

**Note on the rulings of the Chairman of the Finance Committee on the options proposed by members for dealing with motions proposed under paragraph 19 of the Finance Committee Procedure**

At the meeting of the Finance Committee ("FC") held on 20 December 2019, 12 members respectively proposed options for dealing with motions proposed under paragraph 19 of the Finance Committee Procedure ("FCP") ("FCP 19 motions"). In considering whether such options were admissible, the Chairman had taken into account various relevant factors, such as whether the options complied with the requirements under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), the Rules of Procedure ("RoP") and FCP, etc. The Chairman ruled that among the proposed options, three were admissible and nine were inadmissible. The details are set out below.

**Options ruled by the Chairman as admissible**

	<b>Member proposing the option</b>	<b>A summary of the contents of the option (Paper No. of the option)</b>
1.	Mr Paul TSE	The following question should be voted on forthwith by FC: whether FC considers that, during its proceedings on scrutinizing agenda item FCR(2019-20)33, exercising or invoking the summoning powers as provided for under FCP 19 is required.  (LC Paper No. FC71/19-20(01))
2.	Mr CHU Hoi-dick	On the premise that agenda item FCR(2019-20)33 is shelved, FC shall, on a one-off basis, not deal with the FCP 19 motions proposed under this item until separate discussion has been conducted and conclusion has been reached on the relevant procedures.  (LC Paper No. FC71/19-20(02))
3.	Dr Fernando CHEUNG	This option is applicable to item FCR(2019-20)33 and the financial proposals to be presented in future.  This option stipulates the requirements for the following issues relating to FCP 19 motions: notice requirement, the way of proposing such motions, the number of such motions, the way in which the Chairman makes rulings on such motions, whether such

		<p>motions can only be proceeded with after obtaining the Committee's agreement, whether amendments can be proposed to such motions, as well as the debate and voting arrangements on such motions.</p> <p>(LC Paper No. FC71/19-20(03))</p>
--	--	--

**Options ruled by the Chairman as inadmissible**

	<p><b>Member proposing the option</b> (Paper No. of the option)</p>	<p><b>A summary of the contents of the option</b></p>	<p><b>Chairman's ruling</b></p>
<p>1.</p>	<p>Mr Kenneth LEUNG  (LC Paper No. FC71/19-20 (04))</p>	<p>The Chairman is requested to, in the name of FC, write to the Government to request the attendance of public officers concerned at FC meeting(s), and such public officers include, but are not limited to, the Commissioner of Police. In case the public officers concerned refuse to attend the meeting(s), <b>the Chairman should exercise the summoning powers conferred by FCP 19.</b></p>	<p>Under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), a standing committee of the Legislative Council may, as required when exercising its powers and functions, summon persons concerned to testify or give evidence. FCP 19 reflects this requirement under section 9(1) of Cap. 382 in relation to FC. Since the aforesaid provision does not empower the Chairman of FC to exercise summoning powers, <b>this option does not comply with the relevant requirements under Cap. 382 and FCP 19.</b></p>
<p>2.</p>	<p>Mr Charles Peter MOK  (LC Paper No. FC71/19-20 (05))</p>	<p>This option requests that two special meetings of FC be convened during the Christmas and New Year break to discuss and formulate the relevant procedure for handling FCP 19 motions. FC should, prior to the special meetings to be held, seek independent legal advice on FCP 19 in respect of the scope</p>	<p>This option requests that special meetings of FC be held during a specified period and independent legal advice be sought for discussing and formulating the procedure for handling FCP 19 motions. <b>This option is inconsistent with the requirements under RoP 71(6) and FCP 10</b>, as this option will have the effect of fettering the</p>

	<b>Member proposing the option</b> (Paper No. of the option)	<b>A summary of the contents of the option</b>	<b>Chairman's ruling</b>
		of powers and the feasible procedures.	Chairman's powers in determining the time of a meeting. Furthermore, since the Legal Adviser has already offered legal advice on the options proposed by the Chairman and the members for dealing with FCP 19 motions, the Chairman considers that it is unnecessary to seek further independent legal advice.
3.	Mr Alvin YEUNG  (LC Paper No. FC71/19-20 (06))	If Members consider it necessary, upon a proposal raised by a Member present and seconded by two Members, the Chairman or the Deputy Chairman of FC <b>shall, in the name of the Committee, invite public officers or persons concerned to attend meeting(s) of the Committee to answer questions from Members</b> in accordance with the practices stipulated under FCP 17.	FCP 19 relates to FC summoning persons concerned to testify or give evidence, instead of inviting public officers or persons to attend FC meeting(s) to answer questions from Members.  Under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and FCP 19, the exercising of the summoning powers is to be decided by FC. Such powers cannot be exercised by the Chairman in the name of the Committee upon a proposal raised by some members. Besides, in accordance with RoP 71(5B), all matters before FC or its subcommittees shall be decided by a majority of the members voting.  Having regard to the above factors, <b>this option is not related to FCP 19, and does not comply with the requirements under Cap. 382, RoP 71(5B) and FCP 19.</b>

