

立法會
Legislative Council

LC Paper No. CROP 70/13-14

Ref : CB(4)/CROP/2
Tel : 3919 3401
Date : 5 June 2014
From : Clerk to Committee on Rules of Procedure
To : All Members of the Legislative Council

Committee on Rules of Procedure

**Consultation on proposed procedure to deal with
repeated grossly disorderly conduct of Members at Council meetings**

The Committee on Rules of Procedure ("CRoP") would like to invite Members' views on –

- (a) whether there is a need to provide for specific sanction in the Rules of Procedure ("RoP") to deal with repeated grossly disorderly conduct of Members at Council meetings; and
- (b) a proposed procedure with specific sanction to deal with repeated grossly disorderly conduct of Members at Council meetings.

Existing Rule

2. Currently, Rule 45(2) of RoP empowers the President, the Chairman of a committee of the whole Council or the chairman of any committee to order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting. There is no provision in RoP that deals with repeated grossly disorderly conduct of Members at Council or committee meetings or provides specific sanction against such conduct.

Deliberations of CRoP of the Fourth Legislative Council

3. Amidst a number of incidents of Members behaving in a disorderly manner at Council and committee meetings, CRoP of the Fourth Legislative Council ("LegCo") studied the need to amend RoP to provide for specific sanction against repeated grossly disorderly conduct of Members at Council or committee meetings with reference to the relevant arrangements of some overseas legislatures (**Appendix I**).

4. After deliberations at a number of meetings, CRoP of the Fourth LegCo decided in June 2012 to take forward the then revised proposal of Hon IP Kwok-him (**Appendix II**), and requested the Secretariat to follow up the matter, including drafting the proposed amendments to RoP based on Mr IP's revised proposal, for consideration by CRoP in the Fifth LegCo.

Deliberations of CRoP of the Fifth LegCo

5. The subject was brought up for CRoP's consideration in January 2013 with draft amendments to RoP (**Appendix III**), but the discussion was deferred at the request of Hon IP Kwok-him.

6. CRoP revisited the subject at its recent meetings in response to the request from Dr Hon CHIANG Lai-wan and Hon CHAN Kam-lam (**Appendix IV**). The two Members proposed that RoP should be tightened to deal with repeated grossly disorderly conduct of Members at Council meetings by making reference to the relevant provisions of the Standing Orders ("SO") made by the former Legislative Council of Hong Kong in 1929. CRoP has noted that SO 23 of the 1929 version of the Standing Orders (**Appendix V**) referred to by the two Members in their letter was replaced with SO 33 and 34 in 1968 (**Appendix VI**), at which time there was a major revamp of the Standing Orders. The reason for those changes was however not mentioned in the record of proceedings of the relevant Council meeting in 1968.

7. CRoP has also noted that following a recent incident at the Council meeting of 16 April 2014, the Chief Secretary for Administration ("CS") wrote to the President (**Appendix VII**) expressing the Government's utmost regret over the incident and urging that the relevant rules of RoP be revisited and tightened. The President has replied to CS and copied the reply (**Appendix VIII**) to the Chairman of CRoP to facilitate CRoP's study.

8. At its meeting on 13 May 2014, CRoP decided that a consultation with all Members on the subject should be conducted, and the proposed procedure drawn up based on Hon IP Kwok-him's proposal in Appendix II should form the basis for the consultation.

Proposed procedure for consultation

9. The key features of the proposed procedure drawn up based on Hon IP Kwok-him's proposal in Appendix II are as follows –

- (a) The procedure only applies to Council meetings.
- (b) Where a Member is ordered to withdraw from the Council under Rule 45(2) of RoP a second time during a term, after the Member has left the Chamber, the President or the Chairman of a committee of the whole Council shall put forth the question "That (name of Member) be prohibited from attending the next meeting of the Council".
- (c) The question shall not be subject to amendment or debate and shall be put to vote forthwith¹.
- (d) If the question is agreed to, the Member shall be prohibited from attending the next Council meeting.
- (e) If the question is negatived, the Member shall be allowed to attend the next Council meeting.
- (f) Irrespective of whether the question is agreed to or negatived, for the purpose of this procedure, the number of times that the Member has been ordered to withdraw from the Council under Rule 45(2) of RoP shall be counted afresh from the Council meeting he next attends.

