

**立法會**  
**Legislative Council**

LC Paper No. CMI/30/14-15

Ref: CB(3)/C/2(12-16)

**Committee on Members' Interests**

**Minutes of Meeting**  
**held on Tuesday, 9 December 2014, at 4:30 pm**  
**in Conference Room 2A of the Legislative Council Complex**

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon Frankie YICK Chi-ming  
Hon Gary FAN Kwok-wai  
Hon Dennis KWOK
- Members absent** : Hon Emily LAU Wai-hing, JP (Deputy Chairman)  
Hon CHAN Yuen-han, SBS, JP
- Clerk in attendance** : Mr Arthur LEUNG  
Chief Council Secretary (3)3
- Staff in attendance** : Mr Kenneth CHEN  
Secretary General
- Mrs Justina LAM  
Deputy Secretary General
- Miss Odelia LEUNG  
Assistant Secretary General 3
- Mr KAU Kin-wah  
Senior Assistant Legal Adviser 3
- Mr Kelvin LEE  
Assistant Legal Adviser 1
- Miss Wylie HO  
Senior Council Secretary (3)7
- Ms Ally NG  
Administrative Assistant I (3)9

## Action

### **I. Outcome of consultation with Members on the proposed revisions to the procedure for handling complaints** (LC Paper No. CMI/14/14-15)

The Chairman said that pursuant to the earlier decision of the Committee on Members' Interests ("CMI"), the Clerk had issued a questionnaire on 5 June 2014 to consult all Members on the proposed revised procedure of CMI for handling complaints ("the Procedure").

2. At the invitation of the Chairman, the Clerk highlighted the consultation outcome as set out in LC Paper No. CMI/14/14-15. All Members except the President responded to the questionnaire. Fifty Members (72%) agreed to the adoption of the revised Procedure; three Members (4%) disagreed with the adoption; and three Members (4%) had no view on the adoption.

#### Disclosure of the complainant's identity

3. The Clerk further said that the remaining 13 Members (19%) disagreed with certain parts of the revised Procedure. Among them, eight Members disagreed with the proposed amendment that the complainant's identity would be disclosed to the Member under complaint and in any report made by CMI to the Council on the complaint, and another four Members disagreed with the proposed amendment that CMI would not consider any complaint lodged by a person who had refused to allow his or her identity to be disclosed.

4. The Chairman said that while CMI would not consider anonymous complaints both under the existing and the revised Procedure, the existing Procedure was silent on whether the complainant's identity would be disclosed to the Member under complaint and in the reports made by CMI to the Council on complaints. This was explicitly stated in the revised Procedure for the sake of clarity.

5. At the invitation of the Chairman, the Clerk said that complaints against a Member of the House of Commons ("MP") of the Parliament of the United Kingdom ("UK") might be made by fellow MPs or members of the public. The Procedural Note issued by the Parliamentary Commissioner for Standards ("the Commissioner") stated that it was a basic courtesy that an MP making a complaint to the Commissioner should at the same time send a copy of the letter of complaint to the MP under complaint. It was a standard practice of the Commissioner to include the complainant's identity when he forwarded a complaint to the Member under complaint for response and to publish the names of the complainants in the complaint reports which were made public.

6. Mr Frankie YICK said that the complainant's identity should be disclosed in fairness to the Member under complaint. He considered that the complainant should have no reason to object to his/her identity being revealed unless the complaint was malicious. Mr Jeffrey LAM said that having regard to the practice in UK House of Commons, he also considered that the complainant's identity should be disclosed.

#### Authorizing the Clerk to CMI to dispose of certain complaints

7. The Chairman said that under the revised Procedure, the Clerk to CMI was authorized to dispose of any complaint which CMI would not consider under the existing Procedure<sup>1</sup> or which was outside its purview. As 10 Members disagreed with the proposed amendment and proposed instead that a 3-person panel comprising the CMI Chairman and two other members from different political parties be set up under CMI to examine such complaints, the Chairman sought members' views on the matter.

8. Mr Jeffrey LAM said that as the disposal of complaints which CMI would not consider or which was outside its purview was straightforward, the Clerk should be authorized to do so without first consulting the Chairman. Concurring with Mr LAM, Mr Frankie YICK considered that the proposal to set up a 3-person panel to handle such complaints would render the Procedure too cumbersome. Noting that the Clerk to CMI would circulate to members the complaint and his reply to the complainant, he was agreeable to the proposed amendment that the Clerk to CMI be authorized to dispose of such complaints.

