

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1041/19-20

Ref : CB2/H/5/19

**House Committee of the Legislative Council**

**Minutes of the Special House Committee meeting  
held in Conference Room 1 of the Legislative Council Complex  
at 2:30 pm on Friday, 8 November 2019**

**Members present :**

Hon Starry LEE Wai-king, SBS, JP (Chairman for the 2018-2019 session)  
Hon Dennis KWOK Wing-hang (Deputy Chairman for the 2018-2019 session)  
Hon LEUNG Yiu-chung  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Tommy CHEUNG Yu-yan, GBS, JP  
Prof Hon Joseph LEE Kok-long, SBS, 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 Michael TIEN Puk-sun, BBS, JP  
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 Helena WONG Pik-wan

Hon IP Kin-yuen  
Hon Elizabeth QUAT, BBS, JP  
Hon Martin LIAO Cheung-kong, GBS, 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  
Hon Jimmy NG Wing-ka, BBS, JP  
Hon HO Kai-ming  
Hon LAM Cheuk-ting  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai, JP  
Hon SHIU Ka-chun  
Hon Wilson OR Chong-shing, MH  
Hon YUNG Hoi-yan, JP  
Dr Hon Pierre CHAN  
Hon CHAN Chun-ying, JP  
Hon Tanya CHAN  
Hon CHEUNG Kwok-kwan, JP  
Hon HUI Chi-fung  
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, JP  
Hon CHAN Hoi-yan

**Members absent :**

Hon James TO Kun-sun  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon Junius HO Kwan-yiu, JP  
Hon Tony TSE Wai-chuen, BBS

**Clerk in attendance :**

Miss Flora TAI Clerk to the House Committee

**Staff in attendance :**

Ms Connie FUNG	Legal Adviser
Ms Alice LEUNG	Chief Council Secretary (2)6
Miss Connie AU	Senior Council Secretary (2)6
Mr Richard WONG	Senior Council Secretary (2)8
Miss Michelle TANG	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

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Mr Dennis KWOK, Deputy Chairman for the 2018-2019 session and Member presiding at the election of the Chairman of the House Committee ("HC") for the 2019-2020 session, invited Members to observe three minutes of silence to express their condolences to Mr CHOW Tsz-lok, a student of the Hong Kong University of Science and Technology who passed away on the day of this meeting.

**I. Election of the Chairman and Deputy Chairman of the House Committee for the 2019-2020 session**

Letters from Members tabled at this meeting

2. Mr Dennis KWOK said that since the last special HC meeting on 1 November 2019 ("the last special HC meeting"), he had written to the Chairman of The Legislative Council Commission ("LCC") regarding the security arrangements for the Legislative Council ("LegCo") Complex, and had received a written reply from the Clerk to LCC on the day of this meeting. He further said that the following letters were tabled at the meeting:

- (a) letter dated 5 November 2019 from Mr Kenneth LEUNG to Mr Dennis KWOK requesting that the arrangements for the declaration by candidates for the election of the HC Chairman to be discussed at the meeting;

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- (b) letter dated 7 November 2019 from Dr KWOK Ka-ki to Ms Starry LEE, Chairman for the 2018-2019 session, regarding the powers enjoyed by the President's deputy when presiding over Council meetings and Ms LEE's written reply issued on the day of this meeting; and
- (c) letter dated 7 November 2019 from Ms Tanya CHAN to Ms Starry LEE requesting the Secretary General ("SG") to attend HC meetings held for the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session and Ms LEE's written reply issued on the day of this meeting.

*(Post-meeting note: The letters set out in paragraph 2 above were circulated to Members vide LC Paper Nos. CB(2)191/19-20(01) to (07) on 11 November 2019.)*

Requests for SG's attendance at HC meetings held for the election of the Chairman and Deputy Chairman of HC

3. Ms Tanya CHAN referred to her letter to Ms Starry LEE and Ms LEE's written reply mentioned in paragraph 2 above. She reiterated her view expressed at the last special HC meeting that it was necessary for SG to attend the HC meetings held since 15 October 2019 for the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session irrespective of whether these meetings were regular or special meetings. She pointed out that since the said election was not proceeded with before the close of the regular HC meeting on 11 October 2019, the special HC meetings subsequently held for the said election should be regarded as a continuation of the regular HC meeting on 11 October 2019 for dealing with the unfinished business on the agenda. In her view, SG's attendance at the HC meetings held for the election of the Chairman and Deputy Chairman of HC would not affect the Secretariat in upholding political neutrality. Besides, she noted that apart from attending the HC meetings at which the election of the Chairman and Deputy Chairman of HC took place in the past sessions, SG had also attended the special HC meetings held on 12 October 2012, 23 November 2012 and 4 May 2019 respectively. She queried whether SG's attendance at a special HC meeting was decided at his own discretion.

