

立法會
Legislative Council

LC Paper No. FC23/06-07
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by the Administration)

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Finance Committee of the Legislative Council

**Minutes of the 2nd meeting
held at the Legislative Council Chamber
on Friday, 3 November 2006, at 3:00 pm**

Members present:

Hon Emily LAU Wai-hing, JP (Chairman)
Hon CHAN Kam-lam, SBS, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Martin LEE Chu-ming, SC, JP
Hon Fred LI Wah-ming, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Hon WONG Yung-kan, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP

Hon Albert CHAN Wai-yip
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, JP
Hon Daniel LAM Wai-keung, SBS, JP
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon WONG Ting-kwong, BBS
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Albert Jinghan CHENG
Hon KWONG Chi-kin
Hon TAM Heung-man

Members absent:

Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBS, JP
Hon Bernard CHAN, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon CHOY So-yuk, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon LI Kwok-ying, MH, JP
Hon MA Lik, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

Public officers attending:

Mr Frederick MA Si-hang, JP	Secretary for Financial Services and the Treasury
Mr Alan LAI Nin, GBS, JP	Permanent Secretary for Financial Services and the Treasury (Treasury)
Miss Amy TSE, JP	Deputy Secretary for Financial Services and the Treasury (Treasury) 1
Mr Alfred FOK	Principal Executive Officer (General), Financial Services and the Treasury Bureau (The Treasury Branch)
Miss Elizabeth TSE, JP	Director of Administration

Miss Shirley YUEN
Mr K C YAU

Deputy Director of Administration
Assistant Director of Administration

Clerk in attendance:

Ms Pauline NG

Assistant Secretary General 1

Staff in attendance:

Miss Becky YU

Chief Council Secretary (1)1

Mrs Mary TANG

Senior Council Secretary (1)2

Ms Alice CHEUNG

Senior Legislative Assistant (1)1

Mr Frankie WOO

Legislative Assistant (1)2

Action

Item No. 1 - FCR(2006-07)23

HEAD 112 – LEGISLATIVE COUNCIL COMMISSION

- ♦ **Subhead 366 Remuneration and reimbursements for Members of the Legislative Council**
- ♦ **Subhead 872 Non-recurrent expenses reimbursements for Members of the Legislative Council**

The Chairman advised that the present proposal was discussed by the Subcommittee on Members' Remuneration and Operating Expenses Reimbursement (the Subcommittee) on 18 May and 1 November 2006. She also declared on behalf of all members that they all had the same pecuniary interest in the matter and, according to past practice, they could speak and vote on the proposal.

2. The Chairman drew members' attention to a supplementary information note provided by the Administration (LC Paper No. FC10/06-07) and a submission from the Councillors' Workers Association (the Association) tabled at the meeting.

3. Prof Patrick LAU, Chairman of the Subcommittee, said that the Subcommittee had accepted the recommendation of the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region (the Independent Commission) to increase the annual accountable allowance for operating expenses reimbursement (OER) for Legislative Council (LegCo) Members by 10% with retrospective effect from 1 October 2006. It also accepted the Independent Commission's proposal to relax the restriction against shared employment of staff by LegCo Members. However, some of the members, particularly those returned from geographical constituencies, had pointed out that the proposed 10% increase by the Independent Commission fell far short of the 20% increase as agreed by different political parties and supported by the Subcommittee.

Level of OER

4. Prof Patrick LAU, speaking on behalf of the Members of the Alliance, pointed out that the proposed 10% increase in OER was not sufficient to cover the operating expenses of Members' offices. The existing level of OER was inadequate for the majority of Members, as evidenced by the fact that 43 out of 60 Members had used up 90% or above of their entitled OER in 2004-2005. The present level of OER together with the proposed 10% increase had in effect limited Members' services to the public. Members were not able to set up enough offices to provide services to the public. To this end, consideration should be given to working out the level of OER based on the number of offices required by Members to service his/her constituency.

