

立法會
Legislative Council

LC Paper No. AS 247/04-05
(The minutes of meeting on
Item IV have been seen by
ICAC)

Ref : AM 12/01/19 (Pt 8)

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

**Minutes of meeting
held on Tuesday, 1 March 2005
at 4:30 pm in Conference Room B of the Legislative Council Building**

- Members Present** : Hon Patrick Lau Sau-shing, SBS, JP (Chairman)
Dr Hon Lui Ming-wah, JP
Hon Mrs Selina Chow Liang Shuk-ye, GBS, JP
Hon Cheung Man-kwong
Hon Howard Young, SBS, JP
Hon Emily Lau Wai-hing, JP
Hon Wong Ting-kwong, BBS
Hon Tam Heung-man
- Member Absent** : Hon Abraham Shek Lai-him, JP
- Member in Attendance** : Hon Chim Pui-chung
- Public Officers Attending** : Mr Thomas Chan Chi-sun)
Director of Corruption Prevention (DCP),)
ICAC)
)
Mr Davey Chung Pui-hong)
Assistant Director of Corruption Prevention,) (For Item IV)
ICAC)
)
Mr Carmel Chow Jun-lung)
Group Head, Corruption Prevention Department)
(GH, CPD), ICAC)
- Clerk in Attendance** : Mrs Anna Lo
Principal Council Secretary (Administration) (PCS(A))

Staff in Attendance : Mr Ricky C C Fung, JP
Secretary General (SG)

Mr Joseph Kwong
Accountant (ACCT)

Ms Elyssa Wong)
Deputy Head (Research and Library)
Services Division) (DH(RL))) (For Item II)
)

Mr Thomas Wong)
Research Officer 4 (RO4))

I. Confirmation of Minutes of Last Meeting held on 6 December 2004
(LC Paper No. AS 185/04-05)

The minutes of the last meeting held on 6 December 2004 were confirmed.

II. Arrangements for Members' Remuneration and Operating Expenses Reimbursement in Selected Overseas Legislatures
(IN20/04-05)

– Information note prepared by the Legislative Council Secretariat

2. DH(RL) said that the research conducted by the Secretariat covered the arrangements for Members' remuneration and expense allowances in legislatures of seven selected countries (namely the United Kingdom (UK), Australia, New Zealand (NZ), Canada, the United States (US), Singapore and Ireland). She pointed out that none of these countries had any practice or rule to require changes in Members' remuneration and expense allowances to be implemented in the following term.

3. Referring to the Appendix to the information note, DH(RL) said that in UK, NZ and Canada, changes in the remuneration of Members were usually implemented at the start of a financial year. In Australia, Members' pay was automatically adjusted annually, while major changes in allowances usually became effective from the date on which the Remuneration Tribunal's determination was signed or on some other specified date. In US, Members' pay was automatically adjusted on

1 January each year, while adjustment of allowances normally took effect on 3 January. In Singapore and Ireland, the implementation date was determined at the discretion of the Government.

4. DH(RL) also reported that Members in these seven countries would not be granted additional allowances for having district offices. In this respect, the systems of UK and Ireland were similar to that of Hong Kong. In Australia and Canada, however, Members of larger constituencies or districts were entitled to additional allowances. In NZ and Singapore, elected Members were provided with a larger budget or allowance. In US, additional allowance was calculated with reference to the distance between a Member's district and Washington as well as the rental cost of that district.

5. Acknowledging the very useful reference provided by the research, Ms Emily Lau stressed that, unlike Hong Kong, changes in Members' remuneration and reimbursements in the selected countries were not required to be put on hold until the next term. Moreover, in Australia, New Zealand, Canada, US and Singapore, Members of larger districts were provided with a higher level of operating expenses reimbursement. She opined that increasing the resources for Members of larger constituencies and for Members who had to incur more expenditure to serve their constituents should be considered.

6. In response to Ms Emily Lau, PCS(A) confirmed that a copy of the information note had been provided for the Director of Administration's reference.

7. In reply to the Chairman, SG said that implementing changes in the following term was not a stated rule. Such a practice was proposed some years ago so that Members would not be perceived as self-benefitting.

8. Mrs Selina Chow supported the view that the practice of implementing changes in the following term could be reviewed. As such changes were determined by an independent committee, there was no conflict of interest on the part of Members, especially when such changes were made according to Members' practical requirements. Mrs Chow considered the Government's view, that Members were performing a voluntary public service instead of pursuing a career, outdated. Compared with some years ago, Members were at present serving substantially larger constituencies and dealing with a much wider range of issues. The workload rendered it necessary for them to work as full-time legislators.

9. The Chairman noted that quite a number of the selected legislatures implemented changes at the start of the following financial year.

