

立法會
Legislative Council

LC Paper No. AS 115/00-01
(These minutes have been
seen by the Administration)

Ref : AM12/01/19 (Pt 2)

**Subcommittee on Members' Remuneration and
Operating Expenses Reimbursement**

**Minutes of meeting
held on Thursday, 9 November 2000 at 10:45 am
in Conference Room B of the Legislative Council Building**

- Members Present** : Hon NG Leung-sing (Chairman)
Hon Cyd HO Sau-lan
Hon LEUNG Yiu-chung
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
- Public Officers Attending** : Mr Andrew WONG, JP
Director of Administration
- Ms Miranda CHIU
Deputy Director of Administration
- Mr David LEUNG
Assistant Director of Administration
- Clerk in Attendance** : Mrs Anna LO
Principal Assistant Secretary (Administration)
- Staff in Attendance** : Mr Ricky FUNG
Secretary General
- Mr Joseph KWONG
Accountant
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I. Confirmation of Minutes of Last Meeting

(LC Paper No. AS 76/00-01)

The minutes of last meeting held on 1 November 2000 were confirmed.

II. Arrangements for Mandatory Provident Fund Payments for Members' Personal Assistants

(LC Paper No. AS 80/00-01(01))

2. Hon NG Leung-sing, the Chairman, welcomed the Director of Administration and other government officials to the meeting and invited members to raise questions.

3. In response to Hon YEUNG Yiu-chung's enquiry, Mr Andrew WONG, Director of Administration, advised that a pension element for staff had already been included in Members' existing system of operating expenses reimbursement (OER). The Chairman pointed out that as there had not been mandatory provident fund (MPF) before, Members allocated all their resources on other items, leaving no provision for MPF contributions. Mr Andrew WONG, nevertheless, reiterated that it did not imply that the Commission on Remuneration for Members of the Legislative Council (the Commission) had not considered the issues of retirement benefit for Members' staff and the need to allocate more resources. The Administration maintained the view that if Members considered the present level of OER inadequate, they might, with justifications, request for additional resources.

4. Hon YEUNG Yiu-chung further asked if Members could be exempted from making contributions for their staff whose service would be terminated upon the vacation of their seats in the Legislative Council, as the Government had undertaken to pay severance payment to their assistants. Mr Andrew WONG replied that although the law allowed employers who had paid severance payment to their staff to recover from the part of their contributions to the MPF an amount equal to that of the severance payment, one should not confuse severance payment with MPF contributions. This was especially the case for employees who left service for reasons other than redundancy as they were not entitled to severance payment. The Chairman opined that the law allowed offsetting to be made only after contributions had been paid. It did not mean that exemption from prior contribution was allowed when arrangement had been made on severance payment.

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5. At the request of Hon Cyd HO, Mr Andrew WONG confirmed that the Government would not reduce its financial provision for severance payment because of MPF contributions made by Members. In other words, if MPF contributions were paid with Members' OER, the staff covered might, with the consent of the Members in the capacity as their employers, received both MPF benefits and full severance payments, provided that the Members concerned satisfied the conditions for receiving the winding up expenses reimbursements. On the other hand, if Members funded the MPF contributions with their own resources, they might apply to the trustee of the MPF Scheme to recover the accrued benefits attributable to their contributions on the ground that severance payment had been paid. However, the amount recovered should not exceed the amount of the severance payment.

6. Hon LEUNG Yiu-chung was relieved to learn that the Government would not offset the severance payment against the contributions paid by Members. He then withdrew his proposal made before the meeting that Members should claim their MPF contributions from the item of severance payment under the winding up expenses reimbursement. He stressed that the original proposal was merely an expedient measure, lawful but unethical.

7. Hon LEUNG Yiu-chung further pointed out that the Government had not taken into consideration that Members had to pay long service payment to their staff. Mr Andrew WONG replied that according to the existing Guide for Reimbursement of Operating Expenses for Members of the Legislative Council, Members might set aside funds to meet legal or contractual obligations and to pay for staff benefits payable at a future date. The Chairman drew members' attention to paragraph 57 of the Guide which stated that "On a consistent basis but without exceeding the monthly ceiling, a Member may set aside funds from his/her office operation expenses reimbursement to pay for staff benefits such as contract bonus, double-pay or end-of-agreement gratuity, which are payable at a future date."

8. Hon Emily LAU considered that the present OER was hardly sufficient, let alone setting aside funds for future staff benefits. She suggested that Members should forward all invoices and receipts to the Secretariat for retention, irrespective of whether the OER ceilings had been exceeded. The actual expenditure of Members could thus be reflected and the Government could base on such information to review the adequacy of the resources presently provided to Members. Hon LEUNG Yiu-chung pointed out that the proposal was not the best method for making the assessment, since many Members might not be able to afford extra expenses, and the required resources could be higher than the actual payments evidenced. Mr Andrew WONG opined that while the actual amount of expenditure could be taken as a reference, it was more important for Members to provide justifications, so that he could refer them to the Independent Commission on Remuneration for the Members of the Executive Council and the Legislature of the HKSAR (Independent Commission) for a review.

