

Legislative Council

**Rules and Practices for the Reimbursement
of Members' Operating Expenses**

**Independent Commission Against Corruption
Corruption Prevention Department**

February 2005

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ABBREVIATIONS

ETE	Entertainment and Travelling Expenses
ICAC	Independent Commission Against Corruption
IT	Information Technology
LegCo	Legislative Council
OOE	Office Operating Expenses

Part 1 – Introduction

Background

At the meeting of the Legislative Council (LegCo) Sub-committee on Members' Remuneration and Operating Expenses Reimbursement on 11 November 2004, the Corruption Prevention Department (CPD) of the Independent Commission Against Corruption (ICAC) was invited to assist in a review of the reimbursement procedures in respect of LegCo Members' claims for office operating and other related expenses.

2. The invitation was preceded by considerable public concern and media coverage over allegations, amid the 2004 LegCo election, that some Members used the expenses to lease LegCo office accommodation either owned by the Member himself¹ or by an organization with which the Member is affiliated, thus giving rise to conflict of interest situations where Members were perceived to have benefited personally or a closely related party.

Scope

3. The study reviews the existing rules, practices and procedures governing LegCo Members' claims for reimbursement of operating expenses covering -

- (a) office operating expenses (e.g. rental for leased accommodation, staff salaries);
- (b) entertainment and travelling expenses; and

¹ Denoting both genders

- (c) one-off provisions for setting up/winding-up of offices and purchasing information technology and communication equipment.

Methodology

4. The CPD team has examined the relevant files and documents made available by the LegCo Secretariat including reimbursement claim forms submitted by Members which are open to public inspection. In addition, the team has interviewed the nine LegCo Members (and in some cases, their assistants also) who sit on the Sub-committee (para. 1) and another four Members who volunteered to meet the CPD team to assist. Also, the study has made reference to overseas experiences.

Acknowledgement

5. The views, advice and assistance given by the Members and their staff, and staff of the LegCo Secretariat as listed in *Appendix 1*, are gratefully acknowledged.

Part II – Operating Expenses for LegCo Members

Organization

6. Currently, the LegCo has 60 Members of whom 30 are returned by geographical constituencies and 30 by functional constituencies. Headed by the Secretary General, the LegCo Secretariat provides administrative support and services to the Council. The Administration Division under the Secretariat is responsible for processing Members' remuneration and operating expenses reimbursements.

Ethical Commitments

7. Pursuant to Rule 73 of the LegCo Rules of Procedure, the Committee on Members' Interests has been established to, inter alia, consider matters of ethics in relation to the conduct of Members and matters relating to the Register of Members' Interests. Rule 83 requires each Member to report particulars of registrable interests, including remunerated directorship of companies or beneficial interests in terms of shareholding, employment or offices, donations and financial sponsorships, land and property, etc., for entry in the Register of Members' Interests which is available for public inspection.

8. In relation to Members' conduct, the Committee on Members' Interests has issued the "Advisory Guidelines on Matters of Ethics" (hereafter referred to as the Advisory Guidelines) with the following general standards -

- (a) a Member should ensure that his conduct must not be such as to bring discredit upon the LegCo; and
- (b) a Member should conduct himself in such a way as not to place himself in a position which may be contrary to the generally assumed standard of conduct expected of a Council Member.

9. In addition, the Advisory Guidelines prohibit a Member from moving any motion or amendment, or voting on a question relating to a matter in which he has a pecuniary interest². The Advisory Guidelines also stipulate that a Member should not use any part of his operating expenses reimbursement for purposes other than those in connection with the business of the Council.

10. The Advisory Guidelines however do not specifically require Members to avoid or declare interest when incurring and claiming expenses funded by the public purse.

Reimbursable Expenses

11. At present, a Member receives a monthly remuneration of \$54,170 and is entitled to seek reimbursement of the following expenses incurred to in relation to his Council duties -

- (a) Office Operating Expenses (OOE) up to a maximum of \$1,331,160 per year for -
 - hiring staff/assistants and consultancy services;
 - office accommodation (including office rental, equipment and furniture, repair and maintenance);
 - printing, publicity, website, communications, etc.; and
 - Member's personal medical and dental insurance.
- (b) Entertainment and Travelling Expenses (ETE) up to a maximum of \$150,160 per year; and
- (c) one-off provisions for setting up office (up to \$150,000),

² *Except where in moving a motion/amendment he discloses the nature of that interest, or where in voting on a question his interest is in common with the rest of the population or a sector thereof or his vote is given on a matter of Government policy.*

procuring information technology (IT) and communication equipment (up to \$100,000) and winding-up office (up to \$110,930) during the four-year term.

In addition, severance payments to Members' staff for winding-up office are met by LegCo separately.

12. The above expenses are reimbursable on an accountable basis i.e. original documents such as invoices, receipts, etc. must be submitted to support the claims, except for ETE which are treated as "non-accountable" (para. 24).

Reimbursement Guidelines

13. To assist Members in making claims, the LegCo Secretariat has issued the "Guide for Reimbursement of Operating Expenses for Members" (hereafter referred to as the Reimbursement Guide) based on the principles laid down by the Independent Commission on Remuneration of Members of the Executive Council and the Legislature of the HKSAR. The Reimbursement Guide sets out in detail the types of operating expenses which are reimbursable and the rules and procedures for seeking reimbursement, and provides standard claim forms for various types of expenses. It also specifies certain expenses which are not reimbursable, such as entertainment expenses solely for the Member himself or his staff, penalties, sponsorships, etc. The Reimbursement Guide also provides a sample employment contract for Members' staff for reference by Members.

