

立法會

Legislative Council

LC Paper No. CB (2)16/20-21

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Paper for the House Committee meeting on 16 October 2020

Matters for consideration in respect of the work of select committees and investigation committees in the 2020-2021 session

Purpose

This paper invites Members to consider and decide how to deal with the work of select committees and investigation committees ("ICs") which have not yet commenced before the end of the 2019-2020 session.

Background

2. Pursuant to Rule 20(6) of the Rules of Procedure ("RoP") before the provision was amended in December 2017, the matters stated in the four petitions presented to the Council have each been referred to a select committee. Given that such select committee operating at any one time should be capped at one¹, with the first of these select committees (i.e. the Select Committee to Inquire into Matters about the Agreement between Mr LEUNG Chun-ying and the Australian firm UGL Limited) in operation until mid-July 2020, the other three select committees have not yet commenced their work to date. The details of these three petitions are set out in **Appendix I**.

¹ The House Committee ("HC") agreed at its meeting on 14 June 2013 that having regard to the limit on Members' time and the Secretariat's manpower, select committee formed pursuant to RoP 20(6) operating at any one time should be capped at one.

3. In accordance with RoP 49B(2A), the debates on four censure motions moved under RoP 49B(1A)² at the Council meeting of 11 December 2019 were each adjourned and the matter stated in these censure motions were each referred to an IC. The details of these four censure motions are set out in **Appendix II**.

Relevant procedures and practice

Select committees

4. Under RoP 78(2), the President shall decide the size of every select committee and shall appoint the chairman, deputy chairman and members thereof, taking into account the recommendations of HC. It is the established practice that upon commencement of operation, a select committee will determine the major areas of study, the work plan and the practice and procedure of the select committee.

5. Since the First Legislative Council ("LegCo"), three select committees which were formed pursuant to RoP 20(6) before the provision was being amended have completed their work. In these cases, a subcommittee was formed to undertake preparatory work for the operation of the select committees, including drawing up the terms of reference, the membership size and the nomination procedure in respect of the select committees. These subcommittees would make relevant recommendations to HC for consideration.

Investigation committees

6. Under RoP 73A, an IC shall be responsible for establishing the facts stated in the censure motion, and giving its views on whether or not the facts as established constitute grounds for the censure. The IC shall consist of a chairman, a deputy chairman and five members who shall be Members appointed by the President in accordance with an election procedure

² In accordance with RoP 49B(1A), a motion to censure a Member under Article 79(7) of the Basic Law ("BL") shall be moved in the form as stipulated therein. BL79(7) provides that the President of the Legislative Council ("LegCo") shall declare that a member of LegCo is no longer qualified for the office when he or she is censured for misbehaviour or breach of oath by a vote of two-thirds of the members of LegCo present. The mechanism for disqualification of a Member from office under BL 79(7) consists of three stages: (i) moving of a censure motion, (ii) investigation by an investigation committee, and (iii) resumption of debate and voting on the censure motion. A flow chart showing the mechanism is provided in Appendix III to the paper entitled "Mechanism for the censure of a Member for misbehaviour under Article 79(7) of the Basic Law" for the HC meeting on 16 October 2009 (LC Paper No. CB(3)46/09-10).

determined by HC. The mover of the censure motion, the Members jointly signing the motion and the Member who is the subject of the motion shall not be appointed to the IC.

7. As regards the three censure motions moved at the Council meetings of 14 December 2016, 7 June 2017 and 23 May 2018 respectively, HC agreed on each occasion that there was no need to form a subcommittee to undertake the preparatory work for the establishment of the IC.

Select committees and investigation committees appointed in previous sessions

8. Details of select committees formed pursuant to RoP 20(6) and ICs which were appointed since the First LegCo and have completed their work are set out in **Appendices III** and **IV** respectively.