Secretariat

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9. Regarding the adequacy of OER, Hon Emily LAU and Hon Andrew CHENG hoped that Members would be sounded out. The Chairman also hoped that the Independent Commission would meet Members to understand their needs and that Members should spend within their means. Hon Cyd HO said that with the implementation of the proportional representation system, a constituency had been greatly enlarged, from some 100 000 electors to over 700 000 as in the case of New Territories West. That was strong evidence to support that the present level of OER could no longer meet other expenditure items. She also suggested that the Government, in conducting an overall review on the subject, should consider the standard structure of a Member's office.

III. Mechanism of Annual Adjustment to the Levels of Members' Remuneration and Operating Expenses Reimbursement
(LC Paper No. AS 80/00-01(02))

10. Hon Emily LAU considered the existing mechanism to adjust the levels of Members' remuneration and OER according to the movement of Consumer Price Index (CPI) (C) inflexible. She pointed out that most of the Members' expenses could hardly be adjusted downward to keep in line with CPI(C). With reduced resources from the Government, Members had no choice but to cut back on services, reduce the salary of their staff or pay out of their own pocket. Hon Andrew CHENG shared this view. He hoped the Government would understand that the salaries of Members' assistants were already meagre, and a further reduction would make their lives miserable, especially considering that salaries for civil servants were only frozen but not decreased. Hon LEUNG Yiu-chung questioned which expenditure items of Members could be adjusted according to CPI(C). He cited the office rental as an example, saying that the rents were bound by contract and could not be immediately lowered. He was dissatisfied with the Government reducing OER by 2% and 5.1% for two consecutive years, which had given Members no alternative but to become unscrupulous employers who cut the salaries and benefits of their staff.

11. Upon invitation, Mr Joseph KWONG, the Accountant, provided information on the expenses of Members. According to informal statistics, staff cost took up 60% to 70% of Members' OER. Mr Ricky FUNG, the Secretary General, undertook to prepare a paper to provide statistical information on Members' staff cost.

12. In response to the above comments, Mr Andrew WONG said that in 1994, the Commission established the existing adjustment mechanism as it considered that many expenses of Members would float with price movements. According to the report of the Commission and the FCR(95-96)44 paper approved by the Finance Committee, the amount should be "adjusted" annually, not merely an "upward" or a "downward" adjustment. He said that if the annual adjustment of the amounts was subject to discussion each time, the result might

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not be objective enough and problems would arise. In the past, the Government acted according to the mechanism and increased the amount, regardless of whether Members' expenses had risen due to inflation. He stressed that although the amount of adjustment every year might not fully reflect the pressure of price movements on Members in that particular year, Members' expenses would, in the long run, be affected by changes in market prices.

Admin

13. Hon Howard YOUNG hoped that the Government would review the components of CPI(C) to see if their weights could represent Members' expenses.

14. Hon Cyd HO cautioned that the practice of adjusting Members' OER according to price movements had not taken into consideration the salary increment of their staff. The staff should be duly rewarded for their contribution made after they had gained more experience.

15. Referring to the 1994 Commission report provided by the Secretary General, the Chairman quoted that the objective of establishing the adjustment mechanism at that time was to ensure that "Members' remuneration and their monthly expenses allowance.... are not eroded by inflation".

16. In view of the above statement, Hon LEUNG Yiu-chung considered that the spirit of the adjustment mechanism was to maintain the standard of services provided to Members. As any reduction of resources would affect the service, the Government was thus acting against the original intention of the Commission. Furthermore, he pointed out that as any increase in the amount due to inflation would be spent on community services on an accountable and reimbursement basis, Members would not have any gains.

Admin

17. Hon Andrew CHENG proposed that the Chairman should ask the Chairman of the House Committee to write to the Administration, stating that the downward adjustment of the remuneration in the past two years were against the intent of establishing the adjustment mechanism. While admitting that the report had made no mention of the practice in case of deflation, the Chairman would not assert that the Commission had not considered the possibility of reducing the amount in times of deflation. In this connection, Hon LEUNG Yiu-chung hoped that the Government would contact members of the former Commission to know about its intent.

Secretariat

18. Members asked the Secretariat to prepare a paper for the Chairman to report on the deliberations of the Subcommittee at the House Committee meeting on 17 November 2000. Members also asked the Chairman to seek other Members' views.

(Post meeting note: LC Paper No. AS 86/00-01 was submitted for discussion at the above House Committee meeting)

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IV. Any Other Business

19. In response to a question raised by Hon Cyd HO, Mrs Anna LO, the Secretary, reported that the Research and Library Services Division was now studying the retirement benefits of legislators in other jurisdictions. A report would be submitted in four to six weeks.

20. There being no other business, the meeting ended at 12:20 pm.