10. Miss Tam Heung-man and Mr Wong Ting-kwong supported the views expressed above.

III. Statistics on the Utilization of Members' Recurrent Operating Expenses Reimbursement

(LC Paper No. AS196/04-05)

– Information note prepared by the Legislative Council Secretariat

11. In briefing the members on the major observations stated in the paper, ACCT highlighted that, in the years ended on 30 September 2003 (2002/03) and 30 September 2004 (2003/04), the overall average utilization rates of Members' Office Operation Expenses Reimbursement (OOER) and Entertainment and Travelling Expenses Reimbursement (ETER) were above 90%. In 2003/04, the utilization rates in respect of Members from Functional Constituencies (FC) and Geographical Constituencies (GC) were 87.2% and 95.7% respectively. On the whole, 45% of all Members utilized 99% or more of OOER, whereas 33% of FC Members and 67% of GC Members reached this utilization level.

12. As regards ETER, ACCT said that the overall utilization rates in 2002/03 and 2003/04 were both about 93%. In 2003/04, the average utilization rate was 89.4% among FC Members and 95.8% among GC Members. On the whole, 77% of all Members utilized 99% or more of the entitlement, whereas 80% of FC Members and 92% of GC Members reached this utilization level.

13. Apart from the above, ACCT also mentioned the statistics on the number of full-time and part-time staff employed by Members, their salary ranges and the number of offices operated by Members. It was observed that, on average, GC Members hired more staff and operated more offices than FC Members, as detailed in paragraphs 9 to 12 of the paper.

14. Referring to paragraphs 13 and 14 of the paper, ACCT reported that only 5 Members (4 from GC and 1 from FC) had submitted their over-ceiling expenses for verification, out of 20 Members who had fully utilized the entitlement for OOER in 2003/04. Their over-ceiling and unreimbursed expenses ranged from \$45,759 to \$180,608.

15. Ms Emily Lau observed that as the majority of overseas legislatures were elected on a single-seat, single-vote system, their constituencies were much smaller than the geographical constituencies in Hong Kong, where each constituency covered more than a million citizens. She added that if she had sufficient financial support, she would have set up an office in all the districts covered by her geographical constituency, which was served by four District Councils. Manning district offices in a large constituency required a large number of staff. However, the Government's financial support was inadequate. Consequently, Members could only offer a low salary to their staff, as revealed in the statistics. She emphasized that, with a meagre remuneration, it was difficult to recruit experienced and high-quality staff to assist Members in organizing activities and conducting research. The Chairman agreed and noted from Appendix III of the paper that out of the sample 160 employees, 68 were in the monthly salary range of \$5,000 to \$9,999.

16. Mrs Selina Chow found the present rule that Members could not jointly hire an assistant a hindrance to the economical use of Members' resources. SG responded that the rule was set by the Commission on Remuneration for Members of the Legislative Council (now known as the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the HKSAR (Independent Commission)). Successive Independent Commissions had upheld this rule for the reason that accountability should be clearly established as to which Member was responsible for the employment of a certain employee. Mrs Selina Chow suggested that this rule be reviewed, since group support was already common everywhere. Ms Emily Lau agreed. She said that as long as it was transparent and accountable, shared employment of an assistant, especially a highly paid one, would facilitate the efficient use of Members' resources.

17. Miss Tam Heung-man supported Mrs Selina Chow's view and suggestion in paragraph 16 above. She remarked that very few assistants had a salary above \$20,000, whereas FC Members might need to pay \$30,000 a month or more for a professional in their own field to assist them with research projects and matters concerning their constituencies.

18. Mrs Selina Chow and Mr Wong Ting-kwong agreed that the financial provisions for Members should not be different simply because of the channels through which they were elected. Mr Wong shared his experience as an assistant to the late Mr Hui Cheung-ching. He said that the number of offices operated should not be the only criterion for determining the financial resources required. FC Members

with fewer offices had to be accountable to their constituents too, notably through other means. As their constituents could be scattered in every corner of Hong Kong, visiting them for discussions was a herculean task. Sometimes it was necessary to hire function rooms in hotels for holding seminars, which was very costly.

19. In response to the Chairman's invitation for views on how the level of operating expenses reimbursement should be set, Ms Emily Lau recalled that the total amount of salaries for a certain number of government posts was used as the basis for calculating the financial provision for Members, when the reimbursement system was first set up by the Independent Commission. SG confirmed that initially there had been a manning scale for providing support to Members, which was made up of an Executive Officer I, a Clerical Officer II and a Personal Secretary II. No consideration was given to the number of offices operated and whether a Member was elected from a functional or a geographical constituency. Miss Tam Heung-man suggested that the Government should evaluate how many assistants were required by FC Members, for work such as carrying out research, and how many offices were required by GC Members.