10. The above features are reflected in the draft amendments to RoP in Appendix III.

¹ In the House of Commons of the United Kingdom, the House of Representatives of Australia, and the Lok Sabha (i.e. House of the People or the lower house) of India, upon the naming of a Member by the Speaker for behaving disorderly during parliamentary proceedings, a Member may move a motion to suspend the service of the Member in the House or the Speaker shall put the question for suspension without a motion being necessary. Such a motion or question is not subject to amendment or debate and shall be put to vote forthwith.

Questionnaire

11. Members are invited to give their views on the subject by completing and returning the questionnaire in **Appendix IX** by 12 June 2014.

(Ms Anita SIT)
Clerk to
Committee on Rules of Procedure

Encl.

c.c. Hon Jasper TSANG Yok-sing, GBS, JP (President of the Legislative Council)
Hon TAM Yiu-chung, GBS, JP (Chairman)
SG, LA, DSG, ASG1, ASG2, ASG3, ASG4, SALA2, ALA2

Sanction against disorderly conduct of Members during parliamentary proceedings in selected places

	House of Commons of the United Kingdom	House of Representatives of Australia	Bundestag of Germany	Lok Sabha of India	National Assembly of South Africa
Sanction against disorderly conduct during parliamentary proceedings	(a) Withdrawal from the House for the remainder of the sitting; or (b) Naming and suspension.	(a) Leaving the House for one hour; or (b) Naming and suspension.	(a) Fine; and/or (b) Leaving the Chamber for the remainder of the sitting and suspension.	(a) Withdrawal from the House for the remainder of the sitting; or (b) Naming and suspension.	(a) Withdrawal from the House for the remainder of the sitting; (b) Suspension; or (c) such action as decided by the Speaker.
Length of suspension	(a) First occasion – 5 sitting days; (b) Second occasion in the same session – 20 sitting days; and (c) Any subsequent occasion – suspension period decided by the House.	(a) First occasion – 24 hours; (b) Second occasion in the same calendar year – 3 consecutive sittings; and (c) Any subsequent occasion in the same calendar year – 7 consecutive sittings.	On any occasion - up to 30 sitting days as decided by the President.	On any occasion – a period not exceeding the remainder of the session.	(a) First occasion – 5 parliamentary working days; (b) Second occasion in the same session – 10 parliamentary working days; and (c) Any subsequent occasion in the same session – 20 parliamentary working days.
How the sanction of suspension is imposed	By passage of a motion in the House.	For grossly disorderly conduct - by order of the Speaker. For disorderly conduct of lesser gravity – by passage of a motion in the House.	By order of the President.	For grossly disorderly conduct - by order of the Speaker. For disorderly conduct of lesser gravity – by passage of a motion in the House.	By order of the Speaker.

	House of Commons of the United Kingdom	House of Representatives of Australia	Bundestag of Germany	Lok Sabha of India	National Assembly of South Africa
Mechanism to terminate a suspension	No such mechanism.	No such mechanism.	A Member under suspension may lodge a reasoned objection in writing for a decision of the House without debate at the next sitting.	The House may, at any time, on a motion being made, resolve that a suspension be terminated.	A Member under suspension may submit a written expression of regret to the Speaker, who may then approve to terminate the suspension.
Whether the Member can still serve in a committee of the House during suspension	Yes, the Member can still serve on a committee for the consideration of a private bill to which he has been appointed before suspension.	Yes, the Member can still serve on a committee of the House.	No.	No.	No, but if the Member being suspended is a Minister or a Deputy Minister, the Speaker may order otherwise.
Whether the Member will receive salary for the period of suspension	No.	Yes.	Yes, but the President may impose a fine of €1000 on a Member for a non-minor breach of order or failure to respect the dignity of the Bundestag. Any repetition of offence will result in an increase of fine to €2000.	Yes. ¹	<i>(Information not available)</i>

¹ At present, apart from the monthly salary and other allowances, a Member of Lok Sabha is also entitled to a daily allowance for the period of residence on duty. Daily allowance is paid only when the Member signs the register maintained for the purpose. According to the Handbook on the Working of Ministry of Parliamentary Affairs, if a Member is suspended from the services of the House for the remainder of the session, he/she cannot claim the daily allowance for this period. The daily allowance is Rs. 1000 per day.



