

立法會

Legislative Council

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Paper for the House Committee meeting on 7 June 2013

Report of Subcommittee to Prepare for the Operation of the Select Committee on the Petition Presented at the Council Meeting of 8 May 2013

Purpose

This paper reports on the deliberations of the Subcommittee to Prepare for the Operation of the Select Committee on the Petition Presented at the Council Meeting of 8 May 2013 ("the Subcommittee").

Background

2. At the Council meeting of 8 May 2013, Hon Dennis KWOK presented a petition jointly signed by Hon Cyd HO and himself ("the Petition") (**Appendix I**). The request of Hon Cyd HO for the Petition to be referred to a select committee was supported by 25 Members. The Petition has thus been referred to a select committee under Rule 20(6) of the Rules of Procedure ("the Select Committee").

3. At the House Committee meeting on 24 May 2013, Members agreed to appoint a subcommittee to undertake preparatory work for the operation of the Select Committee, including drawing up the terms of reference to reflect the substance of the petition, the membership size and the nomination procedure in respect of the Select Committee.

The Subcommittee

4. The Subcommittee comprises 14 members, with Hon IP Kwok-him elected as Chairman and Hon Cyd HO Sau-lan as Deputy Chairman. The membership list of the Subcommittee is in **Appendix II**.

Deliberations and recommendations of the Subcommittee

5. The Subcommittee held one meeting on 4 June 2013 and its major deliberations and recommendations are set out in paragraphs 6 to 9 below.

Name and terms of reference of the Select Committee

6. The Subcommittee notes that the Select Committee is formed pursuant to the referral by the Council of the Petition, and the scope of work of the Select Committee is thus defined by the substance of the Petition. To facilitate deliberation by the Subcommittee, the Legislative Council Secretariat has prepared the following proposed terms of reference ("TOR") –

"To inquire into the handling of duty visits, official entertainment and gifts by Mr Timothy TONG while he was serving as Commissioner of the Independent Commission Against Corruption."

"調查湯顯明先生出任廉政專員期間對外訪活動、公務酬酢及禮物的處理。"

7. At the Subcommittee meeting, the Chairman and Hon Dennis KWOK tabled their respective proposed TOR (**Appendices III and IV**) for the Subcommittee's consideration.

8. Members generally agree that the TOR of the Select Committee should only cover the matters proposed to be examined in the Petition. Members also agree that as the nature of the work of the Select Committee is fact-finding, it is appropriate to adopt expressions that carry a neutral connotation for the TOR of the Select Committee as far as possible. After discussion, the Subcommittee agrees to recommend the following TOR for the Select Committee –

"To inquire into whether the official duty visits, entertainment, and the bestowing and receipt of gifts by Mr Timothy TONG during his tenure as Commissioner of the Independent Commission Against Corruption are commensurate with his official capacity and the values of probity and integrity advocated by the Independent Commission Against Corruption, and how the Independent Commission Against Corruption provided information related to the above matters to the Finance Committee of the Legislative Council."

"調查前任廉政專員湯顯明先生在任期間所進行的公務外訪、酬酢、餽贈及收受禮物事宜是否符合其公職身分及廉政公署所提倡廉潔奉公的價值，以及廉政公署如何就上述事宜向立法會財務委員會提交資料。"

9. The Subcommittee also agrees to recommend the following name for the Select Committee –

"Select Committee to Inquire into Matters Relating to Mr Timothy TONG's Duty Visits, Entertainment, and Bestowing and Receipt of Gifts during his Tenure as Commissioner of the Independent Commission Against Corruption"

"調查湯顯明先生任職廉政專員期間的外訪、酬酢、餽贈及收受禮物事宜專責委員會"

Membership size of the Select Committee and the procedure for nomination and election of Members for appointment to the Select Committee

10. 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.

11. The Subcommittee proposes that the membership size of the Select Committee should be 13.

12. Having regard to the nomination procedure adopted for the previous select committees and the procedure adopted by the House Committee for the nomination of Members for appointment to the Public Accounts Committee, Committee on Members' Interests and Committee on Rules of Procedure at the beginning of the Fifth Legislative Council¹, the Subcommittee proposes that the following procedure be adopted for the nomination and election of Members for appointment to the Select Committee –

(a) The nomination and election of Members for appointment to the Select Committee shall be conducted at a meeting of

¹ The nomination and election of Members for appointment to the Public Accounts Committee, Committee on Members' Interests and Committee on Rules of Procedure was held at the House Committee meeting on 19 October 2012.

the House Committee, the date of which shall be appointed by the House Committee;

