

立法會
Legislative Council

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(These minutes have been
cleared with the Chairman)

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Establishment Subcommittee of the Finance Committee

**Minutes of the special meeting
held in Conference Room 1 of Legislative Council Complex
on Tuesday, 17 March 2015, at 10:45 am**

Members present:

Hon Kenneth LEUNG (Chairman)
Hon SIN Chung-kai, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Ting-kwong, SBS, JP
Hon Cyd HO Sau-lan, JP
Hon WONG Kwok-kin, SBS
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon NG Leung-sing, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Dr Hon KWOK Ka-ki
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon IP Kin-yuen

Hon TANG Ka-piu, JP

Members absent:

Hon LEUNG Yiu-chung

Hon Emily LAU Wai-hing, JP

Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN

Hon Ronny TONG Ka-wah, SC

Hon Starry LEE Wai-king, JP

Hon CHEUNG Kwok-che

Hon Mrs Regina IP LAU Suk-yea, GBS, JP

Hon Paul TSE Wai-chun, JP

Hon Claudia MO

Hon Steven HO Chun-yin

Hon KWOK Wai-keung

Dr Hon Helena WONG Pik-wan

Hon Martin LIAO Cheung-kwong, SBS, JP

Hon POON Siu-ping, BBS, MH

Hon CHUNG Kwok-pan

Clerk in attendance:

Ms Connie SZETO

Chief Council Secretary (1)4

Staff in attendance:

Ms Anita SIT

Assistant Secretary General 1

Mr Jason KONG

Council Secretary (1)4

Ms Alice CHEUNG

Senior Legislative Assistant (1)1

Miss Yannes HO

Legislative Assistant (1)6

Ms Clara LO

Legislative Assistant (1)8

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Applications for late membership from 16 Members

1. The Chairman advised that the meeting was a continuation of the special meeting of the Establishment Subcommittee ("ESC") on 20 January 2015 to consider the applications for late membership ("Applications") from 16 Legislative Council ("LegCo") Members ("Applicant Members"). He said that, at the special meeting on 20 January 2015, it was agreed that a member's membership status in ESC would take immediate effect as soon as his/her

Application was accepted. Mr Paul TSE had attended the meeting and explained the reasons for his Application. His Application was subsequently accepted by the Subcommittee at that meeting.

2. The Chairman said that he had issued letters to the 16 Applicant Members inviting them to attend this special meeting and informing them the Subcommittee's decision regarding the effective time of late membership and acceptance of Mr Paul TSE's Application. The 16 Applicant Members were also informed of the order for handling their Applications. The order was based on the dates and exact time of submission of the Applications. When the exact time record for an Application was not available, it would be placed after all Applications submitted on the same day. If the above criteria still could not determine an Application in the order, reference would be made to the Applicant Member's position in LegCo's precedence list.

3. The Chairman advised that the 16 Applicant Members had responded and no comments were received on the order for handling the Applications. Mr CHAN Han-pan replied on 3 February 2015 that he would attend today's special meeting, and the other Applicant Members had indicated that they would not attend the meeting. Mr CHAN's office subsequently indicated on 13 March 2015 that he would not attend today's special meeting due to another engagement. The Chairman said that the Subcommittee would handle the Applications according to the order set out in the revised agenda which was displayed on the projector screens of the conference room.

Consideration of Mr CHAN Hak-kan's Application

4. Mr LEE Cheuk-yan, Mr SIN Chung-kai, Mr Alan LEONG, Mr Albert HO, Mr Gary FAN and Mr LEUNG Kwok-hung said that they were opposed to Mr CHAN Hak-kan's Application because Mr CHAN had not elaborated the grounds of his Application. Mr LEE and Mr HO considered that the real reason for Mr CHAN and other Applicant Members of the pro-establishment camp ("pro-establishment Members") was to regain a majority of membership in the Subcommittee. As Mr CHAN and some Applicant Members had provided largely identical reasons, i.e. mistakes made by their personal assistants ("PAs"), they had not provided supporting evidence, and the PAs concerned did not have the opportunity to explain the matter before the Subcommittee, Mr LEE, Mr HO, Mr LEUNG and Mr FAN considered it unacceptable that these Applicant Members had shirked their responsibility to their PAs.

