

**Mechanism for Handling Complaints and Allegations Concerning
Members’ Operating Expenses Reimbursement Claims**

Possible Scenarios

I. Mechanism for handling complaints and allegations concerning Members’ OER claims <u>only</u>	II. Mechanism for handling complaints and allegations concerning Members’ misconduct
<p><u>General observations</u></p> <p>(a) This is within the terms of reference of the existing Subcommittee to Consider a Mechanism for Handling Complaints and Allegations Concerning Members’ Operating Expenses Reimbursement Claims (SC) as approved by the House Committee (HC).</p>	<p><u>General observations</u></p> <p>(a) As this is outside the scope of the terms of reference of the Subcommittee to Consider a Mechanism for Handling Complaints and Allegations Concerning Members’ Operating Expenses Reimbursement Claims (SC) as approved by the House Committee (HC), it is necessary to report back to HC, with the following possible recommendations:</p> <ul style="list-style-type: none"> (i) expand the terms of reference of the existing SC to cover complaints and allegations concerning Members’ misconduct; or (ii) request the Committee on Members’ Interest (CMI) to take up the issues. (Under the terms of reference of CMI, one of its functions is “to consider matters of ethics in relation to the conduct of Members in their capacity as such, and to give advice and issue guidelines on such matters”.); or (iii) set up a new Subcommittee for this purpose.

(b) There is already “A Guide for Reimbursement of Operating Expenses Reimbursement for Members of the Legislative Council”. The Subcommittee on Members’ Remuneration and Operating Expenses Reimbursement is considering ICAC’s recommendations on the Guide.

(b) There should be a code of conduct for Members providing yardsticks against which Members’ behaviour should be measured.

<u>Possible scenarios</u>	<u>Possible scenarios</u>
<p>(a) Expand the terms of reference of the Committee on Members' Interests (CMI) to include handling of complaints and allegations concerning Members' OER claims:</p> <ul style="list-style-type: none">(i) This is the recommendation of the SC in the second LegCo term.(ii) CMI has a balanced membership with representatives from all major political groupings.(iii) Procedurally and operationally simple for CMI to handle these complaints, as a set of complaint handling procedures in relation to the registration and declaration of interests already exists. Moreover, the number of complaints concerning OER claims is not envisaged to be frequent and many.(iv) Might be criticized by the public as "Members investigating Members".	<p>(a) Expand the terms of reference of CMI to include handling of complaints and allegations concerning Members' misconduct:</p> <ul style="list-style-type: none">(i) CMI has a balanced membership with representatives from all major political groupings.(ii) Procedurally and operationally simple for CMI to handle these complaints, as a set of complaint handling procedures in relation to the registration and declaration of interests already exists. Moreover, the number of complaints concerning Members' misconduct is not envisaged to be frequent and many.(iii) Might be criticized by the public as "Members investigating Members".

<p>(b) Establish a new standing committee similar to CMI to handle complaints and allegations concerning Members' OER claims:</p> <ul style="list-style-type: none">(i) This is organizationally cumbersome, with two committees handling complaints, and possibly with two different sets of procedures. Besides, a single case may involve areas covered by both committees.(ii) Might be criticized by the public as "Members investigating Members".	<p>(b) Establish a new standing committee similar to the Committee on Standards of Official Conduct in US:</p> <ul style="list-style-type: none">(i) The new committee will deal with all types of complaints and allegations concerning alleged violations of the Code of Conduct for Members, including registration and declaration of interests, abuse of OERs etc.(ii) Might be criticized by the public as "Members investigating Members".
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<p>(c) Appoint a Commissioner reporting to HC/expanded CMI/new standing committee (?)</p> <p>(i) An eligible independent person may be able to provide credibility both outside and inside LegCo, thus avoiding “Members investigating Members”.</p> <p>(ii) Unless the appointment is on an honorary basis, it may be difficult to attract a person with the right calibre if the remuneration is too low. On the other hand, it may not be cost-effective to have a highly-paid* Commissioner to deal with the expectedly very few complaints concerning OER claims. Unlike UK and Canada, the HKSAR LegCo has a much smaller membership.</p> <p>(*Note: In UK, the annual remuneration of the Commissioner is about £111,500 (HK\$1,628,000). He works 4 days a week. In Canada, the annual remuneration of the Commissioner ranges from C\$239,700 to C\$282,000 (HK\$1,520,000 to HK\$1,800,000). He works full-time.)</p>	<p>(c) Appoint a Commissioner reporting to HC/expanded CMI/new standing committee (?)</p> <p>(i) An eligible independent person may be able to provide credibility both outside and inside LegCo, thus avoiding “Members investigating Members”.</p> <p>(ii) Unless the appointment is on an honorary basis, it may be difficult to attract a person with the right calibre if the remuneration is too low. On the other hand, it may not be cost-effective to have a highly-paid* Commissioner to deal with the expectedly very few complaints concerning Members’ misconduct. Unlike UK and Canada, the HKSAR LegCo has a much smaller membership.</p> <p>(*Note: In UK, the annual remuneration of the Commissioner is about £111,500 (HK\$1,628,000). He works 4 days a week. In Canada, the annual remuneration of the Commissioner ranges from C\$239,700 to C\$282,000 (HK\$1,520,000 to HK\$1,800,000). He works full-time.)</p>
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Prepared by the Legislative Council Secretariat
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