

立法會

Legislative Council

LC Paper No. AS 114/03-04
(These minutes have been
seen by the Administration)

Ref : AM 12/01/19 (Pt 6)

Subcommittee on Members' Remuneration and Operating Expenses Reimbursement

**Minutes of meeting
held on Saturday, 1 November 2003
at 10:30 am in Conference Room B of the Legislative Council Building**

- Members Present** : Hon NG Leung-sing, JP (Chairman)
Hon YEUNG Yiu-chung, BBS
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
- Member Absent** : Hon LEUNG Yiu-chung
Hon Cyd HO Sau-lan
Hon Howard YOUNG, SBS, JP
- Public Officers Attending** : Mr Andrew WONG, JP
Director of Administration
- Miss Eliza LEE
Deputy Director of Administration
- Mr David LEUNG
Assistant Director of Administration
- Clerk in Attendance** : Mrs Anna LO
Principal Assistant Secretary (Administration) (PAS(A))
- Staff in Attendance** : Mr Ricky FUNG, JP
Secretary General (SG)
- Mr LAW Kam-sang, JP
Deputy Secretary General (DSG)
- Mr Joseph KWONG
Accountant (ACCT)

I. Review of the Remuneration Package for LegCo Members in the Third Term

LC Paper No. AS 21/03-04(01) - Director of Administration's letter dated 21 October 2003

At the invitation of the Chairman, D of Adm briefed members on the background and the outcome of the latest remuneration package review conducted by The Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the HKSAR ('Independent Commission'). The Government had accepted the Independent Commission's recommendations which would be applied to the remuneration package for Members of the third term of the Legislative Council ('LegCo'). D of Adm explained that, as usual, the review was conducted a year before the commencement of a new LegCo term. During the review, the Independent Commission had considered the House Committee Chairman's request put forward in November 2001 for the provision of retirement benefits for Members. It had also reviewed the statistics compiled by the Legislative Council Secretariat on Members' utilization of their allowances. To solicit views from members of the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement ('Subcommittee'), the Independent Commission met with the Subcommittee on 2 June 2003. The meeting was also attended by some non-Subcommittee LegCo Members. The Independent Commission had come to the view that the existing financial arrangements should remain unchanged, except that the condition for claiming Information Technology and Communication Equipment Expenses Reimbursement by first exhausting the Setting Up Expenses Reimbursement should be removed. The Independent Commission also re-affirmed its view that LegCo membership was not a job, but a form of service to the public. In the light of this and other basic principles stated in paragraph 3.1 of the Independent Commission's report ('Report') (Annex A to LC Paper No. AS 21/03-04(01)), as well as Hong Kong's present financial situation, the Independent Commission did not support the introduction of a Government-funded retirement benefits scheme for LegCo Members. However, the Independent Commission was prepared to revisit the issue when the remuneration package for Members of the fourth LegCo term was to be reviewed in 2007. D of Adm highlighted that, in arriving at its recommendation, the Independent Commission had noted that some countries had provided retirement benefits for Members of their legislatures in different forms, alongside with certain requirements on declaration of and/or restrictions on outside employment and earnings.

2. Mr Yeung Yiu-chung opined that a retirement benefits scheme needed not be applied across the board. As a transitional arrangement, the scheme could initially cover Members who declared their LegCo membership as a full-time job. D of Adm responded that the Independent Commission had considered various arrangements, including Mr Yeung's proposal. However, the Independent Commission did not support this arrangement, on the basis that LegCo Members should be entitled to the same remuneration package, as they were exercising the same constitutional powers/functions under the Basic Law.

3. Ms Emily Lau was not satisfied with the short notice given for the last meeting with the Independent Commission, which she was unable to attend owing to other prior engagements. She considered that Members missing this one-off chance had been deprived of their opportunity to have their views heard. She regretted the slapdash approach to the consultation process and opined that the Independent Commission's consideration was incomprehensive, which was evident in the fact that it did not further consult Members when it found itself at odds with Members' request for a retirement benefits scheme.

4. D of Adm said that he considered Ms Lau's comments on the consultation process unfair. He recalled that more than three dates were proposed with a view to accommodating LegCo Members' schedules and a reasonable notice period was given once the meeting date was fixed. Upon Ms Lau's request, PAS(A) confirmed that her recollection tied in with the account given by D of Adm. Referring to paragraph 4.21 of the Report, D of Adm elaborated that in reaching its conclusions, the Independent Commission had considered the survey results compiled by the LegCo Secretariat (where 17 Members considered LegCo membership purely an occupation, 21 considered it a form of public service/office and 16 considered it a mixture of both). Taking into account LegCo Members' previous consensus, the Independent Commission affirmed the principle that Members should be entitled to the same remuneration package irrespective of the channel through which they were elected. D of Adm added that if LegCo Members reached a new consensus on this principle, he was prepared to convey such consensus to the Independent Commission for consideration.

5. Ms Emily Lau considered it absurd that taking up all the duties of a LegCo Member as stipulated in the Basic Law was not duly recognized as a job. She questioned the constitution of the Independent Commission because none of its members had been a directly elected LegCo Member, which rendered it incapable of understanding the needs of directly elected Members. With reference to paragraph 20¹ of the Administration Wing's paper attached to LC Paper No. AS 21/03-04(01), she recalled that since 1991 she had been demanding that all Members should be full-time legislators, without any conflicting roles, conflict of interest or clashes in the demand on their time. As such, Members should be reasonably remunerated. In her opinion, the fundamental question of whether Members should be elected through functional constituencies could only be solved by a constitutional review. She had therefore approached the Secretary for Constitutional Affairs on this. On the other hand, she hoped that LegCo Members could change their previous views and accept differential treatments for Members returned through different channels.