5. Mr WONG Ting-kwong said that a staff member of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") was responsible for handling the signification of membership for the Subcommittee for LegCo Members from DAB. This might explain why the Applicant

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Members from DAB had provided largely identical reasons. Mr LEE Cheuk-yan queried Mr WONG's explanation as it could not explain why Mr WONG (a Subcommittee member currently) was able to join the Subcommittee before the deadline and why Dr CHIANG Lai-wan (an Applicant Member) had provided a different reason in her Application since both of them were LegCo Members belonging to DAB.

6. Mr Alan LEONG considered it important to put clearly on record the Subcommittee's process in handling the Applications and the reasons for its decision on each Application since the Applicant Members with their Applications turned down would likely appeal to the Finance Committee. He pointed out that Mr Paul TSE had attended a special meeting of the Subcommittee and elaborated the reasons for his Application to members, and his Application was subsequently accepted. On the contrary, other Applicant Members had chosen not to appear before the Subcommittee to explain their Applications. Mr Albert HO remarked that the cases in question were unusual as all Applications were submitted around the same time with similar or identical reasons. He opined that members should consider whether such reasons were genuine, and added that Mr Paul TSE's practice of sincerely explaining to members the reasons for his Application was commendable.

7. Mr Christopher CHEUNG and Mr NG Leung-sing expressed support for Mr CHAN Hak-kan's Application. They opined that LegCo Members, who represented different sectors of the community, should not be deprived of the right to join the Subcommittee. They commented that members should not speculate on the reasons or motives of the Applicant Members for joining the Subcommittee. Mr CHEUNG added that he had attended a special meeting of the Public Works Subcommittee ("PWSC") to explain his application for late membership for PWSC. His experience was unpleasant at that meeting as he felt that he was interrogated by PWSC members. He therefore considered Applicant Members' decisions of not attending the present meeting understandable.

8. Sharing the view that members should not speculate on the motives of the Applicant Members, Mr YIU Si-wing expressed concern that if the meeting resolved to reject an Application with the reason "a mistake made by the Member's PA", it might set a precedent that the particular reason would not be accepted as sufficient grounds for late membership.

9. Mr Frederick FUNG and Mr LEE Cheuk-yan had different views. They said that the reason per se might be acceptable if it was the genuine reason for an Application. However, as several Applicant Members from different political parties had provided largely identical reasons, it was suspicious that the reason might not be genuine. They stressed that the Subcommittee must consider each Application carefully, and Applicant

Members should elaborate their reasons for joining the Subcommittee.

10. Mr Albert CHAN agreed in principle that members should not speculate on the reasons for the Applications. He criticized that his application for late membership for the Subcommittee made in the 2013-2014 session had not be handled fairly. He said that on that occasion, he had been entrusted by Mr LEUNG Kwok-hung, who was then imprisoned, to attend the Subcommittee meetings on Mr LEUNG's behalf. He was disappointed that members of the pro-establishment camp attended that meeting had voted against his Application.

11. Mr WONG Ting-kwong said that the Subcommittee had not received any document from Mr LEUNG Kwok-hung nominating Mr Albert CHAN to represent him on the businesses related to the Subcommittee. In addition, Mr LEUNG was only imprisoned for a short period of time, and he was still a member of the Subcommittee during the period. In contrast, the 16 Applicant Members acted on their own behalf in making the Applications.

12. The Chairman invited members to vote on whether to accept Mr CHAN Hak-kan's Application. The question was voted on and negatived. The Chairman declared that Mr CHAN's Application was rejected by the Subcommittee.

Consideration of Mr CHAN Han-pan's Application

13. Mr Gary FAN expressed regret that Mr CHAN Han-pan had not attended today's special meeting. He reiterated that Applicant Members should appear before the Subcommittee to explain their Applications. He sought details about the communication between Mr CHAN and the LegCo Secretariat regarding his attendance at today's special meeting.