Matters for consideration

9. When HC considered the servicing work for LegCo committees and the activation of subcommittees on policy issues ("policy subcommittees") on the waiting list at its meeting on 1 June 2018, Members noted that as the operation of IC was akin to that of a Select Committee, the servicing work for IC was much more complex and demanding than that of a policy subcommittee. Members also noted that based on the past experience, the workload for servicing an IC was at least twice that for one policy subcommittee. Rule 26(a) of the House Rules provides that the maximum number of policy subcommittees that may be in operation at any one time is 10 ("the quota"). Members noted at various HC meetings³ that having regard to the Secretariat's manpower constraint, the number of slots available for the operation of policy subcommittees had been reduced in order to free up resources to service ICs. In this connection, Members are invited to note that there are already one policy subcommittee in operation and another four policy subcommittees expected to be activated in the 2020-2021 session (LC Paper No. CB(2)14/20-21). If members are minded to set up more policy subcommittees, the resources needed to service ICs will be further diminished.

³ These meetings included the HC meetings held on 7 July and 1 December 2017, 1 June and 23 November 2018, and 11 October 2019.

10. Based on the past operational experience, an IC cannot complete such demanding and complex work within 12 months. The duration of work for the four ICs which have completed their work (i.e. duration of work from the first IC meeting to the tabling of the IC report in Council) ranges from 14 months to 32 months. As for the select committees formed pursuant to RoP 20(6), their duration of work vary with, among others, the complexity of the subject of the inquiry. The duration of work of the three select committees which have completed their work in the previous sessions ranges from 12 months to more than three years.

11. The Government has informed Members⁴ that it will continue to work closely with the Sixth LegCo with the priority of focusing on anti-epidemic work. The Government will also take forward various policies which will benefit the economy and people's livelihood. In considering whether and the extent to which it is manageable and practicable to complete the work of the three select committees and four ICs mentioned in paragraphs 2 and 3 above within the 2020-2021 session, Members are invited to take into account, apart from the manpower constraint of the Secretariat, the availability of Members in joining such committees, and the capacity of Members to cope with the expected work in the coming session which will mainly focus on containing the epidemic, assisting the economy to recover and protecting people's livelihood.

Advice sought

12. Members are invited to consider the matters set out in paragraphs 9 to 11 above and decide how to deal with the work of the aforesaid three select committees and four ICs in the 2020-2021 session.

Council Business Division 2
Legislative Council Secretariat
14 October 2020

⁴ For details, please refer to the letter dated 11 August 2020 from the Chief Executive to the President on "Decision of the Standing Committee of the National People's Congress for the sixth-term Legislative Council of the Hong Kong Special Administrative Region to continue to discharge duties" which was circulated to all Members vide LC Paper No. CB(3)668/19-20 on the same date.

**Petitions presented to the Council under Rule 20 of the Rules of Procedure
between November 2016 to December 2017**

	Petition presented by	Date of Council meeting	Matters stated in the petition
1.	Hon LAM Cheuk-ting and Hon Dennis KWOK	23.11.2016	Matters relating to the cessation of the acting appointment of Ms Rebecca LI as Head of Operations by Independent Commission Against Corruption Commissioner Simon PEH in July 2016
2.	Dr Hon KWOK Ka-ki and 23 other Members ^{Note}	13.12.2017	Matters relating to a further cost overrun estimated at RMB10 billion in respect of the construction of the main bridge of the Hong Kong-Zhuhai Macao Bridge, about \$5 billion of which was estimated to be borne by the Government of Hong Kong as announced by the Transport and Housing Bureau on 21 November 2017
3.	Hon Jeremy TAM and 23 other Members ^{Note}	13.12.2017	Matters relating to the Link Real Estate Investment Trust's announcement on 28 November 2017 that it had signed an agreement to sell 17 shopping centres, most of which being properties previously divested by the Hong Kong Housing Authority

Note: The two petitions were presented by the same 24 Members, namely Hon James TO, Hon LEUNG Yiu-chung, Prof Hon Joseph LEE, Hon Claudia MO, Hon WU Chi-wai, Hon Charles Peter MOK, Hon CHAN Chi-chuen, Hon Kenneth LEUNG, Dr Hon KWOK Ka-ki, Hon Dennis KWOK, Dr Hon Fernando CHEUNG, Dr Hon Helena WONG, Hon IP Kin-yuen, Hon Andrew WAN, Hon Alvin YEUNG, Hon CHU Hoi-dick, Hon LAM Cheuk-ting, Hon SHIU Ka-chun, Dr Hon Pierre CHAN, Hon Tanya CHAN, Hon HUI Chi-fung, Dr Hon CHENG Chung-tai, Hon KWONG Chun-yu and Hon Jeremy TAM.

