

立法會

Legislative Council

LC Paper No. CB(4)290/19-20

(These minutes have been
cleared with the Chairman)

Ref : CB4/PL/AJLS

Panel on Administration of Justice and Legal Services

Minutes of meeting

**held on Monday, 28 October 2019, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex**

Members present : Dr Hon Priscilla LEUNG Mei-fun, SBS, JP (Chairman)
Hon Dennis KWOK Wing-hang (Deputy Chairman)
Hon James TO Kun-sun
Hon Tommy CHEUNG Yu-yan, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon CHAN Kin-por, GBS, 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 WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, 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

Action

Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Alvin YEUNG
Hon Jimmy NG Wing-ka, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-chun
Hon Wilson OR Chong-shing, MH
Hon YUNG Hoi-yan, JP
Hon CHAN Chun-ying, JP
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LAU Kwok-fan, MH
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin

Members absent : Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Kwok-kin, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHUNG Kwok-pan
Hon CHU Hoi-dick

Clerk in attendance : Mr Lemuel WOO
Chief Council Secretary (4)6

Staff in attendance : Mr Matthew LOO
Assistant Secretary General 4

Mr YICK Wing-kin
Senior Assistant Legal Adviser 2

Ms Macy NG
Senior Council Secretary (4)6

Miss Katherine CHAN
Council Secretary (4)6

Miss Winnie CHENG
Senior Legislative Assistant (4)1

Ms Carmen HO
Senior Legislative Assistant (4)2

Miss Emma CHEUNG
Senior Legislative Assistant (4)3

Ms Emily LIU
Legislative Assistant (4)6

Miss Vivian YUEN
Legislative Assistant (4)8

Miss Ariel SHUM
Clerical Assistant (4)6

I. Election of Chairman and Deputy Chairman

Election of Chairman

Mr Dennis KWOK, the Deputy Chairman of the Panel on Administration of Justice and Legal Services ("the Panel") for the 2018-2019 session, presided over the election of the Chairman of the Panel for the 2019-2020 session. He said that at the Panel meeting on 17 October 2019, three valid nominations for the chairmanship had been made including Dr Priscilla LEUNG, Mr Alvin YEUNG and Mr CHAN Chi-chuen and the call for nominations for the chairmanship had not yet closed. As Mr Alvin YEUNG had subsequently been elected Deputy Chairman of the Panel on Commerce and Industry at its meeting on 18 October 2019, Mr KWOK declared that in accordance with Rule 77(7) of the Rules of Procedure, Mr YEUNG should not be the chairman or deputy chairman of more than one Panel at the same time and his name would be removed from the list of nominees for chairmanship of this Panel.

Information requested at the last meeting

2. Mr James TO recalled that at the last Panel meeting on 17 October 2019, Mr CHAN Chi-chuen questioned the way in which Dr Priscilla LEUNG, as the Chairman of the Panel for the 2018-2019 session, had handled some members' request for conducting a public hearing to receive public views on the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation

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(Amendment) Bill 2019 ("the Fugitive Offenders Bill"). The Clerk to Panel was requested to collate relevant information for members' information at that meeting.

3. As invited by Mr Dennis KWOK, the Clerk reported that in May 2019, a joint letter from Mr Alvin YEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Ms Tanya CHAN and Mr Jeremy TAM to the Panel ("the joint letter") on their suggestions of holding a joint meeting with the Panel on Security and conducting a public hearing to receive public views on the Fugitive Offenders Bill ("the suggestions"). Following Dr Priscilla LEUNG's instruction, a circular was issued on 3 June 2019 vide LC Paper No. CB(4)954/18-19 to seek members' view on the suggestions. The outcome was that, with the exception of the Chairman, 17 members responded to the circular of which seven indicated support and 10 did not support the suggestions. At the Panel meeting on 24 June 2019, Dr LEUNG informed members of the above outcome and said that no further action would be taken. No discussion on the matter was raised at that meeting.