14. The Clerk said that a reply slip was enclosed to the Chairman's letters to the 16 Applicant Members inviting them to indicate their availability for two potential timeslots for the special meeting. According to the reply slip returned from Mr CHAN Han-pan's office on 3 February 2015, he would attend the special meeting if it was held on 17 March. Subsequently in the week of 9 March, Mr CHAN's office informed the Secretariat by phone that Mr CHAN would not attend the meeting due to another engagement. The Secretariat had advised Mr CHAN's office to provide a written reply on his decision of not attending the special meeting. On 13 March, the Secretariat received a revised reply slip from Mr CHAN's office confirming that Mr CHAN would not attend today's meeting.

15. Pointing out that the reason for Mr CHAN Han-pan's Application was "a mistake made by his PA", Mr SIN Chung-kai, Mr LEE Cheuk-yan and

Mr Alan LEONG reiterated that they considered the reason unacceptable without further explanation, and as such they were opposed to Mr CHAN's Application.

16. Mr NG Leung-sing expressed support for Mr CHAN Han-pan's Application and all remaining Applications. He reiterated that it would be unfair for members to speculate on Applicant Members' reasons or motives for joining the Subcommittee in their absence.

17. Mr Alan LEONG and Mr Albert HO remarked that according to paragraph 3B of the ESC Procedure, an application for late membership for the Subcommittee made on grounds other than indisposition or absence from Hong Kong should only be accepted on sufficient grounds. It was therefore the responsibility of an Applicant Member to provide sufficient information to facilitate the Subcommittee's consideration of his/her Application. Mr LEONG and Mr Gary FAN further pointed out that Mr Paul TSE's Application for ESC and Mr Christopher CHEUNG's Application for PWSC had been accepted by the respective Subcommittees because the two Members had explained their Applications to the Subcommittees in person.

18. Mr Christopher CHEUNG considered that Mr CHAN Han-pan had shown his sincerity although he was unable to attend today's meeting due to another engagement. He said that the Subcommittee should proceed with handling the remaining Applications and could consider giving Mr CHAN another opportunity to explain his Application.

19. Mr CHAN Chi-chuen, Mr LEE Cheuk-yan, Mr Albert HO and Mr LEUNG Kwok-hung suggested that consideration of Mr CHAN Han-pan's Application be deferred to the next special meeting. Mr CHAN said that an Applicant Member willing to attend a special meeting could indicate their available timeslots so that arrangement could be made accordingly. Pointing out that the reasons put forward by two LegCo Members from the Business and Professionals Alliance for Hong Kong ("BPA") were also "mistakes made by their PAs", Mr HO opined that these Applicant Members had an obligation to clarify why their reasons for the Applications were identical. Mr LEUNG said that Applicant Members from DAB should clarify whether a staff member of DAB handled the ESC membership matters for all Members from the party.

20. Mr LEUNG Kwok-hung then moved a motion that consideration of Mr CHAN Han-pan's Application be deferred.

21. Mr Alan LEONG asked whether it would be in order for a member to move a motion pursuant to paragraph 32 of the ESC Procedure to adjourn the discussion on an Application. Assistant Secretary General 1 advised that the role and terms of reference of the Subcommittee, as set out in paragraphs 1

and 2 of the ESC Procedure, were to examine the Administration's establishment proposals. Paragraph 32 of the ESC Procedure should not apply to the current agenda item as it was an internal business of the Subcommittee and did not relate to a proposal from the Administration. As the ESC Procedure did not have specific provisions for the adjournment of discussion on an internal business, it was for the Chairman to decide on the handling of such an adjournment motion.

22. The Chairman said that for the efficient operation of the meeting, he would deal with Mr LEUNG Kwok-hung's motion so that the Subcommittee could consider whether to defer an Application without affecting the handling of other Applications under the agenda item. He then asked if members had objection to his decision. No members raised objection. By making reference to paragraph 32 of the ESC Procedure, the Chairman said that he would allow each member to speak once on the motion for not more than three minutes.