14. At present, the Reimbursement Guide does not provide any procurement guidelines to assist Members or their staff in handling procurement of goods and services using their operating expenses entitlements. In practice, Members may consult the Accounts Office of the LegCo Secretariat, if in doubt, whether certain expenses are reimbursable, the reimbursement procedures, etc.

Audit

15. According to Section 14 of The Legislative Council Commission Ordinance, the Director of Audit may, in respect of any financial year, conduct an examination into the economy, efficiency and effectiveness with which the Council has expended its resources in performing its functions and exercising its power.

Part III – Rules and Procedures

Rules and Practices

Leased Office Accommodation

16. At present, each Member is provided with office accommodation in the vicinity of the LegCo building. Apart from this, Members may lease additional office accommodation, e.g. in their constituency areas, and seek reimbursement of the rental and related expenses such as furniture and facilities, as part of the OOE. The Member is required to deposit a copy of the tenancy agreement with the LegCo Secretariat, which will be made available for public inspection in the LegCo Library. The LegCo Secretariat does not verify the rental against the prevailing market prices.

17. As the rules currently stand, a Member is allowed to seek reimbursement for leasing office accommodation which is owned by himself, his relatives, close acquaintances/business associates, political parties or other affiliated organizations. Also, he is not required to declare any financial interest in the property or his relationship with the landlord. A number of Members are known to have leased office accommodation of their own or from companies in which they have a financial interest, some being part of the Members' private business offices/places of work, and seek reimbursement of the rental expenses. Some of the Members interviewed considered that as the rentals claimed are below the market rate, there is no question of having personally benefited. Other Members use their private offices or other premises for LegCo business but do not claim any reimbursement for rental expenses.

18. Certain Members from the functional constituencies lease office accommodation from bodies with which they are associated e.g. constituency associations or unions. Others may rent their ward offices from their political parties. There is no specific requirement for them to declare such

relationships although in many cases the affiliation of the Members to these bodies is widely known.

Staff Remuneration and Consultancy Services

19. The OOE account can also be used to meet payments for staff Members employed for Council business, including salaries, provident fund contributions and other employment-related benefits. A Member is not allowed to employ his relatives as staff, and relatives are defined in the Reimbursement Guide (which is identical to the definition under the Prevention of Bribery Ordinance). There is no requirement for a Member to declare any other relationship with his staff which may give rise to any perceived conflict of interest (e.g. a staff member being a close acquaintance or relative of a close acquaintance). There is also no specific requirement for Members to recruit staff in an open and fair manner and to ensure that their staff's salaries are reasonable having regard to the market rate. The Member is required to deposit a copy of the employment contracts with the LegCo Secretariat but these are not available for public inspection in view of personal data privacy. The names of the staff and the amount of remuneration claimed, however, must be provided in the reimbursement claims which are available for public inspection in the LegCo Library.

20. In employing staff to assist him in handling Council business, a Member may hire employees (e.g. his personal secretary) of his private business including an affiliated organization, and claim reimbursement to compensate the staff for the LegCo duties performed. However, such staff may be performing both their LegCo duties and private business's duties in an intermingled manner. This arrangement makes it difficult or impossible for the Member to quantify and justify, and the public to monitor, the portion of the staff costs that should be attributed to LegCo work.

21. A Member may also use the OOE to engage a consultant to provide consultancy services such as carrying out specific research projects or drafting speeches, under the remit of the OOE. Members and their relatives should not have any interest in the consultants employed and Members should not employ as their consultants their political parties or any

companies/organizations owned or run by the parties. Copies of the contracts are required to be deposited with the Secretariat, with the scope and precise nature of the consultancy work stated on the invoices which are made available for public inspection.

Procurement of Goods and Services

22. In the course of setting up their offices as well as maintaining their day-to-day operations, Members may use the OOE and other one-off provisions (para. 11) for procuring goods (e.g. furniture, stationary, office supplies, and IT equipment) and services (e.g. office removal and renovation/repair, IT training and printing services). The majority of purchases are generally of a low value and very often, they are handled by the Members' staff. The more costly items are IT equipment/services or fitting-out/renovation works.

23. At present, there are no procedural guidelines for procurement using the OOE or other one-off expenses reimbursements. Members are not required to follow any quotation procedures to ensure value for money, nor are they asked to avoid doing business with companies which they, their relatives or close acquaintances have a financial interest. In some cases, they make use of bulk supplies contracts of their companies or affiliated associations, which they believe are more economical.

Entertainment and Travelling Expenses

24. In addition to the annual OOE of \$1,331,160, Members may also seek reimbursement for entertainment³ (e.g. providing refreshments during a meeting with constituents) and travelling expenses up to \$150,160 a year. The Independent Commission (para. 13) regards this type of operating expenses as "non-accountable" in that Members are only required to certify

³ *The Reimbursement Guide defines entertainment as "the provision of food or drink for consumption on the occasion when it is provided and of any other entertainment connected with"; but expenses incurred solely for the LegCo Members themselves, their staff or other LegCo Members (and their staff) are not reimbursable.*

the amount of expenses incurred in a certain period – mostly done on a monthly basis – but not asked to provide a breakdown of the items of expenditure or any supporting documents⁴.