6. D of Adm responded that the Independent Commission had a broad representation of prominent personalities from the relevant sectors of the community. He also considered it unfair for one to conclude that the Independent Commission did not understand the work of LegCo Members simply because no former directly elected LegCo Member served on the Independent Commission.

7. The Chairman observed that the consultation channel was open as he noted that Mr Lau Ping-cheung, who was not a member of the Subcommittee, had also attended the meeting with the Independent Commission and expressed his views. Referring to paragraphs 19-22 of the Paper which stated that Members elected through the functional constituency channel had to have a substantial connection with the constituency concerned, he reminded the meeting that, as such, inevitably these Members could hardly be "full-time" Members. He also said that, according to the figures provided by DSG, there were currently 14 Members who claimed that they were "full-time" legislators. He wondered if these Members had no other earned income, such as those from their own business, professional practice or directorship of some companies. If they had, the number of qualified "full-time" legislators would be even smaller.

¹ "The Independent Commission considers that a retirement scheme for LegCo Members with Government contribution may only be justified if it is premised upon the consideration that LegCo membership is a full-time job. ..."

8. Mr Andrew Cheng expressed his respect for the independence of the Independent Commission. However, he believed that in its deliberations, the Independent Commission naturally had to pay due regard to the constitutional development set by the Government. The Government's papers prepared for the Independent Commission would have certain influence on the decision of the Independent Commission too. D of Adm responded that papers prepared for the Independent Commission only contained facts and figures, together with views expressed by LegCo Members.

9. Mr Andrew Cheng accepted that as many seats of the third LegCo term had to be elected through functional constituencies, it would not be possible for all Members to be "full-time" legislators. He asked why a retirement benefits scheme could not be introduced in stages while the Government always stressed progressive development. Moreover, he questioned why "full-time" legislators could not have a retirement protection scheme while it was already government policy that all employed, including those self-employed, had to be so covered. He suggested that what constituted a "full-time" legislator should be defined by some objective yardsticks. D of Adm replied that the Independent Commission had suggested The Legislative Council Commission consider procuring a saving plan for LegCo Members on a voluntary basis. The Government could provide assistance by gathering information on schemes available on the market and their past performance.

10. Ms Emily Lau supported Mr Yeung Yiu-chung's suggestion for transitional arrangements and she shared Mr Andrew Cheng's view on the need for a definition of "full-time" legislators. She requested D of Adm and the Secretariat to provide information on how other legislatures defined "full-time" legislators. Referring to a research report of the Secretariat (LC Paper No. AS 351/00-01), she drew the meeting's attention to a statement made by the Minister of Finance of Singapore during a parliamentary debate of the Parliamentary Pensions Bill in 1969:

"[to provide] for pensions who render public service such as Members of Parliament... in their latter years [when] they have devoted a considerable portion of their working lives to such service. ... We cannot expect to get future leaders of calibre on the cheap. ... Singaporeans... must not believe they can continue to expect men of ability in future to suffer severe financial sacrifices in pursuit of a hazardous political career. ..."

11. The Chairman said that the request for retirement benefits, even though for Members of the third LegCo term, would unavoidably be conceived by the public as a pursuit for self-interest. In his opinion, the public's views on whether LegCo Members should be "full-time" legislators should be carefully gauged. LegCo Members should therefore consult their constituents. Ms Emily Lau suggested to conduct public hearings.

12. With reference to paragraph 4.2 of the Report, which stated that Members' remuneration was among the top 2.7% salary earners in Hong Kong, the Chairman accepted that the proposed saving plan could be taken as a form of retirement protection scheme. Members could contribute to the scheme with their remuneration, which was funded by public coffers, even though additional contributions from the Government would not be forthcoming.

13. Ms Emily Lau pointed out that the remuneration for members of the US Congress were much higher than that of LegCo Members in Hong Kong. Although in Hong Kong LegCo Members' remuneration was seemingly higher than that payable to legislators in Singapore, in her understanding the in-session period of Singapore's parliament was not as long as Hong Kong's. She reiterated that Members with many sources of income would compromise their independence.

14. D of Adm emphasized that the remuneration for LegCo Members, which was among the top 2.7% salary earners in Hong Kong, could not be regarded as unreasonable. The existing level of remuneration could already attract able people to stand for LegCo elections. While noting that "full-time" legislators might devote more time to LegCo business, he pointed out, with reference to paragraphs 4.22 and 4.23 of the Report, that the declaration requirements and restrictions on outside employment and earnings, which should logically come with the notion of LegCo membership being a full-time job, might discourage suitable candidates from coming forward to stand for LegCo elections, particularly if they were holding a professional job or a managerial position which they were reluctant to relinquish.

15. Mr Andrew Cheng agreed that the general public might think that Members were fighting for their own benefits. However, he believed that the public were fair. They would understand what was reasonable and what was not.

Action

16. The Chairman concluded that members of the Subcommittee should consult their fellow colleagues in respective groupings of political affiliation on their views about how “full-time” legislators should be defined, and whether differential treatments in respect of retirement benefits for “full-time” and “part-time” legislators should be considered. He stressed that knowing the reasons behind their views were very important. D of Adm was requested to reflect Members’ views, when available, to the Independent Commission. The Secretariat was requested to prepare a research paper on the eligibility of full-time legislators for retirement benefits in overseas legislatures.

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II. Date of next meeting

17. Members agreed that the next meeting should be held when the research paper was ready.

III. Any other business

18. There being no other business, the meeting ended at 11:42 am.

Legislative Council Secretariat
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