

Summary of Response

Subcommittee on Members' Remuneration and
Operating Expenses ReimbursementOpinion Survey on ICAC's Recommendations on
"Rules and Practices for the Reimbursement of Members' Operating Expenses"

(As at 16 June 2005)

No. of respondents : 53

No. of non-respondents : 7

ICAC's Recommendations	Agree	Disagree	Remarks/Comments/Other Views
1. <u>Guiding Principles</u> (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.	(42)	(0)	(11) - No special views (11)
(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.	(43) - Clear definitions of "close acquaintance" and "business associate" are necessary for compliance (12) - Apart from the restriction on "close acquaintance", all other provisions are acceptable. The definition of "close acquaintance" is relatively broad (1)	(0)	(10) - No special views (10)
(c) A Member should use the reimbursement in an open, fair and accountable manner.	(43)	(0)	(10) - No special views (10)

ICAC's Recommendations	Agree	Disagree	Remarks/Comments/Other Views
(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.	(43)	(0)	(10) - No special views (10)
(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.	(43)	(0)	(10) - No special views (10)
(f) 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.	(42) - Can be difficult in practice. Open, fair and accountable should be the guiding principle (1)	(1)	(10) - No special views (10)
2. <u>Office Accommodation</u> (a) Members should not claim reimbursement to lease office accommodation in which he or his relative has any financial interest.	(40)	(13) - Market rental should be determined by independent valuation. Should be used for Members' Office only. Members should not share office accommodation with other companies (1) - Principle should be announced. Rules should apply (1)	(0)

ICAC's Recommendations	Agree	Disagree	Remarks/Comments/Other Views
<p>(b) A Member should avoid renting his ward office from his close acquaintance/ business associate, political party or affiliated organization.</p>	<p align="center">(16)</p> <ul style="list-style-type: none"> - but should not be prohibited (1) - Apart from the restriction on “close acquaintance”, all other provisions are acceptable (1) 	<p align="center">(24)</p> <ul style="list-style-type: none"> - Declaration is necessary (1) - Principle should be announced. Rules should apply (1) 	<p align="center">(13)</p> <ul style="list-style-type: none"> - Members should avoid renting office from his close acquaintance/business associate. Members can rent office from his affiliated political party/ association, but declarations are necessary. If there are guidelines with clear definitions of “close acquaintance”, “business associate”, affiliated political party/association, it would be easier for Members to comply with the rules (12) - Should set up a mechanism on the sharing of rents of these offices (1)
<p>(c) 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.</p>	<p align="center">(51)</p>	<p align="center">(0)</p>	<p align="center">(2)</p> <ul style="list-style-type: none"> - No comment (2)

ICAC's Recommendations	Agree	Disagree	Remarks/Comments/Other Views
<p>3. Recruitment of Staff</p> <p>(a) 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. Documentation concerned should be deposited with the LegCo Secretariat to enhance transparency.</p>	<p style="text-align: center;">(28)</p> <ul style="list-style-type: none"> - A standard declaration form for Members to fill in the information can facilitate Members' compliance with the requirement. Members' staff and applicants are required to declare whether they belong to the same political party or group as that of the Member (12) - In accordance with a standard format (1) 	<p style="text-align: center;">(22)</p> <ul style="list-style-type: none"> - It is not necessary to disclose the recruitment process of staff (10) 	<p style="text-align: center;">(3)</p> <ul style="list-style-type: none"> - Agree that staff should be recruited based on merits, but has reservation on the recruitment method (1) - There are presently guidelines on this issue. As Members' assistants are not public figures, a balance has to be struck between the proper use of public funds and protection of privacy (1) - Staff members' privacy should be protected (1)
<p>(b) Intermingling of private and LegCo duties is undesirable; a Member should not claim reimbursement for using his private employees for LegCo work. (ICAC's original recommendation)</p>	<p style="text-align: center;">(13)</p> <ul style="list-style-type: none"> - If a Member's "private" business is non-commercial in nature and involves no pecuniary benefits (such as charity work), it should be acceptable (1) 	<p style="text-align: center;">(25)</p> <ul style="list-style-type: none"> - Members' private and LegCo duties are sometimes difficult to differentiate. (10) - Permission should be granted if proven that public funds can be saved (1) 	<p style="text-align: center;">(15)</p> <ul style="list-style-type: none"> - Accept the alternative arrangement proposed by ICAC (13) - No comment (1)