中華人民共和國香港特別行政區
立法會議員(區議會界別)
Legislative Councillor (FC-District Council),
HK SAR of the People's Republic of China



Hon Ip Kwok-him, GBS, JP

致立法會議事規則委員會主席
譚耀宗議員

附錄 II Appendix II

支持對《議事規則》第 45(2)條作出修訂 藉以加強對再次因極不檢點行為 被命令退席議員進行處分的建議

早前，本人向委員會提交對《議事規則》第 45(2)條作出修訂的建議，藉以加強對再次因極不檢點行為被命令退席議員進行處分。本人建議議員若再次因極不檢點行為而被主席命令退席下，該議員除不得繼續參與立法會或委員會的該次會議外，他亦不得參與隨後一次的立法會或委員會會議。

在上次的會議中，委員會就本人的建議提出不少意見，由於本屆立法會會期尚餘一個多月，難以趕及在換屆前進行修訂。因此，本人致函主席閣下，希望就本人提出的修訂尋求委員會的支持，讓秘書處可作進一步跟進。

此外，本人接納了委員對修訂建議提出的意見，作出幾點改動：

- (一) 有關停職處分的安排，只適用於立法會大會，包括全體委員會；
- (二) 有關停職處分的命令，須藉著立法會主席或全體委員會主席提出動議，經投票通過後才可作出；
- (三) 當該議員已遵行了停職處分或該議員的任期完成後，有關再次違反的安排會重新計算。

希望委員會支持本人提出就修訂《議事規則》加強再次因極不檢點行為被命令退席議員處分的建議，讓立法會秘書處可進行更深入的跟進工作。

立法會議員 葉國謙

二零一二年六月六日

Appendix III

Proposed amendments to Rule 45 of Rules of Procedure

45. Order in Council and Committee

(1) The President, the Chairman of a committee of the whole Council or the chairman of any standing or select committee, after having called the attention of the Council or the committee to the conduct of a Member who persists in irrelevance or tedious repetition of his own or other Members' arguments in the debate, may direct him to discontinue his speech.

(2) The President, the Chairman of a committee of the whole Council or the chairman of any committee shall order a Member whose conduct is grossly disorderly to withdraw immediately from the Council or the committee for the remainder of that meeting; and the Clerk or clerk of any committee shall act on orders received by him from the Chair to ensure compliance with this order.

(L.N. 87 of 2011)

(3) Where a Member is ordered to withdraw a second time during a term from the Council by the President or by the Chairman of a committee of the whole Council under subrule (2), and after the Member has left the Chamber, the President or Chairman shall put forthwith, without amendment or debate, the question "That (name of Member) be prohibited from attending the next meeting of the Council" to the Council or committee of the whole Council for its decision. If the question is agreed to, the Clerk shall act on orders received by him from the Chair to ensure compliance with the decision.

(4) If the question under subrule (3) is agreed to, the number of times that the Member has been ordered to withdraw from the Council under subrule (2) shall be counted afresh from the Council meeting that next follows the meeting the Member is prohibited from attending. If the question under subrule (3) is negatived, the number of times that the Member has been ordered to withdraw from the Council under subrule (2) shall be counted afresh from the Council meeting that next follows the meeting at which the question under subrule (3) is negatived.

Legend:

Texts proposed to be added are shown in *italics*.

附錄 IV
Appendix IV

立法會
議事規則委員會主席
譚耀宗先生 GBS, JP

譚主席：

要求收緊「議員行為不檢」議事規則

鑑於有議員屢次在議事廳會議進行時行為不檢點，引致主席命令有關議員退席，議事規則委員會並未有作出任何建議，以改善情況，我等深表不滿，強烈要求主席收緊尺度，確保議會運作暢順。

本屆立法會，有議員在會議進行中屢次違反議事規則，經主席再三警告亦屢勸不聽。此等議員之行為不獨是對議會不尊重，亦是對在席其他議員做成干擾。更甚的是對我們下一代做成極壞榜樣，甚至令出席立法會的社會人士「有樣學樣」。

我等知悉香港立法機關於1929年已在其會議常規第23條(1)-(9)項載有處理議員行為不檢的條文，該條文內註明，如有議員在會議進行期間行為極不檢點，主席需要把有關議員點名，並即時在立法會透過議案將該名議員的職務暫停。同時，我等亦建議考慮暫停發放被裁定停職議員的薪津以作懲處。該項規定雖然有嚴苛之嫌，但現時立法會的議事規則無法制裁屢次不遵守規則的議員，致使有人變本加厲，蓄意違規擾亂會議正常運作。