	<b>Member proposing the option</b> (Paper No. of the option)	<b>A summary of the contents of the option</b>	<b>Chairman's ruling</b>
4.	Mr Jeremy TAM  (LC Paper No. FC71/19-20 (07))	When a member proposes under FCP 19 that persons concerned be summoned to testify or give evidence in relation to an FC agenda item, <b>the Chairman shall then postpone the agenda item</b> until the summoning motion is dealt with at an FC meeting to be held after not less than 12 clear days.	Agenda items involving funding proposals (including FCR(2019-20)33) are included in the agenda of FC meetings by the Administration in accordance with established procedures. <b>There is no provision in RoP and FCP which empowers the Chairman to postpone this type of agenda items.</b>  Under FCP 39, a member when speaking on a proposal at an FC meeting may move without notice that discussion on an item be adjourned and such a motion shall be dealt with and voted on in accordance with relevant procedures. While FC may, through the passage of a motion that adjourns the discussion on an item, achieve the effect of postponing an agenda item, this option has proposed that the Chairman shall postpone an agenda item. Such a proposal therefore <b>does not comply with the procedure as provided for under FCP 39.</b>
5.	Dr KWOK Ka-ki  (LC Paper No. FC71/19-20 (08))	When a member proposes under FCP 19 that persons concerned be summoned to testify or give evidence in relation to an FC agenda item, <b>if one fifth of the members of FC</b> (excluding the Chairman or the Deputy Chairman who is presiding at a meeting during the Chairman's	In accordance with RoP 71(5B), all matters before FC or its subcommittees shall be decided by a majority of the members voting. Therefore, the way in which FC determines the exercise of summoning powers as proposed by this option <b>does not comply with the requirement under RoP 71(5B).</b>

	<b>Member proposing the option</b> (Paper No. of the option)	<b>A summary of the contents of the option</b>	<b>Chairman's ruling</b>
		absence) <b>jointly sign to second the proposal</b> , the Chairman shall forthwith request the public officers and/or persons being summoned to attend FC meeting(s).	
6.	Mr Dennis KWOK  (LC Paper No. FC71/19-20 (09))	<b>When 20 members</b> (excluding the Chairman and the Deputy Chairman who is presiding at a meeting during the Chairman's absence), under FCP 19, summon the public officers and/or persons who are directly related to an agenda item to attend FC meeting(s), the Chairman shall forthwith request the public officers and/or persons being summoned to attend FC meeting(s).	In accordance with RoP 71(5B), all matters before FC or its subcommittees shall be decided by a majority of the members voting. Therefore, the way in which FC determines the exercise of summoning powers as proposed by this option <b>does not comply with the requirement under RoP 71(5B)</b> .
7.	Ms Tanya CHAN  (LC Paper No. FC71/19-20 (10))	<b>When a member proposes</b> under FCP 19 that persons concerned be summoned to testify or give evidence, if <b>five members of the Public Works Subcommittee and five members of the Establishment Subcommittee</b> (the movers in the two subcommittees shall be different, while the Chairman or the Deputy Chairman who is presiding at a meeting during the Chairman's absence shall be excluded) <b>jointly sign to</b>	In accordance with RoP 71(5B), all matters before FC or its subcommittees shall be decided by a majority of the members voting. Therefore, the way in which FC determines the exercise of summoning powers as proposed by this option <b>does not comply with the requirement under RoP 71(5B)</b> .

	<b>Member proposing the option</b> (Paper No. of the option)	<b>A summary of the contents of the option</b>	<b>Chairman's ruling</b>
		<b>second the proposal</b> , the Chairman shall forthwith request the public officers and/or persons being summoned to attend the meeting(s).	
8.	Mr CHAN Chi-chuen  (LC Paper No. FC71/19-20 (11))	When a member proposes a motion under FCP 19 to summon persons concerned to testify or give evidence in relation to an FC agenda item, <b>the motion is agreed to if it is supported by no less than one third of the members present.</b>	In accordance with RoP 71(5B), all matters before FC or its subcommittees shall be decided by a majority of the members voting. Therefore, the way in which FC determines the exercise of summoning powers as proposed by this option <b>does not comply with the requirement under RoP 71(5B).</b>
9.	Mr WU Chi-wai  (LC Paper No. FC71/19-20 (12))	Before FC has formulated the procedure for dealing with FCP 19 motions, <b>the Chairman shall, in the name of FC, make a written request to the Commissioner of Police for his attendance at FC meeting(s); if the Commissioner of Police does not accede to the request, the pay adjustment for police officers shall be taken out from item FCR(2019-20)33.</b>	FCP 19 relates to FC summoning persons concerned to testify or give evidence, instead of inviting/requesting public officers or persons to attend FC meeting(s) to answer questions from Members. Therefore, <b>this option is not related to FCP 19.</b> Furthermore, FCP 19 does not confer powers on the Chairman to act in the name of FC. In accordance with RoP 71(5B), all matters before FC shall be decided by a majority of the members voting.