- (b) A valid nomination shall be made orally by a Member, seconded by at least one other Member who should not be the Member being nominated, and accepted by the Member being nominated. A Member who nominates a Member who is absent from the meeting when the nomination is made may only do so if the former states that the absent Member's acceptance of the nomination has been secured;
- (c) If the number of nominations exceeds that required for appointment, a poll shall be taken at the House Committee meeting at which the election is conducted. Members shall cast their votes by using the Electronic Voting System. A Member may vote for as many nominees as, but not more than, the number required for appointment. If a Member has voted for a number of nominees which exceeds the number required for appointment, all the votes which the Member has cast will not be counted. The nominees who get the highest numbers of votes will be declared elected;
- (d) In cases where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes, a separate poll shall be taken in respect of that nominee and such other nominee(s) in accordance with the manner of election provided in paragraph 12(c) above;
- (e) If, after a separate poll is held, there is still a nominee who would have been elected but for there being one or more other nominees having been given the same number of votes, lots shall be drawn by the Chairman of the House Committee among such nominees to determine which of them will take up the remaining place/places;
- (f) After the nomination and election of Members to the Select Committee, the House Committee meeting should be suspended for 10 minutes to enable the nominated Members to elect the chairman and deputy chairman of the Select Committee from amongst themselves. The House Committee will then resume its meeting and be asked to endorse the results of election of the chairman and deputy chairman of the Select Committee; and

- (g) The election of the chairman and deputy chairman of the Select Committee will follow the procedure set out in **Appendix V** of this paper, which is modeled on the procedure for election of the chairman and deputy chairman of a committee given in Appendix IV of the House Rules.

Advice sought

- 13. The House Committee is invited to-
 - (a) note the Subcommittee's recommendations on the name and TOR of the Select Committee set out in paragraphs 8 and 9 above; and
 - (b) endorse the Subcommittee's recommendations on the membership size of the Select Committee and the procedure for nomination and election of Members for appointment to the Select Committee set out in 11 and 12 above.

Council Business Division 4
Legislative Council Secretariat
6 June 2013

呈
香港特別行政區
立法會主席及全體議員

呈請書

(根據議事規則第 20 條提交)

廉政公署成立至今三十九年，一直戮力肅貪倡廉的工作，令香港成為一個足以自豪及備受世界讚賞的廉潔城市。

今年四月，本會議員在審議財政預算案期間，披露前任廉政專員湯顯明在任期間多次境外訪問並花費大量公帑宴請及送禮予境外及駐港官員，令公眾質疑湯顯明先生的做法著實違背了廉署一直以來提倡的廉潔奉公的社會核心價值，對廉署的威信及形象造成極大的破壞。以及，廉署在回應本會議員在財務委員會的跟進質詢，所提供的資料不盡不實，有誤導立法會之嫌，故立法會實在有必要跟進事件。

儘管立法會政府帳目委員會將會跟進審計署有關廉署的衡工量值報告，以及行政長官梁振英成立了「廉政公署公務酬酢、餽贈及外訪規管制度和程序獨立檢討委員會」，惟均無法全面跟進湯顯明先生的外訪、宴請及送禮事宜。因此，我們懇請各位議員支持此呈請書，以挽回廉署的威信及形象，重彰香港廉潔奉公的核心價值。

呈請人：
郭榮鏗
何秀蘭

2013 年 5 月 8 日

**Subcommittee to Prepare for the Operation of the Select Committee
on the Petition Presented at the Council Meeting of 8 May 2013**

Membership list

Chairman Hon IP Kwok-him, GBS, JP

Deputy Chairman Hon Cyd HO Sau-lan

Members Hon James TO Kun-sun
Hon CHAN Hak-kan, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun, JP
Hon LEUNG Kwok-hung
Hon WONG Yuk-man
Hon Kenneth LEUNG
Hon Dennis KWOK
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Tony TSE Wai-chuen

(Total : 14 Members)

Clerk Ms Anita SIT

Legal Adviser Mr Kelvin LEE

Date 4 June 2013

葉國謙議員建議的專責委員會職權範圍
Terms of reference of the Select Committee
proposed by Hon IP Kwok-him

研究湯顯明先生任職廉政專員期間的外訪、酬酢、餽贈及收受禮物專責委員會

研究前任廉政專員湯顯明先生在任期間所進行的公務外訪、酬酢、餽贈及收受禮物是否符合其公職身分及廉政公署所提倡的廉潔奉公的價值，以及廉政公署就上述事宜向立法會財務委員會所提交的資料是否全面及真確。

葉國謙

郭榮鏗議員建議的專責委員會職權範圍
Terms of reference of the Select Committee
proposed by Hon Dennis KWOK