為此，我等現要求主席及議事規則委員會從速考慮，將上述提及之會議常規加入現有議事規則，以維護本會議事秩序。

立法會議員

蔣麗芸 陳鑑林

2014年1月28日

真誠在香港

香港立法局在1929年12月27日制訂的《會議常規》的摘錄

Extract from the Standing Orders

made by the Legislative Council of Hong Kong on 27 December 1929

23. Breaches of Order.

(1) If a Member show disregard for the authority of the chair, or abuse the rules of the Council by persistently and wilfully obstructing the business of the Council, or otherwise, the President shall direct the attention of the Council to the incident, mentioning by name the member concerned. A motion may then be made upon which the President shall forthwith put the question, no amendment, adjournment, or debate being allowed, "That such member be suspended from the service of the Council". If such an offence shall have been committed in a committee of the whole Council, the Chairman shall forthwith suspend the proceedings of the committee and report the circumstances to the Council; and the President shall on a motion being made thereupon put the same question, without amendment, adjournment or debate, as if the offence had been committed in the Council itself.

(2) Not more than one member shall be named at the same time, unless several members present together have jointly disregarded the authority of the chair.

(3) If a member be suspended under the provisions of this order his suspension shall last until determined by the Council.

(4) The President or Chairman, after having called the attention of the Council or committee to the conduct of a member who persists in irrelevance or tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct the member to discontinue his speech.

(5) The President or Chairman shall order members whose conduct is grossly disorderly to withdraw immediately from the Council Chamber during the remainder of the day's sitting.

(6) If a direction to withdraw under paragraph (5) of this order be not complied with at once or if on any occasion the President or Chairman deem that his powers under that paragraph are inadequate, he may name such member or members in pursuance of paragraph (1) of this order.

(7) The President or Chairman whether acting under paragraph (1) or (5) of this order may direct such steps to be taken, as are required to enforce his order.

(8) Members who are suspended under paragraph (1) of this order or are directed to withdraw under paragraph (5), shall forthwith withdraw from the precincts of the Council Chamber.

(9) Nothing in this order shall be deemed to prevent the Council from proceeding against any member for any breach of order not specified herein or from proceeding in any other way it thinks fit in dealing with the breaches of order herein mentioned.

香港立法局在1968年10月9日制訂的《會議常規》的摘錄*
Extract from the Standing Orders
made by the Legislative Council of Hong Kong on 9 October 1968*

PART I.

RULES OF ORDER.

33. The President in Council or the Chairman in committee shall be responsible for the observance of the rules of order in the Council and committee respectively. His decision on a point of order shall be final.

Decision of
Chair Final.

34. (1) The President or the Chairman, after having called the attention of the Council or the committee to the conduct of a Member who persists in irrelevance or tedious repetition of his own or other Members' arguments in the debate, may direct him to discontinue his speech.

Order in Council
and Committee.

(2) The President or Chairman shall order a Member whose conduct is grossly disorderly to withdraw immediately from the Council for the remainder of that sitting; and the Clerk shall act on orders received by him from the Chair to ensure compliance with this order.

* 香港立法局在1968年10月9日的會議上通過一項決議案，廢除在1929年12月19日制訂的《會議常規》，並採納新版本的《會議常規》。
* At its meeting of 9 October 1968, the Legislative Council of Hong Kong passed a resolution to revoke the Standing Orders made on 19 December 1929 and adopt a new version of Standing Orders.

中華人民共和國
香港特別行政區政府
政務司司長辦公室



CHIEF SECRETARY
FOR ADMINISTRATION'S OFFICE
Government of the Hong Kong
Special Administrative Region
of the People's Republic of China

17 April 2014

The Hon Jasper Tsang Yok-sing, GBS, JP
President
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Dear President,

Legislative Council Meeting of 16 April 2014

I write to express the Government's utmost regret over the incident in which the Hon Leung Kwok-hung threw objects at the Financial Secretary at the Council meeting yesterday (16 April). While the Government has been expressing similar concerns to you in recent years, we regret that such an incident has occurred yet again, and caused disruption to the second reading debate on the Appropriation Bill 2014 which should have been a solemn act.

As you would have witnessed yesterday, the Hon Leung Kwok-hung crossed the floor to throw objects at the Financial Secretary within a close distance. The objects had hit the Financial Secretary before the security personnel inside the Chamber managed to take any effective actions to stop Leung. Such violent misbehaviour was menacing in nature and might constitute criminal conduct such as common assault. Pending our further consideration of the matter, we reserve our right in taking whatever legal action as deemed appropriate.