25. Some Members submit ETE claims of the same amount each month, roughly equivalent to one-twelfth of their annual entitlement, while other Members' claims vary each month. Certain Members stated that they retain receipts where available for the purpose of calculating the amount.

26. According to the Report on the Review of Remuneration Package for LegCo Members in the Third Term, ETE had a 92.1% utilization rate in the 2001/02 session, and 48 out of 60 Members utilized 100% of their ETE entitlement during the period.

Sharing of Equipment and Facilities

27. Sharing of expenses incurred for LegCo business with other parties (including the Member's own private company) is allowed provided that the Member indicates the basis of sharing and certifies that the amount claimed is a fair portion related to LegCo business. Thus, in practice a Member may share a piece of equipment or service (e.g. Internet service, telephone line) with another party such as his own company, and claim OOE for a portion which he estimates as attributable to LegCo business.

Claim Procedure

28. The LegCo Secretariat has designed a number of standard claim forms for different types of operating expenses claims from Members, see copy of covering claim form at **Appendix 2**. These standard forms all require the Members to certify that the reimbursement claim complies with

⁴ Before 1999, Legco Members were required to produce receipts in support of their ETE claims, but in view of the difficulties in obtaining receipts in certain circumstances and in order to streamline the administrative arrangements in processing such claims, the requirement to produce documentary proof of expenditure was removed.

the Reimbursement Guide and in the case of hiring staff, to declare that he has not claimed any reimbursement for employing his relatives.

29. The claim forms are usually prepared by the Members' staff, and certified by the Members before submission to the LegCo Secretariat for processing. When a claim does not comply with the conditions set out in the Reimbursement Guide, it will be returned to the Member concerned and the claim not reimbursed. In practice, Members or their staff often consult the Accounts Office of the Secretariat to ensure that the claims are in line with the Reimbursement Guide before submission.

Overseas Experiences

30. As part of this study, the CPD team has examined the practices and experiences of the legislature in four countries, namely, the United States of America, the United Kingdom, Canada, and New South Wales of Australia focusing on their Parliamentary rules and practices on similar issues, a summary of which is at *Appendix 3*. It is apparent from these rules and practices that the following general principles are adopted overseas -

- (a) Members and their family members/relatives (and in some countries, close associates) must not have any financial interest in contracts/transactions paid using Members' allowance;
- (b) The leasing of office accommodation owned by the Member or his relative using Members' allowance is not permitted;
- (c) Members must not employ their family members or relatives as parliamentary staff and should select their staff based on merits;
- (d) There should not be intermingling of Parliamentary and private business's resources/expenses (e.g. a Member cannot use the allowance to rent or pay for the mortgage cost of premises used both as Parliamentary office and for private purposes);
- (e) Members should avoid or declare conflict of interest in all

Parliamentary businesses, and resolve conflicts in favour of public interest; and

- (f) Contracts/transactions in relation to Parliamentary business and paid using Members' allowance must be at fair market value, and where there is a perceived conflict of interest, independent valuation should be obtained.

Part IV – Conclusion and Recommendations

General

Reimbursement

31. Apart from his monthly remuneration, a Member may seek reimbursement for various types of office expenses incurred in the course of discharging his Council duties. These include office operating expenses to cover the leasing of office accommodation, hiring of staff/consultancy services, purchase of equipment and furniture, etc. up to \$1,331,160 per year as well as entertainment and travelling expenses up to a maximum of \$150,160 a year. In addition, Members are entitled to one-off provisions for setting up offices and procuring IT equipment and services. Except for entertainment and travelling expenses, all other expenses are reimbursed on an accountable basis, i.e. Members are required to submit original documents such as invoices, receipts, etc. All expenses claimed must be related to Council's business.

32. A Reimbursement Guide (para. 13) is issued to assist Members in claiming reimbursement for operating expenses. While the Reimbursement Guide clearly states that Members must not claim expenses to employ relatives as staff to assist in handling Council duties, or engage consultancy services in which Members or their relatives or their political parties have an interest, similar restrictions are conspicuously absent with regard to the leasing of office accommodation by Members. Furthermore, the Reimbursement Guide does not contain a general requirement for Members to avoid and declare conflict of interest when such a situation arises in the course of spending public funds.

Findings

33. The LegCo's existing rules and guidelines, in comparison with those of the overseas jurisdictions under research, appear to be insufficient in

providing practical guidance to steer Members away from potential pitfalls when incurring public expenses. There is room for LegCo to provide more specific guidelines on claiming expenses in order to enhance the accountability of Members when using public funds and alleviate recent public concerns arising from individual incidents.