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4. Mr Jeremy TAM recalled that in SG's written response to the joint request made by some Members, SG had advised that permission was not given by LCC for the 2018-2019 session for SG to attend the special HC meeting on 25 October 2019. As the term of office of LCC for the 2018-2019 session had expired on 25 October 2019, Mr TAM wondered who would be in a position to give permission to SG should his attendance at any future special HC meetings be required pending the election of LCC members for the 2019-2020 session.

5. Referring to his letter to Ms Starry LEE mentioned in paragraph 2 above, Dr KWOK Ka-ki expressed dissatisfaction with SG's absence from this meeting. He said that as the HC Chairman would be the President's deputy, it was necessary for SG to attend this meeting to provide information relating to the powers enjoyed by the President's deputy when presiding over Council meetings. In his view, the information provided by SG would facilitate Members to put questions to the candidates for the HC Chairman in this regard at the election forum to be conducted. In particular, he was concerned that at the Council meeting of 6 November 2019, the President did not allow some Members to follow up their questions during the oral question session. He considered that Members had the responsibility to raise questions on the work of the Government in accordance with Article 73(5) of the Basic Law ("BL"), which the President and the President's deputy should respect when exercising the power to preside over Council meetings.

6. Mr HUI Chi-fung and Mr AU Nok-hin expressed a similar view that SG had a duty to attend HC meetings upon Members' request. Mr HUI said that as the HC Chairman would be the Deputy Chairman of LCC, some Members had earlier requested SG to attend the special HC meetings held for the election of the Chairman and Deputy Chairman of HC for the 2019-2020 session to answer enquiries concerning various issues dealt with by LCC (particularly the security arrangements for the LegCo Complex), with a view to putting questions to the candidates for the HC Chairman in this regard at the election forum to be conducted. To be fair to all candidates, Mr HUI considered that the election forum should not be proceeded with unless SG could provide the relevant information sought by those Members. Mr AU said that pending the election of LCC members for the 2019-2020 session, SG was the only officer of the LegCo Secretariat who would be able to answer Members' enquiries concerning various security incidents that took place in the vicinity of the LegCo Complex in the past few months.

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7. Mr CHEUNG Kwok-kwan said that the question of whether SG should attend the special HC meetings held for the election of the Chairman and Deputy Chairman of HC to answer Members' enquiries regarding various issues dealt with by LCC had been discussed repeatedly at the previous special HC meetings. He considered it inappropriate for HC to keep dwelling on the matter, which was totally irrelevant to the election of the HC Chairman. He urged Mr Dennis KWOK to proceed with the election process without further delay.

8. Mr Dennis KWOK said that as the HC Chairman would be the Deputy Chairman of LCC, LCC's or SG's provision of information concerning various issues dealt with by LCC would ensure that all candidates would have equal access to information that would be relevant to the election of the HC Chairman. In his view, it was of paramount importance for the election to be held on a fair, equal and open basis hence such information was sought by some Members on this ground. However, as advised by the Clerk to LCC and SG in their replies to the requests of some Members, pending the election of LCC members for the 2019-2020 session, LCC would not be in a position to deal with such requests which would require LCC's decision and SG would not attend the relevant HC meetings. Mr KWOK further said that at the previous special HC meetings, Members had discussed about the arrangements for the election forum to be conducted and he had worked out three options for Members' consideration. Having regard to the views expressed by Members, he had made amendments to the three options of the election forum arrangements, the details of which had been tabled at the special HC meeting on 25 October 2019. He would invite Members to express their views on the revised options and put them to vote in due course.

Arrangements for the declaration by candidates for the HC Chairman

9. Referring to his letter to Mr Dennis KWOK mentioned in paragraph 2 above, Mr Kenneth LEUNG said that at the last special HC meeting, Mr Junius HO had expressed concern about the need for candidates for the HC Chairman to declare their personal background (e.g. criminal records). He considered it necessary for HC to discuss in detail the types of information that candidates for the HC Chairman should declare. He pointed out that under BL 71, the President should be a Chinese citizen of not less than 40 years of age, who was a permanent resident of the Hong Kong Special Administrative Region with no right of abode in any foreign country and had ordinarily resided in Hong Kong for a continuous period of not less than 20 years. As the HC Chairman

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would be the President's deputy and would enjoy the power to preside over Council meetings conferred on the President by BL 72(1) in the absence of the President, Mr LEUNG enquired if the qualification requirements for the President under BL 71 would be applicable to the HC Chairman, and if so, whether candidates for the HC Chairman should be required to declare his/her nationality, length of residency in Hong Kong, etc. to prove that they had met such requirements. Mr LEUNG Yiu-chung expressed a similar concern and considered it necessary to seek advice from the Legal Adviser ("LA") as a matter of prudence.