4. Mr Dennis KWOK asked Dr Priscilla LEUNG and Mr CHAN Chi-chuen whether they had any response to the Clerk's report. Dr LEUNG confirmed that the information reported by the Clerk was factually correct. Mr CHAN asked whether it was an established practice to seek members' views through conducting a survey, or whether the survey was ordered by Dr LEUNG. The Clerk replied that he had consulted and followed the instructions of Dr LEUNG, Chairman of the Panel for 2018-2019 session, in handling the joint letter.

Nomination

5. Mr Dennis KWOK called for further nominations for the chairmanship of the Panel.

6. Dr Helena WONG nominated Mr HUI Chi-fung who was not present at the meeting at that moment, and stated that Mr HUI's acceptance of the nomination had been secured. The nomination was seconded by Mr Alvin YEUNG.

7. Mr Jeremy TAM was nominated by Mr Alvin YEUNG and the nomination was seconded by Mr Charles MOK. Mr TAM accepted the nomination.

8. Mr James TO was nominated by Mr HUI Chi-fung and the nomination was seconded by Mr Alvin YEUNG. Mr TO accepted the nomination.

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9. Ms Tanya CHAN was nominated by Mr Charles MOK and the nomination was seconded by Mr Alvin YEUNG. Ms CHAN accepted the nomination.

10. Mr Gary FAN was nominated by Mr Alvin YEUNG and the nomination was seconded by Mr Charles MOK. Mr FAN accepted the nomination.

11. Mr Charles MOK nominated Dr Fernando CHEUNG who was absent and stated that Dr CHEUNG's acceptance of the nomination had been secured. The nomination was seconded by Mr Alvin YEUNG.

12. Mr HUI Chi-fung nominated Mr CHU Hoi-dick who was absent and stated that Mr CHU's acceptance of the nomination had been secured. The nomination was seconded by Mr Alvin YEUNG.

13. Mr Charles MOK nominated Prof Joseph LEE who was not present at the meeting at that moment, and stated that Prof Joseph LEE's acceptance of the nomination had been secured. The nomination was seconded by Mr Alvin YEUNG.

14. Dr KWOK Ka-ki was nominated by Mr AU Nok-hin and the nomination was seconded by Mr Alvin YEUNG. Dr KWOK accepted the nomination.

15. Mr Charles MOK nominated Mr LEUNG Yiu-chung who was not present at the meeting, and stated that Mr LEUNG's acceptance of the nomination had been secured. The nomination was seconded by Mr Alvin YEUNG. The Clerk advised Mr Dennis KWOK that Mr LEUNG Yiu-chung was not a member of the Panel.

Procedure for nominating an absent member for the chairmanship

16. Dr CHIANG Lai-wan noted that when nominating an absent member for the chairmanship at present, a member was only required to state that the absent member's acceptance of the nomination had been secured and no written confirmation from the nominee was required. She expressed concern that if there was miscommunication between the nominator and the absent member nominated who in fact did not accept the nomination (or not even a member of the Panel), the situation would be chaotic if the nominee was elected but disagreed to take up the chairmanship subsequently. Dr CHIANG wondered if the current procedure for nominating absent members for the chairmanship ("the current procedure") should be refined for clarification.

Action

17. Mr Dennis KWOK agreed that the issue raised by Dr CHIANG Lai-wan was a genuine concern and considered it necessary to verify whether the absent members being nominated had actually accepted the nominations, before continuing with the election procedure. He directed that the meeting be suspended.

(The meeting was suspended at 4:49 pm. At 5:13 pm, on the instruction of Mr Dennis KWOK, the Secretariat informed all Panel members through public announcement system that the meeting would resume in 10 minutes. At 5:23 pm, the Chairman announced the resumption of the meeting.)

18. Mr Dennis KWOK said that as advised by the Clerk, a member who nominated an absent member for the office was required to state that the nominee's acceptance of the nomination had been secured, but the Clerk was not empowered to verify or inquire into the authenticity of that member's statement according to Appendix IV of the House Rules, and the Clerk had not done so when the meeting was suspended.