20. Mr Chim Pui-chung expressed his view that there were three types of Members: (a) those who laid their hands on everything and demanded one thing or another actively all the time; (b) those who took care of matters within their own spheres; and (c) those who avoided involvement in anything. The issue in hand was a matter of "system", which should be determined by the Government. It should not be determined with reference to the scope of work that Members considered themselves to be capable of doing. Some Members might wish to be seen as doing a lot of work, by using Government's resources, to pave their way for the next election. In his view, providing the same level of resources for all Members was already a long established consensus. It would be unnecessary and impractical to set different levels of reimbursements for Members elected through different channels.

21. In reply to the Chairman, SG advised that following the practice of most of the legislatures studied, implementation of changes could be carried out at the beginning of the following financial year. The Secretariat would consolidate members' views for further deliberation on the way forward.

Secretariat

IV. ICAC's Review on "Rules and Practices for the Reimbursement of Members' Operating Expenses"
(LC Paper No. AS197/04-05)

22. The Chairman welcomed DCP and his colleagues from ICAC to the meeting. In briefing members on ICAC's review on Members' operating expenses reimbursement system, DCP said that ICAC was grateful for the participation of Member and their staff and the Secretariat's assistance in the review process. In preparing the report (LC Paper No. AS197/04-05), reference was made to the practices in the legislatures of UK, US, Australia and Canada. He drew the meeting's attention to the recommended principles set out in paragraph 34 of the report. He emphasized that the reimbursement system should be fair, accountable and transparent. Moreover, a Member should not profit or be seen to profit for himself, his relatives or close acquaintances by virtue of his LegCo office. ICAC hoped that these guiding principles could be established.

23. Mrs Selina Chow agreed with most of ICAC's recommendations. However, she disagreed with the recommendation in paragraph 36 of the report that subleasing a part of a Member's private office with public funds should not be permitted. She said that sometimes it was only possible to lease a small office through subleasing. She was of the view that so long as the Member's office was clearly demarcated, the sharing ratio was fair and the whole arrangement was transparent and subject to audit, the Member concerned could not benefit from the leasing. With exact measurements, a fair arrangement was achievable and accountable. She expected that this recommendation would impose problem on those Members who shared their offices with their affiliated association or political party. DCP explained that ICAC's recommendation was to avoid public perception that a Member sub-leased a part of his private office in order to subsidize his own private operations.

24. Although she appreciated some Members' difficulties as pointed out by Mrs Selina Chow, Ms Emily Lau supported ICAC's recommendation because office leasing arrangements would be simpler and more clear-cut. However, she preferred the Government to be more active in supporting the development of political parties as a means to further the constitutional development in Hong Kong. Noting that sharing of offices by members of political parties was quite common, she enquired about the impact on Members if their existing subleases had to be terminated. She also requested for more details about the recommendation on "compliance audit" as proposed in paragraph 51 of the report. DCP replied that they did not have a full picture of Members'

Action

subleasing arrangements. Regarding compliance audits, he said that establishment of a mechanism for checking compliance was recommended, as practised in most organizations. The recommendation did not require every item of expenditure to be verified. Verification could be undertaken at random. Members would still be required to certify that their claims were in compliance with the Reimbursement Guide.

25. SG recalled that Miss Tam Heung-man had made a similar suggestion concerning auditing at a meeting of the Subcommittee to Consider a Mechanism for Handling Complaints and Allegations Concerning Members' Operating Expenses Reimbursement Claims. If such compliance audits were to be conducted by the Secretariat, additional staff resources would be required.

26. Miss Tam Heung-man suggested that for transparency and credibility reasons, hiring of professional auditors should be considered. This arrangement was desirable especially when the Secretariat did not have professional auditors on its establishment or it did not have sufficient manpower resources. She suggested that ICAC should propose the content of the audit, so that external auditors could be employed to conduct the audit for each Member as required. SG considered the suggestion feasible and proposed that the additional financial resources required for each Member to carry out the audit could be included in the proposal to the Government.

27. Mr Cheung Man-kwong said that compliance with the three requirements in paragraph 39 of ICAC's report (i.e. (a) declaration of interests, (b) provision of justification, and (c) obtaining independent market valuation of a clearly demarcated office) would be sufficient; otherwise, it would be too harsh, too far-reaching and non-conducive to the smooth conduct of Members' work. He explained that Members' time was precious. Sharing an office with his affiliated association/political party would be convenient for a Member, who might be its chairman dealing with LegCo matters as well as association/party matters almost simultaneously. As regards auditing, he doubted whether the Secretariat could afford to inspect all the offices of 60 Members, if each office had to be inspected once or more than once every year. The Chairman said that if sharing a portion of an office with his affiliated association/political party was not allowed, the Member might have to set up two offices and shuttle between them. DCP responded that if LegCo Members had sufficient justifications that office sharing was in the public interest, ICAC would not object. However, care should be taken to ensure that it would not give rise to any perception that the Member or his close associate might have any private interest from such an arrangement.

