

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1370/18-19

Ref : CB2/BC/6/18

Tel : 3919 3003

Date : 5 May 2019

From : Secretary General  
Legislative Council Secretariat

To : All Members of the Legislative Council

---

**Bills Committee on Fugitive Offenders and Mutual Legal Assistance in  
Criminal Matters Legislation (Amendment) Bill 2019**

I note that some members have expressed concern about the issue of LC Paper No. CB(2) 1369/18-19 ("the paper") by the Clerk to the above Bills Committee on 4 May 2019 to invite members to consider the guidelines provided by the House Committee as decided at its special meeting held on the same day. Five Members of the Civic Party and Hon James TO also wrote to the Clerk to the Bills Committee on 4 and 5 May respectively raising questions on the matter. By this circular, I would like to explain the relevant arrangements.

2. According to paragraph 3(a) in Appendix IV of the House Rules ("HR"), "for the election of chairman at the first meeting of the committee concerned, the member present who has the highest precedence shall preside at the election". At the first meeting of the Bills Committee held on 17 April 2019, Hon James HO who had the highest precedence among the members present presided at the election of the chairman, but the Bills Committee was unable to elect its chairman at the meeting. In line with the practice adopted for similar occasions in the past, the Secretariat has consulted the member having the highest precedence on the membership list (i.e. Hon James TO) in determining the date of the second meeting of the Bills Committee. Being the member having the highest precedence among the members present at the second meeting (on 30 April), Hon James TO presided at the election of the chairman. However, the Bills Committee was still unable to elect its chairman at the meeting.

3. At its special meeting on 4 May, the House Committee decided to provide the following guidelines to the Bills Committee pursuant to Rule 75(8) of the Rules of Procedure ("RoP"):

"That until the chairman of the Bills Committee is elected, Hon Abraham SHEK, member of the Bills Committee, shall determine the date, time and place of the meeting(s) of the Bills Committee; and shall be responsible for presiding at the election of the chairman of the Bills Committee during the meeting(s) in accordance with the election procedure stipulated in paragraphs 4 to 12 in Appendix IV of the House Rules."

4. There are views that, before issuing the paper, the Clerk to the Bills Committee should have consulted Hon James TO who had presided at the election of the chairman at the first and second meetings of the Bills Committee, and that he should continue to preside at the next meeting of the Bills Committee to allow members to discuss whether the above guidelines should be adopted.

5. I must point out that under rule 21(c) and Appendix IV of HR, the member who presides at the election of the chairman of a Bills Committee is not the chairman of the Bills Committee. As the Bills Committee still has not elected its chairman, the Handbook for Chairmen of Bills Committees does not apply. Before the chairman of a Bills Committee is elected, none of its members is empowered under RoP or HR to preside at a meeting to transact any other business of the Bills Committee. As such, at this point in time, no member of the Bills Committee may preside at a meeting to deal with the adoption or otherwise by the Bills Committee of the guidelines provided by the House Committee.

6. The Bills Committee is composed of all the 62 members who have signified to join the Committee. Upon being notified of the House Committee's decision to provide guidelines to the Bills Committee, the Clerk to the Bills Committee is obliged to inform members of the Bills Committee of the relevant decision. In accordance with the usual practice of the Secretariat, a committee clerk issues papers to members of the committee after consulting the chairman. However, given that the Bills Committee has not yet elected its chairman, and in order to discharge the duty of servicing the Bills Committee, the practicable course of action is for the Clerk to notify all the members in writing and invite them to make their consideration in accordance with RoP 76(11).

7. As the third meeting of the Bills Committee has been scheduled for 6 May 2019 at 4:30 pm, and the guidelines relate specifically to which member should determine the date of the meeting(s) and preside at the election of the chairman, the Clerk to the Bills Committee has invited all the members to reply in writing by 12:00 noon on the same day to indicate their consideration of the guidelines.

8. I note that members of the Bills Committee have divergent views on whether or not to adopt the above guidelines. Some members take the view that the Bills Committee should first discuss the guidelines before making a decision on whether they should be adopted. Indeed, RoP and HR make no provisions as to how or by what means the Bills Committee should consider the guidelines. If any members request calling a meeting to discuss the guidelines, they may so inform the Clerk to the Bills Committee in writing before the deadline. Depending on the written response of members, if any view has the support of a majority of the members, such a view will be taken as having been adopted by the Bills Committee according to the principle of RoP 76(8).

9. I must emphasize that in assisting Members in their scrutiny of any legislative proposal, the Secretariat has all along adhered to the principle of impartiality in providing independent and professional legal and procedural advice to the Legislative Council. In the face of an unprecedented situation, the Secretariat can only adopt practicable arrangements to discharge our duty of servicing the Bills Committee in a professional and impartial manner that will not violate the requirements, if any, of RoP and HR, having regard to the established practices.

A handwritten signature in black ink, appearing to read 'K Chen', written in a cursive style.

(Kenneth CHEN)  
Secretary General