23. Mr SIN Chung-kai and Mr Alan LEONG said that they were against the motion as they opined that deferring consideration of Mr CHAN Han-pan's Application and inviting him again to attend a special meeting would be to no avail because the Chairman had already invited Mr CHAN to attend the Subcommittee's meetings for three times. Moreover, Mr CHAN should be aware of the fact that Mr Paul TSE had attended the Subcommittee's special meeting where his Application was accepted.

24. Mr LEUNG Kwok-hung reiterated that Mr CHAN Han-pan should explain his absence from today's special meeting, which could have been a mistake made by his PA. Mr LEUNG called on members to support his motion.

25. The Chairman invited members to vote on whether to defer consideration of Mr CHAN Han-pan's Application to the next special meeting. The question was voted on and carried. The Chairman declared that consideration of Mr CHAN's Application be deferred.

Consideration of Mr Christopher CHUNG's Application

26. Pointing out that the reason for Mr Christopher CHUNG's Application was also "a mistake made by his PA", Mr SIN Chung-kai and Mr Alan LEONG reiterated that they were not convinced that the reason could satisfy the requirement of "sufficient grounds" under paragraph 3B of the ESC Procedure. They therefore objected to Mr CHUNG's Application.

27. Mr Alan LEONG, Mr LEUNG Kwok-hung and Mr LEE Cheuk-yan pointed out that Mr Christopher CHUNG had specifically stated in his letter of

Application that "his PA had mistakenly indicated on the reply slip that he did not wish to join the Subcommittee". As Mr CHUNG had signed the reply slip, it was unlikely that Mr CHUNG's PA could have made such a mistake without noticed by Mr CHUNG. They considered that Mr CHUNG had shirked his responsibility to his PA. Mr LEE and Mr LEONG said that Mr CHUNG's letter had contradicted Mr WONG Ting-kwong's remarks made earlier at the meeting, i.e. a staff member of DAB handled the signification of membership for ESC for all LegCo Members from DAB. They said that it was necessary for Mr CHUNG to explain the matter to the Subcommittee in person.

28. The Chairman invited members to vote on whether to accept Mr Christopher CHUNG's Application. The question was voted on and negatived. The Chairman declared that Mr CHUNG's Application was rejected by the Subcommittee.

Consideration of Ir Dr LO Wai-kwok's Application

29. The Chairman remarked that Ir Dr LO Wai-kwok had provided supplementary information on his Application made on 8 October 2014.

30. No members requested to speak on Ir Dr LO Wai-kwok's Application. The Chairman then invited members to vote on whether to accept Ir Dr LO's Application. The question was voted on and negatived. The Chairman declared that Ir Dr LO's Application was rejected by the Subcommittee.

Consideration of Dr Elizabeth QUAT's Application

31. Noting that Dr Elizabeth QUAT's Application also referred to "a mistake made by her PA", Mr SIN Chung-kai and Mr Alan LEONG reiterated that they were not convinced that the reason could satisfy the requirement of "sufficient grounds" under paragraph 3B of the ESC Procedure. They objected to Dr QUAT's Application.

32. Mr LEE Cheuk-yan asked if Dr QUAT had submitted a reply slip before the registration deadline indicating that she did not wish to join the Subcommittee. The Chairman instructed the Clerk to check the records concerned.

33. The Chairman then invited members to vote on whether to accept Dr Elizabeth QUAT's Application. The question was voted on and negatived. The Chairman declared that Dr QUAT's Application was rejected by the Subcommittee.

Consideration of Mr Andrew LEUNG's Application

34. Mr Gary FAN opined that given Mr Andrew LEUNG's position as the Chairman of the House Committee of LegCo, he should have a better understanding of the rules and procedures governing committee meetings of LegCo. The Subcommittee should therefore handle Mr LEUNG's Application in a more serious manner. He said that Mr LEUNG should explain his Application before the Subcommittee. Dr KWOK Ka-ki shared the view.