研究湯顯明先生任職廉政專員期間的外訪、酬酢、餽贈及收受
禮物及相關事宜專責委員會

本會委任一個專責委員會，調查前廉政專員湯顯明先生在任職期間，其境外訪問活動，以及在境外及本港的酬酢、餽贈及收受禮物及相關事宜，是否與其公職身分或廉政公署的宗旨相符，從而對廉政公署的威信及形象構成影響；以及廉政公署就上述事宜答覆立法會質詢時，有否提供不盡不實的資料或回應，以誤導立法會，並根據上述調查的結果，就廉政公署人員的外訪、酬酢、餽贈及收受禮物的政策及安排，以及其他有關事宜作出建議。

**Procedure for election of the chairman and
deputy chairman of the Select Committee**

Election of chairman

Presiding member

For the election of chairman of the Select Committee, the member present who has the highest precedence shall preside at the election. If he is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside.

2. For the election to fill a vacancy in the office of chairman during a term, the deputy chairman shall preside at the election. If the deputy chairman is absent or is being nominated for the office, the member present who has the highest precedence shall preside at the election. If he is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside.

Election procedure

3. At the start of the election, the presiding member shall call for nominations for the chairmanship. A valid nomination shall be made orally by a member, seconded by at least one other member who should not be the member being nominated, and accepted by the member being nominated. A member who nominates an absent member for the office is required to state that the absent member's acceptance of the nomination has been secured.

4. If the presiding member is being nominated for the office, he shall be replaced in accordance with paragraph 1 or 2 above, as appropriate, unless otherwise decided by the committee.

5. If there is only one nomination, the presiding member shall declare the nominee elected as chairman.

6. If there are two or more nominations, the presiding member shall announce a vote by secret ballot and shall order the clerk to distribute a ballot paper to each of the members present, including the presiding member. Each nominee shall be assigned a nominee number according to the order of their nominations made during the election.

7. A member present who wishes to vote shall mark on a ballot paper using a chop with a "✓" in the box opposite the nominee number of his choice, and place the ballot paper into the ballot box. Any ballot paper not marked, not properly marked or marked with a "✓" in the respective boxes opposite two or more nominee numbers shall be discarded.

8. After all the members present who wish to vote have done so, the clerk shall count the ballot papers in front of all the members present and report the result to the presiding member who shall check the result for confirmation.

9. The presiding member shall declare elected as chairman the nominee who receives the highest number of valid votes among all the nominees.

10. If two or more nominees receive the same highest number of valid votes, the presiding member shall announce that lots will be drawn by him to decide how he shall give the casting vote in respect of these nominees.

11. The presiding member shall then draw lots and give the casting vote to one of the nominees in accordance with the lot drawn, and shall forthwith declare that nominee elected as chairman.

Election of deputy chairman

Presiding member

12. The member to preside at the election of the deputy chairman of the committee is the chairman thereof. If the chairman is absent, the member present who has the highest precedence shall preside. If such a member is being nominated for the office, the member present who has the highest precedence among the members not nominated for the office shall preside.

Election procedure

13. The presiding member shall call for nominations for the deputy chairmanship. A valid nomination shall be made orally by a member, seconded by at least one other member who should not be the member being nominated, and accepted by the member being nominated. A member who nominates an absent member for the office is required to state that the absent member's acceptance of the nomination has been secured.

14. If there is only one nomination, the presiding member shall declare the nominee elected as deputy chairman.

15. If there are two or more nominations, the presiding member shall announce a vote by secret ballot and shall order the clerk to distribute a ballot paper to each of the members present, including the presiding member. Each nominee shall be assigned a nominee number according to the order of their nominations made during the election.

16. A member present who wishes to vote shall mark on a ballot paper using a chop with a "✓" in the box opposite the nominee number of his choice, and place the ballot paper into the ballot box. Any ballot paper not marked, not properly marked or marked with a "✓" in the respective boxes opposite two or more nominee numbers shall be discarded.

17. After all the members present who wish to vote have done so, the clerk shall count the ballot papers in front of all the members present and report the result to the presiding member who shall check the result for confirmation.

18. The presiding member shall declare elected as deputy chairman the nominee who receives the highest number of valid votes among all the nominees.

19. If two or more nominees receive the same highest number of valid votes, the presiding member shall announce that lots will be drawn by him to decide how he shall give the casting vote in respect of these nominees.

20. The presiding member shall then draw lots and give the casting vote to one of the nominees in accordance with the lot drawn, and shall forthwith declare that nominee elected as deputy chairman.