28. SG sought clarification on the role of the Secretariat with regard to the justifications for recruitment of staff, procurement of goods and services etc., i.e. whether they were merely for filing by the Secretariat or whether they were for the Secretariat's approval.

29. Mr Chim Pui-chung did not support ICAC's recommendations on leasing of offices from self/relatives and sharing of staff. He said that there was no requirement that Members had to work full-time on LegCo business and that they had to sever their business and family links. As long as it was transparent, with full details about the leasing of offices owned by their relatives or themselves, the arrangement should be acceptable. Likewise, sharing the service and remuneration of an assistant was also reasonable. He added that Members sometimes did not claim reimbursement for the LegCo work performed by their private assistants.

30. Mrs Selina Chow shared Mr Chim Pui-chung's views. She said that it would be unfair to ask Members to bear all the costs of an employee, such as a secretary, if some of the employee's duties were not related to LegCo business. This would be particularly so in the case of FC Members. She agreed that some spot checks would be acceptable, but too much "policing" or "patrolling" would cause inconvenience. In her opinion, public scrutiny and media monitoring were already very effective in providing the necessary safeguards against abuse.

31. Mr Wong Ting-kwong believed that it was most important for the system to be fair, open and accountable. An across-the-board requirement should not go too far. If sharing was not allowed, extra financial support from the Government might be necessary. Even then, with extra funding from Government, the abundant data kept in trade associations and experienced staff working for the trade associations could not be duplicated and kept in a Member's office. Sharing of resources was more efficient and cost effective. He opined that it was of paramount importance that any system should be reasonable, sensible and acceptable to the public. On the proposed compliance audit, since the Secretariat might not have the necessary manpower resources and authority, he was inclined to support the hiring of external auditors, whose annual reports should be filed with the Secretariat. Apart from the foregoing remarks, he expressed his general support for and acceptance of ICAC's recommendations.

32. DCP reiterated that the whole issue was about enhancing accountability and public trust, and in ICAC's view, intermingling of private and LegCo business or resources should be avoided as far as practicable. He clarified that "compliance audits" did not mean "patrolling". The capability to check compliance should be part of every organization's internal control system, and the extent of the compliance audit should be determined by the organization concerned.

33. Mr Howard Young said that operation in a mixed mode (in terms of roles) was common, particularly for FC Members who were required by the election laws to have substantial connection with the constituencies that they represented. In respect of "transfer of advantages", his company was actually subsidizing his LegCo work by sharing a disproportionate amount of his secretary's remuneration, rather than the other way round. He agreed that if sharing of staff was not allowed, the Government would have to pay more for supporting Members' work. He believed that increasing transparency would be more practical. In response, DCP said that maintaining the credibility of the whole reimbursement system was important. Based on overseas experience, in general, legislators were asked to separate parliamentary work from private business.

34. Mr Cheung Man-kwong commented that, compared with sharing of staff, sharing of office space could be more easily delineated, as the area could be clearly demarcated. Proving the fairness of the sharing ratio of an employee's service was more difficult, particularly in the case of FC Members, where it was hard to determine whether or not interaction with a Member's constituents was LegCo-related. Having said that, he agreed that sharing of staff resulting in the kind of "transfer of advantages" mentioned by Mr Howard Young was possible. In his own case, his LegCo work was subsidized by an association to which he was affiliated. If sharing of staff were to be prohibited, some transitional arrangements had to be allowed; otherwise, a shared employee might have to be dismissed immediately. DCP responded that a balance had to be struck, and Members might have to consider the issue from the angle of credibility in the eyes of the public.

35. In reply to Ms Emily Lau's question on whether auditors would carry out inspections or "patrolling", ACCT said that the scope and frequency of a compliance audit was determined by the principal who appointed the auditor. As audit tests were usually done on a sample basis and changes might occur with the passage of time, the extent of tests would have a bearing on the reliability of such audits. The level of work required would in turn be reflected in the fees charged.

Action

36. Ms Emily Lau suggested that members should decide on whether ICAC's recommendations should be accepted, in full or in part. If some recommendations were not accepted, justifications would have to be given. Also, it had to be determined as to who should be responsible for revising the reimbursement guidelines. A grace period might have to be agreed upon. Moreover, the Government should provide extra funding for the conduct of compliance audits and rental evaluations. To facilitate members' further deliberation and consultation with other Members, members requested the Secretariat to prepare a paper summarizing Members' views.

Members
Secretariat

V. Any Other Business

37. In response to Miss Tam Heung-man, the Chairman suggested, and members agreed, that the issue of retirement benefits for Members would be discussed at the next meeting.

Secretariat

VI. Date of Next Meeting

38. Members agreed that a meeting would be held when the paper was ready.

Adjournment

39. The meeting ended at 6:13 pm.