9. The Chairman sought members' views on the adoption of the revised Procedure pursuant to Rule 73(7) of the Rules of Procedure ("the RoP"). Members unanimously agreed.

10. Members agreed that following the past practice, the revised Procedure would be circulated to all Members.

the Clerk

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<sup>1</sup> Under paragraph (1) of the existing Procedure, CMI will not consider any complaint that meets the following descriptions:

- (a) the complaint is made by an anonymous or unidentifiable person or by a person who cannot be contacted; or
- (b) the complaint is made against a former Member; or
- (c) the complaint is about a Member's act or omission which allegedly took place seven years or more prior to the date of the complaint.

The Chairman's instruction will be sought to circulate such complaints to members for information.

## II. Outcome of consultation with Members on proposals in relation to the disclosure of pecuniary interests under Rule 83A of the Rules of Procedure

(LC Paper No. CMI/15/14-15)

11. The Chairman said that pursuant to the earlier decision of CMI, the Clerk had issued a questionnaire on 25 June 2014 to consult all Members on the following two proposals on Rule 83A of the RoP:

- (a) to exclude common pecuniary interests from the requirement of Rule 83A of the RoP on disclosure of pecuniary interests by Members in the Council or any committee or subcommittee (**Proposal 1**); and
- (b) to require members of a committee/subcommittee on legislative proposals to disclose pecuniary interests when they first speak on a matter in the committee/subcommittee and repeated disclosures of the same interests at subsequent meetings of the same committee/subcommittee are not necessary (**Proposal 2**).

12. At the invitation of the Chairman, the Clerk highlighted the consultation outcome as set out in LC Paper No. CMI/15/14-15. All Members except the President responded to the questionnaire. Fifty eight Members (84%) agreed to Proposal 1 and the new subrule (3) of Rule 83A; 9 Members (13%) disagreed with Proposal 1; and 2 Members (3%) had no view. Sixty Members (87%) agreed to Proposal 2 and the new subrule (2) of Rule 83A; 7 Members (10%) disagreed with Proposal 2; and 2 Members (3%) had no view.

### Proposal 1

13. The Chairman said that while Rule 83A of the RoP did not exempt a Member from the disclosure of common pecuniary interests, such interests were excluded in Rule 84(1) and (1A), which concerned Members' non-voting or withdrawal from meetings in case of direct pecuniary interest. He also drew members' attention to the practice of the House of Commons of the UK Parliament for public bill committees, under which MPs were required to declare relevant interests at the first meeting of the committee or on the first occasion on which they address the committee, and repeated declarations at subsequent meeting were not necessary.

## Proposal 2

14. In reply to Mr Jeffrey LAM's enquiry, Senior Assistant Legal Adviser 3 said that under the proposed revised Rule 83A, a Member was required to disclose his/her relevant interests only on the first occasion at which he/she addressed a bills committee or subcommittee on subsidiary legislation. Also, the revised Rule 83A did not provide that such interests had to be disclosed by a Member at the first meeting of such a committee or at the first meeting of the committee attended by the Member.

15. Mr Jeffrey LAM said that as the experience of the Bills Committee on the Stamp Duty (Amendment) Bill 2012 showed that the cumulative time taken up by repeated disclosures of pecuniary interests by Members was significant, he considered that Proposal 2 should be adopted.

16. Mr Frankie YICK was concerned that members of a bill committee or subcommittee on subsidiary legislation might not be aware of the disclosure of pecuniary interests by other members as they might not attend each meeting, and this might give rise to misunderstandings. The Clerk said that Members' disclosures of pecuniary interests at meetings would be recorded in the minutes of meetings. Mr YICK considered that Proposal 2 should be adopted.

17. As the consultation outcome indicated the support by a majority of Members, the Chairman sought members' views on whether the two proposals and the revised Rule 83A of the RoP should be taken forward. Members unanimously agreed. Members also agreed that CMI should consult the Committee on Rules of Procedure ("CRoP") and then the House Committee on the proposed amendments. Subject to the views of the CRoP and the House Committee, the Chairman of CMI would move a motion at a Council meeting to amend Rule 83A.

the Clerk

### **III. Any other business**

18. There being no other business, the meeting ended at 5:00 pm.

Council Business Division 3  
Legislative Council Secretariat  
14 January 2015