> <p>Hon CHEUNG Kwok-che⁴ (<i>HKSFGU</i>) (1 Member)</p> <p>Ir Dr Hon Raymond HO Hon Mrs Sophie LEUNG Dr Hon Philip WONG Hon LAU Wong-fat Hon Andrew CHENG Hon Abraham SHEK Hon LI Fung-ying Dr Hon Joseph LEE Hon Andrew LEUNG Hon CHIM Pui-chung Prof Hon Patrick LAU Dr Hon LAM Tai-fai Dr Hon Priscilla LEUNG Dr Hon LEUNG Ka-lau (<i>Political affiliation undeclared/Independents</i>) (14 Members)</p>	

⁴ Hon CHEUNG Kwok-che has indicated that at present anonymous complaints are handled in the following way: when any person or Member takes up the case and lodge a complaint, the complaint can then be handled by CMI. Therefore, anonymous complaints should not be handled by the arrangements mentioned in Question 1.

Question 2:

Whether CMI should handle allegations against individual Members reported by the media and CMI's terms of reference provided in Rule 73(1) of the Rules of Procedure should be amended to empower CMI to do so?

No. of Members who have responded to this question	52
Should	6
Should not	46
No. of Members who have not responded	2

Should (6 Members)	Should not (46 Members)	Has not responded (2 Members)
Dr Hon David LI Hon Paul CHAN ⁵ Hon CHAN Kin-por Hon Mrs Regina IP Hon Paul TSE Dr Hon Samson TAM <i>(Political affiliation undeclared/ Independents)</i> <i>(6 Members)</i>	Hon CHAN Kam-lam Hon WONG Yung-kan Hon LAU Kong-wah Hon TAM Yiu-chung Hon CHEUNG Hok-ming Hon WONG Ting-kwong Hon Starry LEE Hon CHAN Hak-kan Hon IP Kwok-him <i>(DAB) (9 Members)</i> Hon Albert HO Hon Fred LI Hon James TO Hon CHEUNG Man-kwong Hon Emily LAU Hon LEE Wing-tat Hon KAM Nai-wai Hon WONG Sing-chi <i>(DP) (8 Members)</i> Hon WONG Kwok-hing Hon WONG Kwok-kin Hon IP Wai-ming Dr Hon PAN Pey-chyou <i>(HKFTU) (4 Members)</i> Hon Miriam LAU Hon Tommy CHEUNG Hon Vincent FANG <i>(LP) (3 Members)</i> Hon LEE Cheuk-yan <i>(HKCTU) (1 Member)</i> Hon LEUNG Yiu-chung <i>(NWSC) (1 Member)</i> Hon Frederick FUNG <i>(HKADPL) (1 Member)</i> Hon Ronny TONG <i>(CP) (1 Member)</i> Hon Cyd HO <i>(CA) (1 Member)</i> Hon CHEUNG Kwok-che ⁶ <i>(HKSWSGU) (1 Member)</i>	Dr Hon Margaret NG Hon Audrey EU <i>(CP) (2 Members)</i>

⁵ Hon Paul CHAN considers that the arrangements by which allegations reported by the media and anonymous complaints are to be handled should be the same, ie, they should only be followed-up if five or more CMI members have given consent to it.

⁶ Hon CHEUNG Kwok-che considers that the allegations against Members reported by the media are sometimes speculations and even incorrect reports. As the Legislative Council is a solemn organization, it should not handle such allegations.