Appendix II

Censure motions in which the matters stated have each been referred to an investigation committee in the Sixth Legislative Council

Subject of censure motion	Date of Council meeting
1. Motion to censure Dr Hon Junius HO (moved by Dr Hon KWOK Ka-ki)	11.12.2019
2. Motion to censure Dr Hon Junius HO (moved by Hon Claudia MO)	11.12.2019
3. Motion to censure Dr Hon CHENG Chung-tai (moved by Hon YUNG Hoi-yan)	11.12.2019
4. Motion to censure Hon LAM Cheuk-ting (moved by Dr Hon Junius HO)	11.12.2019

Note: Two censure motions were put on the Agenda of the Council meeting of 20 May 2020 as follows: (a) motion to be moved by Hon YUNG Hoi-yan to censure Hon Claudia MO; and (b) motion to be moved by Hon Alice MAK to censure Hon Dennis KWOK. Upon Hon YUNG Hoi-yan's moving of the motion at the said Council meeting, Hon CHAN Chi-chuen moved a motion under RoP 49B(2A) that no further action should be taken on the motion moved by Hon YUNG Hoi-yan, but the debate on his motion has not yet finished when the said Council meeting was adjourned. The matters stated in the two censure motions have not yet been referred to ICs.

Period of work of Select Committees formed pursuant to Rule 20(6) of the Rules of Procedure in previous sessions

Name of Select Committee (Date of Council meeting at which the petition was presented)	Date of appointment of preparatory subcommittee	Date of appointment of Members to Select Committee* (Date of first meeting of Select Committee)	Date of tabling of report in Council	Duration between first Select Committee meeting and tabling of report in Council (round to nearest month)
1. Select Committee to Inquire into Matters Relating to Mr Timothy TONG's Duty Visits, Entertainment, and Bestowing and Receipt of Gifts during his Tenure as Commissioner of the Independent Commission Against Corruption (8 May 2013)	24 May 2013	17 June 2013 (16 July 2013)	9 July 2014	12 months
2. Select Committee to Inquire into the Background of and Reasons for the Delay of the Construction of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (25 June 2014)	4 July 2014	17 November 2014 (9 December 2014)	6 July 2016	19 months
3. Select Committee to Inquire into Matters about the Agreement between Mr LEUNG Chun-ying and the Australian firm UGL Limited (2 November 2016)	11 November 2016	6 February 2017 (3 March 2017)	15 July 2020	40 months

* The appointment was made by the President on the HC's recommendation.

Period of work of Investigation Committees established in previous sessions

Name of investigation committee ("IC") (Date of Council meeting at which the matter stated in the censure motion was referred to IC)	Date of appointment of Members to IC* (Date of first IC meeting)	Date of tabling of report in Council	Duration between first IC meeting and tabling of report in Council (round to nearest month)
1. IC established under Rule 49B(2A) of the Rules of Procedure ("RoP") in respect of the motion to censure Hon KAM Nai-wai (9 December 2009)	8 January 2010 (18 January 2010)	28 March 2012	26 months
2. IC established under RoP 49B(2A) in respect of the motion to censure Dr Hon CHENG Chung-tai (14 December 2016)	20 January 2017 (20 February 2017)	11 April 2018	14 months
3. IC established under RoP 49B(2A) in respect of the motion to censure Hon Holden CHOW Ho-ding (7 June 2017)	7 July 2017 20 October 2017 [#] (20 November 2017)	8 July 2020	32 months
4. IC established under RoP 49B(2A) in respect of the motion to censure Hon HUI Chi-fung (23 May 2018)	22 June 2018 (17 July 2018)	8 July 2020	24 months

* The appointment was made by the President on the HC's recommendation.

This election was held for the purpose of filling a vacancy in the membership of the IC arising from the judgment of the Court of First Instance of the High Court on 14 July 2017 declaring that YIU Chung-yim had been disqualified from assuming the office of a member of the Legislative Council, and had vacated the same since 12 October 2016, and was not entitled to act as a member of the Legislative Council.