Recommendations

Guiding Principles

34. Since the operating expenses are met from the public coffer, there is a strong public expectation that these funds should be used in a fair, accountable and transparent manner. To meet the high public expectation, it is imperative that a Member must not profit or seem to have profited for himself, his relative or close acquaintance by virtual of his LegCo office. It is therefore *recommended* that LegCo should consider adopting the following principles for Members to observe in claiming expenses reimbursement -

- (a) a Member or his relative must not have any direct or indirect financial interest in, or be able to derive financial benefits from, any transaction against which reimbursement is claimed;
- (b) a Member should refrain from any transactions from which he himself, his relative or close acquaintance/business associate may be perceived to have benefited;
- (c) a Member should use the reimbursement in an open, fair and accountable manner;
- (d) if a conflict of interest cannot be avoided or has arisen, a Member should make a declaration which should be made available for public inspection;
- (e) should any conflict of interest become a matter of public concern, the Member should take steps to resolve the conflict in favour of the public interest.

Given the above considerations, it is advisable that LegCo Members should separate their private and LegCo operations/interests as far as possible, and be seen to be doing so to avoid any perception of conflict of interest and personal benefit.

Office Accommodation

Leasing from Self/Relatives

35. In view of the guiding principles set out in para. 34 above, it is *recommended* that Members should not claim expenses to lease office accommodation (paras. 16 - 17) -

- (a) which is owned by the Member himself or his relative;
- (b) in which the Member himself or his relative has a financial interest; or
- (c) owned by a company (except a listed company) in which the Member or his relative has a financial interest.

36. To make the best use of resources or out of convenience, currently a Member may arrange to sublease part of his private office for LegCo purposes and claim expenses. As the Member has a financial interest in the tenancy lease agreement which he signed with the landlord in respect of his private office, such subleasing as LegCo office falls within the restriction proposed at para. 35(b) above and should not be permitted.

37. Direct financial interest aside, sharing of the same office accommodation between LegCo and private business often involves the intermingling of a Member's private employees and LegCo staff, as well as the equipment, furniture and facilities of his private office with those funded by LegCo. This renders it difficult for the Member to separately account for his private and LegCo operations for the purposes of claiming official expenses. Also, this will open the Member to the allegation and perception that the Member is using public funds to subsidize his private operations, and

is therefore not supported.

38. The proposed restriction is in line with the views expressed by Members consulted during the course of this review and the accepted practices of overseas legislatures, i.e. Members must not use public funds to lease office accommodation in which they have a financial or personal (through relatives or close acquaintances) interest.

Leasing from Close Acquaintance or Affiliated Party/Organization

39. The ICAC is of the view that, as a matter of principle, a Member should avoid renting his ward office from his close acquaintance/business associate, political party or affiliated organization (para. 18), to avoid any perceived “transfer of advantages” to such parties. However, during the course of this review, some Members indicated that there might be practical advantages in running an office in a constituency association’s office/premises in order to facilitate contact with their constituents. Should LegCo consider it appropriate for its Members to rent office accommodation from such parties having regard to their constituents’ interest or public interest, it is ***recommended*** that a Member should then be required to -

- (a) declare his interest/relationship with the landlord;
- (b) provide justification that it is in his constituents’ interest/public interest to rent the premises; and
- (c) obtain independent valuation of the market rental.

Staff Expenses

Recruitment of Staff

40. There are currently no recruitment procedures for Members to follow in hiring staff (para. 19). While some go for open recruitment, others recruit through word of mouth or personal referral. The Reimbursement Guide only prohibits Members from recruiting relatives. As the employment

of Members' assistants is publicly funded, it is *recommended* that the LegCo should issue guidelines to Members on the recruitment of staff. Members should be required to select their staff based on merits, preferably with open recruitment (e.g. job advertisement in newspapers or through other channels such as the LegCo website). It is further *recommended* that -

- (a) Members should declare any relationship with a candidate that may give rise to perception of conflict of interest, e.g. the candidate is a close acquaintance or political associate of the Member or his relative;
- (b) Members should ensure that the total remuneration offered is reasonable and commensurate with the candidate's skills; and
- (c) the selection process and decision should be documented using a simple standard form which should then be deposited with the LegCo Secretariat to enhance transparency and to show proper appointment procedures have been followed.

Intermingling of Staff Resources

41. A Member may wish to employ the same person to work for him for both his private and LegCo business (para. 20). An example is a secretary/assistant who is already in the employ of the Member's private company, and on the Member's election to LegCo, he enters into a separate employment contract with the secretary/assistant to help in his LegCo duties. The same person performing both a Member's private and LegCo duties will give rise to the perception that the Member is using public funds to hire staff for his private work. The intermingling of private and LegCo duties is undesirable for reasons set out in para. 37 above. It is therefore *recommended* that a Member should not claim reimbursement for using his private employees for LegCo work.

Entertainment and Travelling Expenses

42. Members are entitled to claim reimbursement up to an annual

amount of \$150,160 for entertainment and travelling expenses incurred in relation to their Council business. They need to certify the amount they have spent on the claim form for reimbursement although no receipts or other documents are required to support the claim. It is however noted that some Members claimed a fixed amount each month, roughly one twelfth of the maximum claimable amount each year, while other Members' claims varied each month (paras. 24 - 25).

43. The Reimbursement Guide refers to such claim reimbursement without supporting documents as "non-accountable". This may be misleading and cause confusion among Members, giving them the impression that they do not have to account for such expenses. However, the current reimbursement arrangement, whereby a Member incurs certain expenses, certifies the amount he has spent and claims reimbursement, tend to suggest that he is required to vouch for the expenditure, particularly if there is an allegation that the claim is false.