Should (6 Members)	Should not (46 Members)	Has not responded (2 Members)
	Ir Dr Hon Raymond HO Hon Mrs Sophie LEUNG Dr Hon Philip WONG Hon LAU Wong-fat Hon Andrew CHENG Hon Timothy FOK ⁷ Hon Abraham SHEK Hon LI Fung-ying Dr Hon Joseph LEE Hon Jeffrey LAM Hon Andrew LEUNG Hon CHIM Pui-chung Prof Hon Patrick LAU Dr Hon LAM Tai-fai Dr Hon Priscilla LEUNG Dr Hon LEUNG Ka-lau <i>(Political affiliation undeclared/ Independents) (16 Members)</i>	

⁷ Hon Timothy FOK considers that CMI should not handle allegations reported by the media. This may prevent someone from making use of the media to attack Members. Moreover, in order to produce timely reports, the media tend to publish reports before their contents are verified. In case it is uncovered afterwards that the content of the reports is not true, they will clarify it gradually. As a result, unnecessary harm may be caused to the persons concerned.

Question 3:

(No need to answer this question if your reply to Question 2 is (b))

Whether the arrangements set out in Question 1 should be followed by CMI in handling allegations reported by the media?

No. of Members who have responded to this question	8
Should	6
Should not	2
No. of Members who have not responded	46

Should (6 Members)	Should not	Has not responded (46 Members)
Dr Hon David LI Hon Paul CHAN Hon CHAN Kin-por Hon Mrs Regina IP Hon Paul TSE Dr Hon Samson TAM <i>(Political affiliation undeclared/Independents)</i> <i>(6 Members)</i>	Dr Hon Philip WONG Dr Hon LEUNG Ka-lau <i>(Political affiliation undeclared/Independents) (2 Members)</i>	Hon CHAN Kam-lam Hon WONG Yung-kan Hon LAU Kong-wah Hon TAM Yiu-chung Hon CHEUNG Hok-ming Hon WONG Ting-kwong Hon Starry LEE Hon CHAN Hak-kan Hon IP Kwok-him <i>(DAB) (9 Members)</i>
		Hon Albert HO Hon Fred LI Hon James TO Hon CHEUNG Man-kwong Hon Emily LAU Hon LEE Wing-tat Hon KAM Nai-wai Hon WONG Sing-chi <i>(DP) (8 Members)</i>
		Hon WONG Kwok-hing Hon WONG Kwok-kin Hon IP Wai-ming Dr Hon PAN Pey-chyou <i>(HKFTU) (4 Members)</i>
		Dr Hon Margaret NG Hon Audrey EU Hon Ronny TONG <i>(CP) (3 Members)</i>
		Hon Miriam LAU Hon Tommy CHEUNG Hon Vincent FANG <i>(LP) (3 Members)</i>
		Hon LEE Cheuk-yan <i>(HKCTU) (1 Member)</i>
		Hon LEUNG Yiu-chung <i>(NWSC) (1 Member)</i>
		Hon Frederick FUNG <i>(HKADPL) (1 Member)</i>
		Hon Cyd HO <i>(CA) (1 Member)</i>
		Hon CHEUNG Kwok-che <i>(HKSWSGU) (1 Member)</i>

Should (6 Members)	Should not	Has not responded (46 Members)
		Ir Dr Hon Raymond HO Hon Mrs Sophie LEUNG Hon LAU Wong-fat Hon Andrew CHENG Hon Timothy FOK Hon Abraham SHEK Hon LI Fung-ying Dr Hon Joseph LEE Hon Jeffrey LAM Hon Andrew LEUNG Hon CHIM Pui-chung Prof Hon Patrick LAU Dr Hon LAM Tai-fai Dr Hon Priscilla LEUNG <i>(Political affiliation undeclared/Independents) (14 Members)</i>

Abbreviations

CA	Civic Act-up
CMI	Committee on Members' Interests
CP	Civic Party
DAB	Democratic Alliance for the Betterment and Progress of Hong Kong
DP	Democratic Party
HKADPL	Hong Kong Association for Democracy and People's Livelihood
HKCTU	Hong Kong Confederation of Trade Unions
HKFTU	The Hong Kong Federation of Trade Unions
HKSWGU	Hong Kong Social Workers' General Union
LP	Liberal Party
LSD	League of Social Democrats
NWSC	Neighbourhood and Workers' Service Centre