This incident reveals that there is much to be desired on the security arrangements inside the Chamber. Apparently, the personal safety of public officers attending proceedings therein could be threatened easily. We are also disappointed that government representatives have not been receiving a reasonable level of respect they deserve when they perform their duties at proceedings of the Legislative Council (LegCo).

Under the LegCo Rules of Procedure (RoPs), public officers attending meetings of the Council should enjoy the same protection and respect as any LegCo Member. Under no circumstances should public officers attending LegCo meetings be subjected to any intimidating or abusive acts by Members. It is perhaps high time that the RoPs, which clearly had no effect on some Members in terms of deterrence or consequence, be revisited and tightened. We feel strongly that such disorderly behaviour must be stopped and relevant Members disciplined.

Yours sincerely,

A handwritten signature in cursive script, appearing to read 'Carrie Lam', written in dark ink.

(Mrs Carrie Lam)
Chief Secretary for Administration



立法會主席

PRESIDENT OF THE LEGISLATIVE COUNCIL

曾鈺成 GBS, 太平紳士 Jasper Tsang Yok Sing GBS, JP

來函檔號 YOUR REF :

本函檔號 OUR REF :

電話 TELEPHONE: 3919 3001

圖文傳真 FACSIMILE: 2180 7578

28 April 2014

The Hon Mrs Carrie LAM, GBS, JP
The Chief Secretary for Administration
25/F, Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Chief Secretary,

Legislative Council meeting of 16 April 2014

I refer to your letter dated 17 April 2014 in which you expressed the Government's utmost regret over the incident of Hon LEUNG Kwok-hung throwing objects at the Financial Secretary at the Council meeting of 16 April 2014. As you know, I ordered Hon LEUNG Kwok-hung to withdraw immediately from the Council in accordance with the Rules of Procedure due to his grossly disorderly conduct.

You have expressed the view that the existing Rules of Procedure have no effect in deterring the disorderly conduct of some Members and should be tightened. As you may be aware, the Committee on Rules of Procedure has been examining the issue of repeated disorderly conduct of Members at Council meetings since the Fourth Legislative Council and will study the issue again at its meeting in May 2014. Unless the Rules of Procedure are amended to provide for a mechanism to prevent such conduct, the President or any committee chairman can take action only after disorderly conduct has occurred at meetings. I have sent a copy of your letter and this reply to the Chairman of the Committee to facilitate its study.

You indicated in your letter that pending further consideration of the matter, appropriate legal action might be taken. I do not wish to comment on what action the Government should or should not take. I just wish to stress that regulation of Members' conduct at meetings of the Council is a matter for the Council. I am sure Members are aware that whilst enjoying certain privileges and immunities as provided under the Basic Law and the Legislative Council (Powers and Privileges) Ordinance, they are subject to the same laws that apply to people in Hong Kong generally.

As regards your concern about the security arrangements inside the Chamber during Council meetings, you may wish to know that the matter will be discussed at the coming meeting of The Legislative Council Commission.

Yours sincerely



(Jasper TSANG Yok-sing)
President
Legislative Council

c.c. Hon TAM Yiu-chung, GBS, JP
Chairman, Committee on Rules of Procedure
Other Members of the Legislative Council

Questionnaire

(to be returned by 12 June 2014)

Fax No. : 2543 9197

To : Ms Anita SIT
Clerk to Committee on Rules of Procedure
Legislative Council

Committee on Rules of Procedure

**Consultation on proposed procedure to deal with
repeated grossly disorderly conduct of Members at Council meetings**

*(Please tick as appropriate. If the space for comments is insufficient,
please provide your comments in separate sheets.)*

**1. Do you think there is a need to provide for specific sanction in
the Rules of Procedure ("RoP") to deal with repeated grossly
disorderly conduct of Members at Council meetings?**

Yes *(Please also answer Questions 2 and 3)*

No

No comment

Comments (if any):

2. **Do you think the proposed sanction, i.e. a Member who is ordered to withdraw from a Council meeting a second time during a term for his/her grossly disorderly conduct at those relevant meetings under Rule 45(2) of RoP shall be prohibited from attending the next Council meeting if so decided by the Council or committee of the whole Council, is appropriate?**

The sanction is appropriate.

The sanction is too lenient and my suggestion is:

The sanction is too heavy and my suggestion is:

No comment

3. **Do you agree with the proposed procedure set out in paragraph 9 of and Appendix III to the consultation circular for effecting the imposition of the proposed sanction?**

Agree

Disagree and my comments are:

No comment

Signature : _____

Name of Member : _____

Date : _____