10. Mr Dennis KWOK said that while there was no requirement under the Rules of Procedure ("RoP") and the House Rules for candidates for the HC Chairman to declare their personal background, the question of whether candidates for the HC Chairman should meet the qualification requirements under BL 71 involved a point of law concerning the scope of application of BL 71. He then ordered that the meeting be suspended for a while so that he could seek LA's advice on the relevant legal issue. At the same time, he would relay to SG the requests of some Members for his attendance at the special HC meetings held for the election of the Chairman and Deputy Chairman of HC.

*(The meeting was suspended at 3:23 pm and resumed at 3:47 pm.)*

11. When the meeting resumed, Mr Dennis KWOK invited LA to give her views on the scope of application of BL 71, which was raised by Mr Kenneth LEUNG before suspension of the meeting.

12. At the invitation of Mr Dennis KWOK, LA said that the President and the President's deputy were separate offices. Under BL 71, the President should be elected by and from among LegCo Members. The qualification requirements for the President were also provided under the same Article of BL. On the other hand, the office of the President's deputy and the powers enjoyed by the President's deputy were provided in RoP, not in BL. In this light, the qualification requirements under BL 71 should be construed as only applicable to the Member holding the office of the President, but not to the Member who acted as the President's deputy.

13. Mr Kenneth LEUNG said that the powers of the President's deputy conferred by RoP were the same as those of the President under BL 72. In this light, he enquired whether there were any implied restrictions imposed by BL on the qualifications of the President's deputy,

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such that the President's deputy was subject to the requirements provided in BL 71. Ms Tanya CHAN expressed a similar concern and enquired whether the President's deputy would be qualified to exercise the power to preside over Council meetings conferred on the President by BL 72(1) so long as he/she was duly elected as the HC Chairman.

14. At the invitation of Mr Dennis KWOK, LA responded that RoP 3(3) stipulated that "The President's deputy or other Member presiding shall enjoy all those powers conferred by these Rules of Procedure on the President or Chairman that are exercisable in respect of the meeting, or part of the meeting, of the Council or a committee of the whole Council at which the President's deputy or that Member presides or is Chairman, or in respect of which the President has requested that he preside or be Chairman.". As the office of the President's deputy was provided through the making of the relevant provisions in RoP by LegCo, the arrangement provided in RoP 3(3) could be taken as an internal procedure passed by LegCo in order to allow Council meetings to continue in the absence of the President or in other circumstances specified in RoP 3(2).

15. In response to Mr Kenneth LEUNG's and Ms Tanya CHAN's requests, Mr Dennis KWOK invited LA to consider setting out her advice in writing if she had further views on issues relating to the qualification requirements for the President's deputy in addition to those given at the meeting. He then invited the Clerk to brief Members on SG's response to the requests of some Members for his attendance at the special HC meetings held for the election of the Chairman and Deputy Chairman of HC. At the invitation of Mr KWOK, the Clerk said that during the suspension of the meeting, SG had informed Mr KWOK that as explained in SG's written reply dated 1 November 2019 to the request of Mr Kenneth LEUNG, permission was not given by LCC for the 2018-2019 session for SG to attend the relevant HC meetings to provide information relating to the security arrangements for the LegCo Complex. The said decision made by LCC remained valid notwithstanding that its term of office had expired.

16. Ms Starry LEE said that since 15 October 2019, HC had held five special meetings and had spent a total of about 14.5 hours for the election of the HC Chairman. However, HC had yet to decide which of the three proposed options of the election forum arrangements should be adopted. She was greatly disappointed by the way Mr Dennis KWOK had presided over the election. She expressed concern that at the previous special HC meetings as well as this special meeting, HC had been dwelling on issues



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relating to SG's attendance at special HC meetings held for the election of the Chairman and Deputy Chairman of HC. While many Members had already expressed their views in this regard, a consensus was yet to be reached. She suggested that the question of whether SG should attend the relevant HC meetings should be put to vote, so that discussion of the relevant issues could be put to an end.

17. Mr Jeremy TAM said that while he agreed with Ms Starry LEE's suggestion, he had reservation as to whether the voting result of HC would have any binding effect, given that LCC for the 2018-2019 session had made an earlier decision of not permitting SG to attend the relevant HC meetings.

18. Mr Dennis KWOK said that apart from SG's attendance at the relevant HC meetings, LCC's provision of information relating to various issues it had dealt with (particularly the security arrangements for the LegCo Complex) to HC remained outstanding. He further said that in his letter to the LCC Chairman, he had suggested that LCC should consider providing the relevant information on a confidential basis. However, as advised by the Clerk to LCC in her written reply to his letter, LCC would not be in a position to deal with his suggestion pending the election of LCC members for the 2019-2020 session. As it was approaching the appointed end time of 4:00 pm, Mr KWOK said that the proceedings of the election of the HC Chairman would continue at the next meeting.

19. The meeting ended at 4:00 pm.