

立法會
Legislative Council

LC Paper No. CB(2)126/18-19

Ref : CB2/H/5/18

House Committee of the Legislative Council

**Minutes of the 2nd meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 19 October 2018**

Members present :

Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon Dennis KWOK Wing-hang (Deputy Chairman)
Hon Abraham SHEK Lai-him, GBS, JP
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen

Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, SBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Dr Hon Junius HO Kwan-yiu, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying, JP
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon LUK Chung-hung, JP
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Members absent :

Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Michael TIEN Puk-sun, BBS, JP
Hon Jimmy NG Wing-ka, JP
Hon HUI Chi-fung

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

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|----------------------|-----------------------------------|
| Mr Kenneth CHEN, SBS | Secretary General |
| Ms Connie FUNG | Legal Adviser |
| Miss Odelia LEUNG | Deputy Secretary General |
| Ms Anita SIT | Assistant Secretary General 1 |
| Ms Dora WAI | Assistant Secretary General 3 |
| Mr Matthew LOO | Assistant Secretary General 4 |
| Mr Timothy TSO | Senior Assistant Legal Adviser 1 |
| Mr YICK Wing-kin | Senior Assistant Legal Adviser 2 |
| Mr Kelvin LEE | Senior Assistant Legal Adviser 3 |
| Ms Amy YU | Principal Council Secretary 1 |
| Ms Hallie CHAN | Head (Public Information) |
| Ms Alice LEUNG | Chief Council Secretary (2)6 |
| Mr Alvin CHUI | Assistant Legal Adviser 3 |
| Ms Clara TAM | Assistant Legal Adviser 9 |
| Mr Richard WONG | Senior Council Secretary (2)6 |
| Ms Jasmine TAM | Senior Council Secretary (2)8 |
| Miss Connie AU | Council Secretary (2)6 |
| Mr Clement HAU | Council Secretary (2)7 |
| Ms Anna CHEUNG | Senior Legislative Assistant (2)3 |
| Mr Arthur KAN | Legislative Assistant (2)7 |

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I. Confirmation of minutes of meeting

Minutes of 1st meeting held on 12 October 2018

(LC Paper No. CB(2)58/18-19)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration

2. The Chairman said that there was nothing special to report.

III. Legal Service Division report on subsidiary legislation gazetted on 12 October 2018

(LC Paper No. LS4/18-19)

3. At the invitation of the Chairman, Legal Adviser briefed Members on the report prepared by the Legal Service Division on the two items of subsidiary legislation (i.e. L.N. 171 and L.N. 172) which were gazetted on 12 October 2018 and would be tabled in Council on 24 October 2018.

4. Dr KWOK Ka-ki considered it necessary to form a subcommittee to study the Peak Tramway (Safety) (Amendment) Regulation 2018 (L.N. 171) and the Peak Tramway Ordinance (Amendment of Section 3(3)) Notice 2018 (L.N. 172) in detail. Members agreed. Dr KWOK Ka-ki and Mr Tony TSE agreed to join the proposed subcommittee.

5. The Chairman reminded Members that the deadline for amending the above two items of subsidiary legislation would be the Council meeting of 21 November 2018, or that of 12 December 2018 if extended by a resolution of the Council.

IV. Further business for the Council meeting of 24 October 2018

(a) Tabling of papers

Report No. 2/18-19 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2)60/18-19)

6. The Chairman said that the Report covered 11 items of subsidiary legislation and the period for amending them would expire at the Council meeting of 24 October 2018. No Member had indicated intention to speak on any of those items of subsidiary legislation.

(b) Members' motions

(i) Motion under Article 73(5) and (10) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China to be moved by Hon Claudia MO

(LC Paper No. CB(3)31/18-19)

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- (ii) **Motion under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to be moved by Hon LAM Cheuk-ting**
(LC Paper No. CB(3)27/18-19)

7. The Chairman said that the above two motions would be dealt with at the Council meeting, adding that Members had been informed at the last House Committee ("HC") meeting held on 12 October 2018 that another motion to be moved by Ms Claudia MO under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") would also be dealt with at the Council meeting. The Chairman further said that as the subject matter of both Ms MO's and Mr LAM Cheuk-ting's motions under the P&P Ordinance concerned the construction works of the Shatin to Central Link, the President had directed that a joint debate be held on the two motions and then they be voted upon one by one. The relevant debate and voting arrangements had been issued to Members on 15 October 2018 vide LC Paper No. CB(3)27/18-19.