44. It is therefore *recommended* that LegCo should review the whole arrangement for reimbursement of entertainment and travelling expenses. If the reimbursement arrangement is to be continued, then it should be made clear to the Members that the claims are accountable and Members should be reminded that they could only claim the exact amount of what they have actually expended. It is further *recommended* that Members should keep a log of their entertainment and travelling expenses, and where practicable, retain receipts issued for such expenses.

Procurement of Goods and Services

45. With the office operating expenses and other one-off provisions, a Member may claim reimbursement for purchasing goods (e.g. IT equipment, furniture) or services (e.g. office renovation, printing). Most of these purchases are made by Members' assistants. At present, there are no rules requiring such procurement to be conducted in a fair, open and accountable manner, nor are there guidelines on the quotation procedures (paras. 22 - 23). It is *recommended* that LegCo should draw up a set of fair and open

procurement guidelines, adopting the following practices -

- (a) use of quotation procedures for goods and services exceeding a specified value, e.g. three written quotations be obtained for any purchase over \$5,000 and the quotations be deposited with the Secretariat;
- (b) Members and their staff should not engage a contractor or supplier in which they have a financial interest; or companies owned/run by their relatives or close acquaintances; and
- (c) where the situation in (b) above cannot be avoided, their interests should be declared and the justifications for doing so documented (e.g. sole supplier/contractor for the goods/services required, enjoying lower prices from using bulk contracts of affiliated associations).

46. Some Members suggested that the LegCo Secretariat may assist Members in coordinating and purchasing commonly used goods such as IT equipment on behalf of Members, e.g. using government's standing contracts. It is *recommended* that the Secretariat should consider the feasibility of providing such a service.

Sharing of Other Office Operating Expenses

47. Members are currently allowed to claim reimbursement for expenses jointly incurred with another party provided that he certifies that the amount claimed represents a fair portion of the cost incurred for Council business (para. 27). As such, a Member may purchase a piece of equipment or lease a telephone line which is to be shared between his private company and LegCo office, and claim reimbursement for that part of the cost which he considers as attributable to Council business. The apportionment is arbitrary (e.g. assigning one-third of the cost to LegCo) and may give rise to the perception that the Member is using public funds to support his private business. It is therefore *recommended* that only expenses which are individually identifiable, clearly separable from private purposes and wholly

attributable to Council business may be claimed. For example, the cost for a fax machine or telephone line shared between a Member's private company and LegCo office should not be claimed because it is impossible to clearly identify and separate the LegCo use from private purposes. However, the cost for a long distance call made for Council business on the Member's private telephone line may be claimed because the expense is clearly identifiable and separable from his private purposes.

Declaration of Conflict of Interest

48. To assist Members in complying with the principles and rules, it is *recommended* that the LegCo should provide practical examples of situations in which expenses are reimbursable or not reimbursable and in which conflict of interest should be avoided/declared. The operating expenses reimbursement claim form should be revised to facilitate the declaration of conflict on interest by the Members. A sample is given at *Appendix 4*.

49. All declarations of conflict of interests should be deposited with the LegCo Secretariat and made available for public inspection.

Code of Conduct and Training for Members' Staff

50. Given that Members' staff's remuneration is met by public funds and their work is closely associated with the duties of Members, there is a legitimate expectation that their conduct should meet a high ethical standard. It is therefore *recommended* that a Code of Conduct should be drawn up for staff employed by Members for Council duties, including provisions such as prohibiting them from soliciting or accepting any advantages, managing confidentiality and conflict of interest, etc. CPD would be pleased to assist LegCo in the preparation of the Code and in training/briefing Members' staff on the requirements.

Compliance Audit

51. It is *recommended* that LegCo should establish an audit capability to ensure Members' compliance with the above principles and procedures when claiming their expenses reimbursement.

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**CLAIM FOR REIMBURSEMENT OF OFFICE OPERATION EXPENSES/
ENTERTAINMENT AND TRAVELLING EXPENSES
BY MEMBERS OF THE LEGISLATIVE COUNCIL**

SECTION I - DECLARATION AND CERTIFICATION

To : Secretary General
Legislative Council Secretariat,
(Attn : Accounts Office)

I, _____, Member of the Legislative Council, certify that my expenses listed below arose out of my Council duties for the month of _____ 200__. Please reimburse me with \$_____ in respect of the following :

<u>Section</u>	<u>HK\$</u>	<i>(Note 1)</i>
II Staff expenses		
III Equipment and furniture		
IV Office accommodation expenses		
V Other operating expenses		
Office operation expenses	_____	(A)
VI Entertainment and travelling expenses (after transferring \$_____ to Section II for employing staff) <i>(Note 2)</i>		(B)
Supporting documents and certified expenses amounted to	_____	(A)+(B)

I hereby declare that :

- a) I have not claimed any reimbursement for paying my relatives, if any, employed in my office;
- b) I have not claimed any consultancy fees for services provided by my political party or any companies/organizations owned or run by my political party; furthermore, my relatives and I have no interest in the consultants employed;
- c) I have no objection to disclosing the individual staff remuneration acknowledgments for public inspection;
- d) the funds set aside for contractual and statutory employment benefits as listed in section II below are not excessive, and will not be used for any other purposes, and I undertake to return to the Secretariat all unspent amounts;
- e) items costing \$1,000 or more and with a life span longer than one year, but excluding software and fixtures, are all included in section III below; and
- f) this reimbursement claim complies in all aspects with the Guide for Reimbursement of Operating Expenses for Members of the Legislative Council (hereafter referred to as Reimbursement Guide), which has been read and fully understood by me.