35. Mr Alan LEONG reiterated his position that "a mistake made by a Member's PA" could not satisfy the requirement of "sufficient grounds" under paragraph 3B of the ESC Procedure. He was therefore opposed to Mr Andrew LEUNG's Application. Mr LEE Check-yan shared the view and criticized that two Applicant Members from BPA, namely Mr Andrew LEUNG and Mr Jeffrey LAM, had put the blame for missing the registration deadline on their PAs.

36. Mr Gary FAN moved a motion that consideration of Mr Andrew LEUNG's Application be deferred to the next special meeting.

37. The Chairman asked whether members would agree to discuss the motion. No members raised objection. By making reference to paragraph 32 of the ESC Procedure, the Chairman said that he would allow each member to speak once on the motion for not more than three minutes.

38. No members requested to speak on the motion. The Chairman then put the motion to vote. The motion was voted on and carried. The Chairman declared that consideration of Mr Andrew LEUNG's Application be deferred to the next special meeting.

Consideration of Mr IP Kwok-him's Application

39. In response to some members' query about his comments relating to a staff member of DAB deployed for handling the signification of ESC membership for LegCo Members from DAB, Mr WONG Ting-kwong clarified that although the staff member concerned had taken up the responsibility, some DAB Members had also assigned the same task to their own PAs. Therefore, there could be differences among DAB Members in the handling of the matter.

40. Mr Alan LEONG reiterated that he did not consider that "a mistake made by a Member's PA" could satisfy the requirement of "sufficient grounds" under paragraph 3B of the ESC Procedure. He was therefore opposed to Mr IP Kwok-him's Application.

41. Mr LEE Cheuk-yan said that as members had agreed to defer consideration of the Applications from Mr CHAN Han-pan and Mr Andrew LEUNG, and it would be necessary to organize another special meeting for considering the Applications, he suggested that the present special meeting be adjourned and invitation be extended to the remaining 12 Applicant Members again to attend the next special meeting. Dr KWOK Ka-ki agreed with Mr LEE's suggestion. Mr SIN Chung-kai said that it was reasonably expected that the Applicant Members would not attend the next special meeting. He did not support Mr LEE Cheuk-yan's suggestion.

42. Mr LEE Cheuk-yan moved a motion to adjourn the meeting. He said that by deferring consideration of the remaining 12 Applications, the Applicant Members concerned could be given another opportunity to attend the special meeting and explain their Applications to the Subcommittee.

43. The Chairman asked whether members would agree to discuss Mr LEE's motion. No members raised objection. By making reference to paragraph 32 of the ESC Procedure, the Chairman said that he would allow each member to speak once on the motion for not more than three minutes.

44. Mr Alan LEONG said that he would abstain from voting on Mr LEE Cheuk-yan's motion. He echoed Mr SIN Chung-kai's view that it was unlikely that the Applicant Members would attend the next special meeting, given that they had clearly declined the Subcommittee's invitations for several times.

45. Mr Gary FAN supported Mr LEE Cheuk-yan's motion. He held the view that the real reason of the Applicant Members for joining the Subcommittee was to regain the pro-establishment camp's majority of membership in the Subcommittee. He considered the existing membership composition of the Subcommittee effective and its operation smooth. He also considered it appropriate to invite the Applicant Members to attend another special meeting of the Subcommittee again.

46. The Chairman put the motion to vote. The motion was voted on and carried.

47. Before adjourning the meeting, the Chairman remarked that the Subcommittee could not compel any Applicant Member to attend its special meeting. He had invited the Applicant Members to attend the special meetings for three times and they had clearly indicated that they had no intention to attend such meetings. As such, he considered that regardless whether the Applicant Members would attend the next special meeting, the Subcommittee should not defer consideration of the 12 remaining Applications

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at the next special meeting as it was unlikely that further deferral could serve any practical purpose.

48. The meeting ended at 12:17 pm.

Council Business Division 1
Legislative Council Secretariat
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