V. Business for the Council meeting of 31 October 2018

- (a) **Questions**
(LC Paper No. CB(3)28/18-19)

8. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the Council meeting.

- (b) **Bills - First Reading and moving of Second Reading**
 - (i) **Supplementary Appropriation (2017-2018) Bill**
 - (ii) **Inland Revenue (Amendment) (No. 6) Bill 2018**

9. The Chairman said that HC would consider the above two Bills at its meeting on 2 November 2018.

- (c) **Government motion**

10. The Chairman said that no notice had been received yet.

- (d) **Members' motions**

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- (i) **Motion on "Legislating for the protection of whistle-blowers" to be moved by Hon Jeremy TAM**
(LC Paper No. CB(3)41/18-19)
- (ii) **Motion on "Studying the enactment of an ordinance on regulating subdivided units" to be moved by Hon Mrs Regina IP**
(LC Paper No. CB(3)42/18-19)

11. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above two motions would be Wednesday, 24 October 2018.

VI. Reports of Bills Committees and subcommittees

Report of the Bills Committee on Private Healthcare Facilities Bill (LC Paper No. CB(2)61/18-19)

12. Mr CHAN Han-pan, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Mr CHAN said that after consideration of the views of the Bills Committee, the Administration would propose a number of amendments to the Bill and the Bills Committee did not object to these proposed amendments. Members noted that the Bills Committee would not propose any amendments to the Bill and subject to the moving of the proposed amendments by the Administration, the Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill. The Administration had indicated its intention to resume the Second Reading debate on the Bill at the Council meeting of 31 October 2018.

13. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above Bill would be Monday, 22 October 2018.

(Post-meeting note: Subsequent to the meeting, Members were informed vide LC Paper No. CB(2)125/18-19 issued on 24 October 2018 that the Administration's latest intention was to resume the Second Reading debate on the Private Healthcare Facilities Bill at the Council meeting of 14 November 2018 instead of that of 31 October 2018 as it had originally intended, and that in the light of the above, the deadline for giving notice of amendments to the Bill, if any, was 5 November 2018.)

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)59/18-19)

14. The Chairman said that as at 18 October 2018, there were 10 Bills Committees, 10 subcommittees under HC and four subcommittees on policy issues under Panels in action. Nine subcommittees on policy issues were on the waiting list.

VIII. Any other business

Proposal of Hon Gary FAN to seek the House Committee's agreement for asking an urgent oral question at the Council meeting of 24 October 2018 on matters relating to the signalling failure that occurred on four MTR lines on 16 October 2018

(LC Paper No. CB(2)95/18-19(01))

15. The Chairman said that she had received a letter from Mr Gary FAN in the afternoon of 16 October 2018, requesting HC to discuss at this meeting his proposal to seek HC's agreement for asking an urgent oral question at the Council meeting of 24 October 2018 on matters relating to the signalling failure that occurred on four MTR lines on 16 October 2018 ("the incident concerned"). Even though Mr FAN's proposal was submitted after the deadline for proposing agenda items for this meeting (i.e. 5:00 pm on 15 October 2018), having considered that it had been the practice of HC to, where practicable, discuss a Member's proposal for asking an urgent question at its meeting, she had agreed to put Mr FAN's proposal on the agenda for this meeting under "Any other business" for consideration by Members.

16. At the invitation of the Chairman, Mr Gary FAN said that the incident concerned had caused large-scale train service disruptions and affected a large number of members of the public during the morning rush hours on 16 October 2018. Besides, the MTR Corporation Limited ("MTRCL") was at fault for mishandling the incident concerned in respect of arrangements for notifying the public on train service disruptions, prevention measures and contingency response. He queried whether the incident concerned was resulted from the tests being conducted for upgrading the signalling system on the Tsuen Wan Line, and expressed worries about recurrence of similar incidents in the near future because such upgrading works would continue to be conducted on

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various MTR lines. Therefore, Mr FAN considered that his proposed question as set out in his letter was of an urgent character and related to a matter of public importance. He called for Members' support for his proposal.