Signature of Member

Date

(Note 1) Subject to Note 2 below, the yearly claimable ceilings from 1.10.2004 to 30.9.2005 are (A) \$1,331,160 and (B) 150,160. Any expenditure exceeding these ceilings will not be reimbursable.

(Note 2) 50% of the entitlement for (B), i.e. \$75,080, can be transferred to (A) for the employment of staff. Any amount already claimed but subsequently redeployed for employing staff should be entered in brackets.

Rules and Practices for Members' Allowances in Selected Legislatures

	Hong Kong	United Kingdom	United States of America	New South Wales, Australia	Canada
Types of Allowances	<p>Member's Operating Expenses Reimbursement:</p> <ul style="list-style-type: none"> ◆ Office Operation (OOE) (incl. staff, office rental, furniture, consultancy service, etc.) ◆ IT and Communication Equipment ◆ Entertainment and Travelling (ETE) ◆ Postage (other than bulk mailing) ◆ Office Setting Up ◆ Winding Up 	<p>Member's Allowances:</p> <ul style="list-style-type: none"> ◆ Incidental Expenses Provision (IEP) (incl. office rental, equipment & supplies) ◆ Staffing ◆ Pension for Staff ◆ London Supplement ◆ Additional Costs (e.g. wholly, exclusively and necessarily incurred when staying overnight away from main home for Parliamentary duties) ◆ Winding Up ◆ Car Mileage, Bicycle, Motorcycle 	<p>Member's Representational Allowance:</p> <ul style="list-style-type: none"> ◆ Staff Expenses ◆ Official and Representational Expenses, incl: <ul style="list-style-type: none"> ◆ General (appliances, food & beverages, etc.) ◆ District Office (rental, furniture, etc.) ◆ Communication (advertisement, AV production, etc.) ◆ Equipment (computer & non-computer) ◆ Travelling ◆ And many more types ... 	<p>Member's Entitlements:</p> <ul style="list-style-type: none"> ◆ Expense Allowance – paid as a fixed % of the salary for certain office holders ◆ Allowances – fixed sum paid: <ul style="list-style-type: none"> ◆ Electorate Allowance – fixed monthly allowance for parliamentary duties ◆ Sydney Allowance – for MPs who reside in non-metropolitan electorates ◆ Committee Allowance – for chairmen ◆ Fixed Allocations – for actual expenses: <ul style="list-style-type: none"> ◆ Equipment & facilities – standard set provided by Administration ◆ Logistics Support Allocation – communications, printing, office supplies, equipment, etc. ◆ Electorate to Sydney & other travels 	<p>Member's Office Budget:</p> <ul style="list-style-type: none"> ◆ Staff and other expenses – employee salaries, service contracts, constituency office operating expenses (utilities, telephone, furniture, IT equipment) ◆ Travel ◆ Office lease for constituency offices <p>House Support (charged to House):</p> <ul style="list-style-type: none"> ◆ Travel between Ottawa and constituency ◆ Long-distance telephone calls ◆ Printing ◆ Office supplies ◆ Furniture, equipment, renovation, etc. for Ottawa office

Relevant Ethics Rules	<ul style="list-style-type: none"> ◆ Members should avoid/declare pecuniary interest in LegCo and Committee/Sub-committee proceedings (e.g. voting). ◆ Members' conduct should not bring discredit to LegCo. ◆ Members' conduct should not be contrary to generally expected standard for a LegCo Member. 	<ul style="list-style-type: none"> ◆ Members should not take decisions to gain financial or other material benefits for themselves, their family or friends. ◆ Members have a duty to avoid conflict of interest and take steps to resolve conflicts in favour of public interest. 	<ul style="list-style-type: none"> ◆ Member, his relative or anyone having professional/legal relationship with Member may not directly benefit from the expenditure of these allowances. ◆ Members should not seek to profit by virtue of their public office. ◆ Members should not do any special favors for family members. 	<ul style="list-style-type: none"> ◆ Members must declare conflict of interest and take steps to resolve conflicts in a way that protects public interests. ◆ In making public appointments, awarding contracts, etc. Members should make choices on merits. 	<ul style="list-style-type: none"> ◆ With respect to any contract for goods, services, premises or employment entered into by or for the Member and charged to the House of Commons appropriation, neither the Member nor his/her immediate family or parent shall be admitted to any share or part of the contract or to any benefit to arise therefrom.
Office Rental Rules	<ul style="list-style-type: none"> ◆ Tenancy agreement open for public inspection. 	<ul style="list-style-type: none"> ◆ Must not use allowance to lease accommodation from Member himself, his/her partners, relatives, close business associates, or any organization in which he, his partner/relative has an interest. ◆ Must exercise care and seek independent valuation when renting accommodation from Member's political party. ◆ Must avoid arrangements which may give rise to accusation of the Member obtaining profit from public funds. ◆ Must seek advice from Registrar of Members' Interests if Member obtains accommodation for free or 	<ul style="list-style-type: none"> ◆ District office must be leased at fair market value as the result of a bona fide, arms-length, marketplace transaction. 	<ul style="list-style-type: none"> ◆ Members' are provided with an office in the Parliament House and, for Members of National Assembly only, an electorate office fitted and maintained by the administration. ◆ Other than these, only cost of additional telephone line may be reimbursed for Member's "home office". ◆ 'Intermingling' of Parliamentary office accommodation with private activities is not allowed. 	<ul style="list-style-type: none"> ◆ General rule applies.