ICAC's Recommendations	Agree	Disagree	Remarks/Comments/Other Views
<p>(c) Intermingling of private and LegCo duties should be avoided as far as practicable. If LegCo work and private business cannot be clearly separated and accounted for, the following arrangement may be considered:</p> <p>(i) declare in the employment contract whether the staff member he proposes to hire is also in his private employ and the capacity in which the staff member is to be employed;</p>	(42)	<p style="text-align: center;">(1)</p> <p>- Sharing of staff in private business or shared employment of staff should be prohibited (1)</p>	<p style="text-align: center;">(10)</p> <p>- The presentation of this issue is unclear and further discussion in detail is necessary (10)</p>
<p>(ii) detail the duties involved and, if the staff member is also employed in the Member's private business, the percentage of work that is related to his LegCo business;</p>	(40)	<p style="text-align: center;">(3)</p> <p>- Should not be permitted (1)</p>	<p style="text-align: center;">(10)</p> <p>- The presentation of this issue is unclear and further discussion in detail is necessary (10)</p>
<p>(iii) make available a copy of the employment contract for public inspection (personal identifiers and data may be blocked out if necessary); and</p>	(40)	<p style="text-align: center;">(3)</p> <p>- Should not be permitted (1)</p>	<p style="text-align: center;">(10)</p> <p>- The presentation of this issue is unclear and further discussion in detail is necessary (10)</p>
<p>(iv) certify on the monthly reimbursement claim form that the staff member has performed the duties as detailed in the employment contract.</p> <p>(ICAC's proposed alternative arrangements in the light of the Subcommittee's concern that its original recommendation may cause practical difficulty and inconvenience.)</p>	(41)	<p style="text-align: center;">(2)</p> <p>- Should not be permitted (1)</p>	<p style="text-align: center;">(10)</p> <p>- The presentation of this issue is unclear and further discussion in detail is necessary (10)</p>

ICAC's Recommendations	Agree	Disagree	Remarks/Comments/Other Views
<p>4. <u>Entertainment and Travelling Expenses (ETE)</u></p> <p>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. Alternatively, ETE should be made non-accountable in the form of a lump-sum allowance, or part of a Members' remuneration.</p> <p><i>In view of ICAC's recommendation that LegCo should review the whole ETE arrangement, the Subcommittee recommends that four alternatives be suggested for Members' consideration (please indicate your agreement to no more than one alternative):</i></p> <p>(a) <u>Adopt ICAC's original recommendation:</u> <i>If the current reimbursement arrangement is to be continued, Members' claims should be accountable and Members can only claim the exact amount of what they have actually expended. Members should keep a log of their entertainment and travelling expenses and, where practicable, retain receipts issued for such expenses.</i></p>	<p>(3)</p>	<p>(3)</p>	<p>(0)</p>
<p>(b) <u>Adopt ICAC's alternative recommendation:</u></p> <p><i>ETE should be made non-accountable in the form of a lump-sum allowance, or part of a Members' remuneration, which is taxable.</i></p>	<p>(3)</p>	<p>(2)</p>	<p>(0)</p>

ICAC's Recommendations	Agree	Disagree	Remarks/Comments/Other Views
(c) <i>Maintain the existing arrangement:</i> <i>According to the Independent Commission's recommendation in 1999, which had been endorsed by the Executive Council, no receipts for ETE, which are non-accountable, were required to be submitted. Also, no requirement for retention of receipts or logging of expenses was specified by the Independent Commission.</i>	(43)	(0)	(0)
(d) <i>Introduce a hybrid arrangement:</i> <i>For expenses with receipts, classify as reimbursement, which will be non-taxable; and for expenses without receipts, classify as remuneration of the Member, which will be taxable.</i>	(6)	(3)	(0)
5. Procurement (a) 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).	(41) - Should be prohibited (1) - Apart from the restriction on "close acquaintance", all other provisions are acceptable (1)	(1)	(11) - No special views (11)
(b) LegCo should adopt procurement guidelines requiring Members to obtain quotations for purchases exceeding, say, \$5,000 to ensure value for money.	(38) - In setting the amount, the value should not be too low (1)	(3) - Because an expenditure ceiling has already been set (1) - Quotations needed for over \$10,000 only (1)	(12) - No special views (12)

ICAC's Recommendations	Agree	Disagree	Remarks/Comments/Other Views
(c) The Secretariat may consider assisting Members in co-ordinating and purchasing commonly used goods such as IT equipment on behalf of Members, e.g. using government's standing contracts.	(37)	(3)	(13) - No special views (13)
6. <u>Sharing of Other Office Operation Expenses</u> Only expenses (e.g. sharing of telephone lines, computer systems, photocopiers and electricity) that are individually identifiable, clearly separable from private purposes and wholly attributable to Council business may be claimed.	(41)	(2)	(10) - No special views (10)
7. <u>Others</u> (a) The Secretariat 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.	(43)	(0)	(10) - No special views (10)
(b) LegCo should draw up a Code of Conduct for Members' staff on the procurement of goods and services, and organize training/briefings for them.	(41)	(2)	(10) - No special views (10)
(c) LegCo should establish an audit capability in ensuring Members' compliance with the above principles and procedures when claiming their expenses reimbursement.	(32)	(11)	(10) - No special views (10)

() No. of Members