17. Dr CHIANG Lai-wan, Mr LAU Kwok-fan and Ir Dr LO Wai-kwok shared a similar view that the incident concerned had caused serious impact on the public. Mr CHAN Han-pan and Mr LAU considered it necessary to elicit responses from the Administration and MTRCL to the various issues involved in the incident concerned, including the existing notification and penalty mechanisms for railway service disruptions. The forthcoming meeting of the Subcommittee on Matters Relating to Railways ("the Railways Subcommittee") scheduled for 29 October 2018, which was only a few days later than 24 October 2018, was an appropriate forum for discussing the incident concerned as the relevant government officials and representatives from MTRCL could be invited to attend the meeting. Dr CHIANG said that to her understanding, only about 20 minutes were allocated for an oral question at a Council meeting and only the Member who raised the oral question could ask the main question and a few Members could ask supplementary questions. To allow more time for Members to discuss the incident concerned, she considered that the Panel on Transport ("the Transport Panel") and the Railways Subcommittee were more suitable forums. Sharing the view that Members could not gain a clear account of the incident concerned through the asking of the proposed question at the Council, Ir Dr LO said that the President had explained time and again that the President, in determining if the question was of an "urgent character", would consider whether the question would become meaningless or would have no effect if it were asked at a later date.

18. Dr Helena WONG, Mr WU Chi-wai and Mr KWONG Chun-yu were supportive of Mr Gary FAN's proposal. They were of the view that given the great public concern about the incident concerned and the important role of MTRCL in Hong Kong's public transport system, Mr FAN should be given permission to ask the proposed question at the Council meeting of 24 October 2018. Dr WONG considered it disappointing that the President had not yet given permission to any Members to ask urgent oral questions since the commencement of the Sixth Legislative Council ("LegCo"). She added that it would be unreasonable if the President was not satisfied that Mr FAN's proposed question was of an urgent character. In the views of Mr WU and Mr KWONG, in order to meet the public expectation, Members should

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follow up the incident concerned on various platforms of LegCo. Therefore, even if the Transport Panel or the Railways Subcommittee would discuss the incident concerned at a meeting shortly, it was still appropriate for the proposed question to be asked at the Council meeting of 24 October 2018.

19. Mr Alvin YEUNG and Dr KWOK Ka-ki also expressed support for Mr Gary FAN's proposal. Given the serious impact of the incident concerned and the large number of people being affected, Mr YEUNG urged Members of different political parties and groupings to put aside their political views and support Mr FAN's proposal. Dr KWOK hoped that the President would give permission for Mr FAN to ask the proposed question so that the Administration could answer Members' questions on the incident concerned at the earliest possible time. On the remarks made by Dr CHIANG Lai-wan, Dr KWOK said that to his understanding, it was the past practice that when urgent oral questions were raised at past Council meetings, all Members who had indicated their intention to raise supplementary questions would have the opportunity to do so.

20. Ms Claudia MO, Mr CHAN Chi-chuen, Mr CHU Hoi-dick and Mr AU Nok-hin held a similar view that given the great public concern about the incident concerned, Mr Gary FAN's proposal warranted Members' support. Ms MO and Mr AU said that they were unconvinced of the President's explanations on his decisions of not permitting any Members to ask urgent questions in the past two sessions. They considered that the President should give permission to Mr FAN's proposal, as the incident concerned was indeed of an urgent character. Mr CHAN said that should Mr FAN be permitted to ask an urgent question at the Council meeting of 24 October 2018, other Members could also take the opportunity to put supplementary questions in respect of the proposed question afterwards. In particular, he would like to ask the Administration to explain why the Transport Department had taken the view that the incident concerned was not disastrous. Mr CHU considered it necessary to seek MTRCL's explanation on a number of issues, including why information had not been disseminated and free shuttle bus services not provided in accordance with the existing mechanism, as well as the effectiveness of the 90-member Customer Service Rapid Response Unit.