		rents it below market rate.			
Staff Expenses Rules	<ul style="list-style-type: none"> ◆ Cannot use OER to employ relative as staff. ◆ Need to declare not claiming OER to employ relatives. ◆ Names and salaries of staff open for public inspection. 	<ul style="list-style-type: none"> ◆ Members may not hire family members in their parliamentary offices. 	<ul style="list-style-type: none"> ◆ Law prohibits “nepotism”: a public official may not appoint, employ, promote, advance a relative to a position in the office in which the public official is serving or over which he exercises jurisdiction or control. ◆ Members may not hire family members in their congressional offices. ◆ Members may not refuse to hire an individual because of race, color, religion, sex, disability, age, or national origin of such individual, but may take into consideration the domicile or political affiliation of such individual. 	<ul style="list-style-type: none"> ◆ Employment of Members’ staff requires President’s approval and is arranged through the Legislative Council Administration, with salary determined in accordance with policy guideline. ◆ Selection of staff should be based on merits, i.e. have the skill, knowledge & experience best matched to the job requirements. Identifying a suitable person or advertising the vacancy are both acceptable recruitment methods. ◆ Staff are required to adhere to Code of Conduct for Staff issued by Legislative Council. ◆ ‘Intermingling’ of staff resources with private activities not allowed. 	<ul style="list-style-type: none"> ◆ General rule applies. ◆ Maximum annual salary of a staff member set by the Board of Internal Economies. No OT payment.
ETE Rules	<ul style="list-style-type: none"> ◆ No supporting documents required. ◆ Entertainment (defined as in POBO) solely for Members & staff normally not reimbursable. 	<ul style="list-style-type: none"> ◆ Entertainment and hospitality expenditures not reimbursable. 	<ul style="list-style-type: none"> ◆ Food and beverage expenses incidental to official meetings that include outsiders are reimbursable with supporting documents (e.g. receipt), but not for social activities/events and not for alcoholic drinks. 	<ul style="list-style-type: none"> ◆ No specific provision for entertainment, but catering service is provided by the Parliament House for meetings/functions. ◆ Travel expenses reimbursable with production of receipt / tax invoice. 	<ul style="list-style-type: none"> ◆ No specific provision for entertainment.

Equipment Expenses Rules	<ul style="list-style-type: none"> ◆ Restricted to list of equipment allowed and to pre-approved quantity. 	<ul style="list-style-type: none"> ◆ Standard set of IT equipment provided by Dept. of Finance and Administration. ◆ Additional equipment may be purchased using IEP. 	<ul style="list-style-type: none"> ◆ May purchase/rent computer/other equipment or district office furnishings from any vendor, so long as the purchase is the result of a bona fide arms-length marketplace transaction. 	<ul style="list-style-type: none"> ◆ Parliament provides standard set of equipment to Members, but Members may purchase additional items using Logistics Support Allocation. ◆ ‘Intermingling’ of equipment with private use not allowed. 	<ul style="list-style-type: none"> ◆ General rule applies.
Rules & Guidelines	<ul style="list-style-type: none"> ◆ A Guide for Reimbursement of Operating Expenses for Members of the LegCo ◆ Advisory Guidelines on Matters of Ethics in relation to the conduct of Members of the LegCo of the HKSAR in their capacity as such 	<ul style="list-style-type: none"> ◆ “The Green Book” – Parliamentary Salaries, Allowances and Pensions ◆ The Code of Conduct for Members of Parliament ◆ Guide to the Rules relating to the Conduct of Members 	<ul style="list-style-type: none"> ◆ Congressional Handbook ◆ User’s Guide to Purchasing Equipment, Software, and Related Services ◆ Code of Official Conduct ◆ Ethics Manual ◆ Highlights of Ethics Rules 	<ul style="list-style-type: none"> ◆ Member’s Guide ◆ Code of Conduct for Members of Parliament 	<ul style="list-style-type: none"> ◆ Standing Orders of the House of Commons ◆ Rules of Application ◆ Code of Conduct for Parliamentarians ◆ Conflict of Interest Code for Members of the House of Commons

CLAIM FOR REIMBURSEMENT OF OFFICE OPERATION EXPENSES/ ENTERTAINMENT AND TRAVELLING EXPENSES BY MEMBERS OF THE LEGISLATIVE COUNCIL

SECTION I – DECLARATION AND CERTIFICATION

To : Secretary General
Legislative Council Secretariat,
(Attn. : Accounts Office)

I, _____, Member of the Legislative Council, certify that my expenses listed below arose out of my Council duties for the month of _____ 200____. Please reimburse me with \$ _____ in respect of the following :

Section	HK\$	(Note 1)
II Staff expenses		
III Equipment and furniture		
IV Office accommodation expenses		
V Other operating expenses		
Office Operation expenses	_____	
VI Entertainment and travelling expenses		(A)
(after transferring \$ _____ to Section H for employing staff) (Note 2)	_____	(B)
Supporting documents and certified expenses amounted to	_____	(A)+(B)