19. Mr Dennis KWOK invited members' views on whether it was necessary to verify absent members' acceptance of their nominations and, if so, the possible channels for carrying out the verification.

20. Mr Jeremy TAM said that the current procedure was based on trust among members, which was fair to members who could not attend the meeting. Nevertheless, he agreed that if the absent member being nominated was elected but then refused to take up the chairmanship, the situation would be troublesome as nobody would have the authority to determine the date of next meeting for conducting another election.

21. Mr CHAN Chi-chuen stressed that mutual trust among members was of utmost importance. He trusted that when nominating an absent member for the chairmanship, a member would not make false statement intentionally and any inaccuracy in the statement was most likely due to miscommunication between them. On the other hand, Mr CHAN expressed the concern that if an absent member was nominated without his acceptance of the nomination, the number of candidates for the election would increase unnecessarily, which could possibly be vote-snatching. From the perspective of maintaining the fairness of the election procedure, therefore, verification of absent members' acceptance of the nomination might be needed.

Action

22. Mr CHAN Chi-chuen further said that, notwithstanding the above, while the current procedure was not flawless and there was room for review, it should be followed in the present election of the Panel Chairman unless any nominees had raised objection. Ms Tanya CHAN shared the views and concern of Mr CHAN and considered that, while verifying the absent members' acceptance of nomination could be important from the perspective of maintaining a fair election, it might be unfeasible.

23. Mr SHIU Ka-chun considered that the honour system underpinning the current procedure should be respected and upheld no matter whether it was practicable to verify absent members' acceptance of the nomination. He stressed that the member who nominated an absent member should be trusted in his/her statement that the absent member's acceptance of the nomination had been secured, and should be held responsible for the statement made.

24. Dr Priscilla LEUNG said that the current procedure had been adopted and followed for years. As such, she considered that the election of the Chairman and Deputy Chairman of the Panel should continue without deviating from that practice.

25. Ms Claudia MO considered that the issue raised by Dr CHIANG Lai-wan was a query about the mutual trust among members. As the current procedure had been adopted and followed for a long time without being challenged, it was unnecessary to deal with that issue. She also requested Mr CHAN Chi-chuen to clarify his view that the nomination of absent members could be vote-snatching, which was a query of the mutual trust of members.

26. In response, Mr CHAN Chi-chuen explained that he only wished to express his concern about a possible impact that the issue raised by Dr CHIANG Lai-wan might have on the fairness of election, and to invite members' view whether anything should be done, such as introducing more stringent verification procedures. He reiterated his view that while the current procedure was not flawless, the election should continue unless there was opposing views from other nominees.

27. Mr HUI Chi-fung considered that the current procedure based on honour system had been working well. Nevertheless, he shared the views of some members that it was more desirable if the election procedure could be refined in the future to cater to the problems raised by members as the public would hope that the Panel Chairman could be elected under stringent procedure.

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28. Mr Jeremy TAM considered that the honour system underpinning the current procedure should be upheld. However, he agreed that in the future, amendments to the current procedure might be considered so that written confirmation on the absent members' acceptance of the nomination would be required.

29. Dr Junius HO said that Mr Dennis KWOK had underperformed as the presiding member at the election of the Chairman of the Panel, which should have been completed within an hour at most. He also criticized the pan-democratic members for dwelling on the election procedure of the Panel, which was just a show and sheer waste of time.

30. Ms Elizabeth QUAT said that Mr Dennis KWOK was incompetent and irresponsible in presiding over the election. She urged that the Chairman of the Panel should be elected as soon as possible so that the Panel might discuss topics of concern to members of the public, such as whether the court's capacity was sufficient to deal with trials arising from the recent social incidents, and the impartiality of judges, without further delay.

Conclusion

31. Mr Dennis KWOK declared that the call for nominations for the chairmanship had not yet closed and, owing to the arrival of end time for that meeting, the election was suspended and would be continued at the next meeting.

32. The meeting ended at 6:00 pm.