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21. Dr Fernando CHEUNG, Mr SHIU Ka-chun and Mr Charles MOK expressed a similar view that it was unreasonable for Members not to support Mr Gary FAN's proposal as it was the duty of Members to monitor the work of the Government. Dr CHEUNG considered that Mr FAN's proposed question had met the two requirements set out in Rule 24(4) of the Rules of Procedure ("RoP"), i.e. of an urgent character and related to a matter of public importance. Referring to Ir Dr LO Wai-kwok's earlier remarks, Mr SHIU queried whether the President, in determining whether a proposed question was of an "urgent character", was adhering to RoP 24(4) or was making his own interpretation. Mr SHIU further said that as he was neither a member of the Transport Panel nor the Railways Subcommittee, he considered it more desirable if the proposed question would be raised at the Council meeting of 24 October 2018 so that he could take the opportunity to put a supplementary question. Mr MOK said that as MTRCL had given inconsistent account on the cause of the incident concerned, the information technology sector had urged him to actively seek clarification as to whether the incident concerned was caused by hardware problems, network problems or the ageing of the system.

22. Mr Gary FAN reiterated that as MTRCL would continue to proceed with upgrading works of signalling systems on its railway lines, similar service disruptions might occur again in the near future. Therefore, there was urgency in asking the proposed question so that the Administration would be requested to address a number of issues which were of great public concern, including arrangements for notifying the public on train service disruptions and contingency responses during the incident concerned. He called on Members' support for his proposal.

23. To briefly respond to some views expressed by some Members, the Chairman said that firstly, in respect of the criteria for granting permission for the asking of urgent questions at Council meetings, the President had explained in each of his reply letters to Members' applications for asking oral questions without notice. To her understanding, which was consistent with that of Ir Dr LO Wai-kwok, the President, in determining if the question was of an "urgent character", would consider whether the question would become meaningless or would have no effect if it was to be asked at a later date. Nevertheless, Members who had views on the matter might liaise directly with the President if they so wished. Following the launch of the Chief Executive's Question Time in the 2017-2018 session, Members had been

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given more opportunities to ask the Administration topical questions. Secondly, if the Transport Panel or the Railways Subcommittee would hold a meeting to discuss the incident concerned, non-Panel members and non-Subcommittee members could also attend the meeting and participate in the discussion. Finally, irrespective of whether HC supported Mr Gary FAN's proposal, Members could still follow up the incident concerned through various channels.

24. Referring to the earlier remarks made by the Chairman and Ir Dr LO Wai-kiwok on the criteria being used by the President for granting permission for the asking of urgent questions at Council meetings, Ms Tanya CHAN queried whether it was proper for the President to impose an additional criterion for determining if the question was of an "urgent character" as stipulated in RoP 24(4).

25. The Chairman reiterated that Members might liaise directly with the President for seeking clarification on the criteria for granting permission to ask urgent questions at Council meetings. Given Members' diverse views, the Chairman put to vote the proposal of Mr Gary FAN to seek HC's agreement for asking an urgent oral question at the Council meeting of 24 October 2018 on matters relating to the signalling failure that occurred on four MTR lines on 16 October 2018. The Chairman ordered a division.

The following Members voted in favour of the proposal:

Mrs Regina IP, Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Ms Alice MAK, Dr KWOK Ka-ki, Mr KWOK Wai-keung, Mr Dennis KWOK, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick Dr Junius HO, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Ms YUNG Hoi-yan, Dr Pierre CHAN, Ms Tanya CHAN, Mr LUK Chung-hung, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Gary FAN and Mr AU Nok-hin.
(28 Members)

The following Members voted against the proposal:

Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Mr Paul TSE, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON

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Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Mr CHAN Chun-ying, Mr CHEUNG Kwok-kwan, Mr LAU Kwok-fan, Mr Kenneth LAU, Mr Vincent CHENG and Mr Tony TSE.

(26 Members)

26. The Chairman declared that 28 Members voted for and 26 Members voted against the proposal and no Member abstained from voting. The Chairman declared that the proposal was supported.

27. There being no other business, the meeting ended at 3:07 pm.

Council Business Division 2
Legislative Council Secretariat
25 October 2018