I hereby declare that :

- a) I have not claimed any reimbursement for paying my relatives, if any, employed in my office;
- b) I have not claimed any consultancy fees for services provided by my political party or any companies/organizations owned or run by my political party; furthermore, my relatives and I have no interest in the consultants employed;
- c) **I have not claimed any reimbursement for renting any property in which I / my relative have a financial interest.**
- d) I have no objection to disclosing the individual staff remuneration acknowledgments for public inspection;
- e) the funds set aside for contractual and statutory employment benefits as listed in section II below are not excessive, and will not be used for any other purposes, and I undertake to return to the Secretariat all unspent amounts;
- f) items costing \$1,000 or more and with a life span longer than one year, but excluding software and fixtures, are all included in section III below; and
- g) this reimbursement claim complies in all aspects with the Guide for Reimbursement of Operating Expenses for Members of the Legislative Council (hereafter referred to as Reimbursement Guide), which has been read and fully understood by me.

- I have claimed reimbursement for renting property owned by my political party / constituency association / affiliated organization, close acquaintance/associate, and consider that it is in my constituents' / the public interest to do so. Details and justifications are provided on Form A-1 (submitted with copy of the tenancy agreement).**
- I have claimed reimbursement for paying my close acquaintance/associate employed in my office. Details and justifications are provided on Form A-1 (submitted with copy of the employment contract).**
- I have claimed reimbursement for procuring goods/services from a supplier/contractor owned/operated by my relative or close acquaintance/associate, or in which I have financial interest. Details and justifications are provided on Form A-1.**

Signature of Member

Date

Note: Items in blue are declarations suggested for inclusion on the claim form in line with recommendations in the report.

**Declaration of Interest in Contracts for
Goods/Services/Premises for Legislative Council Business**

<i>Nature and Description of Goods/Services/Premises</i>
<i>Relationship with Supplier/ Staff/Landlord or Conflict of Interest</i>
<i>Reasons for Using the Supplier/Staff/Premises despite the Conflict</i>
<hr style="width: 200px; border: 0.5px solid black; margin: 0;"/>
Signature of Member
<hr style="width: 200px; border: 0.5px solid black; margin: 0;"/>
Date

Legislative Council (LegCo) (立法會)

Rules and Practices for the Reimbursement of Members' Operating Expenses

Summary of Recommendations

The Corruption Prevention Department of the Independent Commission Against Corruption recommends that:-

Guiding Principles

- LegCo should consider adopting the following guiding principles for its Members to observe in claiming expenses reimbursement (para. 34):-
 - ◆ a Member or his relative must not have any direct or indirect financial interest in, or be able to derive financial benefits from, any transaction against which reimbursement is claimed;
 - ◆ a Member should refrain from any transactions from which he himself, his relative or close acquaintance/business associate may be perceived to have benefited;
 - ◆ a Member should use the reimbursement in an open, fair and accountable manner;
 - ◆ if a conflict of interest cannot be avoided or has arisen, a Member should make a declaration which should be made available for public inspection;
 - ◆ should any conflict of interest become a matter of public concern, the Member should take steps to resolve the conflict in favour of the public interest;
- ◆ Members should separate their private and LegCo operations/interests as far as possible, and be seen to be doing so to avoid any perception of conflict of interest and personal benefit (also paras. 36-37, 41, 47).

Office Accommodation

- Members should not claim reimbursement to lease office accommodation in which he or his relative has any financial interest (para. 35).
- Should LegCo consider it appropriate for a Member to rent office accommodation from his affiliated association/political party having regard to his constituents' interest or public interest, the Member should declare interest, provide justifications and obtain independent valuation of the market rental (para. 39).

Recruitment of Staff

- A Member should recruit his staff based on merits, preferably with open recruitment and declare any conflict of interest, ensure that the total remuneration offered commensurate with the candidate's skills, and document the selection process and decision (para. 40).

Entertainment and Travelling Expenses (ETE)

- LegCo should review the whole ETE arrangement. If the reimbursement arrangement is to be continued, then it should be made clear to the Members that the claims are accountable and Members should be reminded that they could only claim the exact amount of what they have actually expended (para. 44).
- Members should keep a log of their entertainment and travelling expenses and, where practicable, retain receipts issued for such expenses (para. 44).

Procurement

- Members and their staff should not engage a contractor or supplier in which they have a financial interest; or companies owned/run by their relatives/close acquaintances; and if this cannot be avoided, they should declare interest and document the justifications for doing so (e.g. sole supplier, more competitive price from bulk purchase) (para. 45).
- LegCo should adopt procurement guidelines requiring Members to obtain quotations for purchases exceeding, say, \$5,000 to ensure value for money (para. 45).

Others

- LegCo should provide practical examples of situations in which expenses are reimbursable or not reimbursable and in which conflict of interest should be avoided/declared; and revise the operating expenses reimbursement claim form to facilitate the declaration of conflict of interest (para. 48).
- LegCo should draw up a Code of Conduct for staff employed by its Members, and organize training/briefings for them (para. 50).
- LegCo should establish an audit capability in ensuring Members' compliance with the above principles and procedures when claiming their expenses reimbursement (para. 51).