5. The Director of Administration (D of Adm) said that the Independent Commission accepted that there was a case for an increase in the OER limit given the high utilization rate in the past years. However, it had to be prudent in the use of public money. When the Independent Commission met with the LegCo Subcommittee on 2 August 2006, the Independent Commission specifically sought Members' clarification on why a 20% increase was proposed. The Commission was told that the proposal reflected more of a compromise amongst Members than one based on quantitative analysis. The Independent Commission considered it prudent to examine the statistics in hand more carefully with a view to establishing a more objective basis for an OER adjustment. As the need among Members and the cost of running a Member's office varied significantly, the Commission reckoned that it was difficult, if not impossible, to devise an objective yardstick to determine the optimum number of assistants and district offices for Members, having regard to their different background and modes of operation. Among other factors, the Independent Commission noted that for 2004-05, each Member had engaged on average five full-time and two part-time staff; by taking into account the median wages for these support staff, it could be inferred that a 10% OER increase would be appropriate. The Independent Commission had also considered the OER utilization rates. The Independent Commission noted that the average utilization rate stood consistently above 90% since the OER limit was last substantially increased in October 2001. Furthermore, the Independent Commission took into account the median OER claimed by LegCo Members in 2004-05 and took this median as 90% of an alternative limit (i.e. assuming 10% underspending) in order to arrive at an alternative limit. Having regard also to changes in population and registered electors, the Independent Commission concluded that a 10% increase would be appropriate.

6. Dr YEUNG Sum said that Members of the Democratic Party were in support of the proposal, but as pointed out in the submission from the Association, the existing OER was not enough for Members to set up district offices and hire sufficient staff. As a result, Members' assistants had to work long hours which had in turn affected their family life and their pursuit of further education. This had resulted in a high turnover of Members' assistants. There was hence a need to review the adequacy of the 10% increase in OER level.

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7. The Chairman asked how the percentage increase in OER was arrived at and whether the proposed increase had taken into account expenses incurred by Members in excess of the OER limit. D of Adm said that the Independent Commission had considered the utilization rates of OER in the past few years as well as a basket of other factors in arriving at a revised ceiling for OER. If a 10% increase in OER was allowed, the annual accountable allowance for OER for each Member would be increased from \$1,361,880 to \$1,498,070, representing an increase of \$136,190. The increase would be sufficient to cover the average over-ceiling expenses by each Member. According to the information on over-ceiling expenses incurred by Members in the past three years provided by the LegCo Secretariat, three Members had incurred expenses above the OER limit by an average of \$23,600 in 2004-2005, five Members had incurred expenses above the OER limit by an average of \$94,600 in 2003-2004 and five Members had incurred expenses above the OER limit by an average of \$98,000 in 2002-2003. The Chairman however considered it inappropriate to use the over-ceiling expenses to derive the magnitude of increase since not all Members could absorb the expenses in excess of the OER limit.

8. Mr WONG Ting-kwong said that he was not aware that the magnitude of increase in OER was determined having regard to the over-ceiling expenses incurred by Members. If so, he would have set out in the reimbursement claims the over-ceiling expenses which were paid out of his own pocket. He pointed out that the existing OER was not sufficient to cover the remuneration for Members' assistants/secretaries and he had to subsidize them out of his own pocket. He therefore considered the proposed increase of 20% in OER put forward by the Subcommittee was very reasonable.

9. Dr Fernando CHEUNG was not convinced that Members' operating expenses should be capped at a certain level. As OER was paid on an accountable and reimbursement basis, it would not benefit Members' own pockets nor would it be susceptible to abuse. Hence, a more logical approach was to allow Members to claim reimbursements based on their actual needs. If a ceiling was considered necessary, this should be set with reference to the median level of reimbursements from Members. A mechanism should also be established to deal with situations where Members' operating expenses had exceeded the ceiling.

10. D of Adm clarified that the magnitude of the increase in OER was not determined on the basis of the over-ceiling expenses but rather on a basket of factors referred to above. She added that while the Independent Commission had accepted that an increase in OER was warranted, it noted that the proposed 20% increase put forward by the Subcommittee was more of a compromise among political parties than an outcome of a quantitative analysis. The Independent Commission had conducted a vigorous analysis before coming to the recommendation that the OER be increased by 10%. To facilitate future review, the Chairman instructed the LegCo Secretariat to remind Members again that they should set out in their reimbursement claims the expenses in excess of the OER limit which were paid out by them.

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11. While appreciating the efforts made by the Independent Commission in assessing the OER levels, Mr Abraham SHEK expressed disappointment that it failed to recognize the plight of Members in running their offices, nor was the Independent Commission aware of the nature of LegCo membership because it still regarded this as a public service and not a job. He further pointed out that many of Members' assistants had very good qualifications but were underpaid. The reason why they were staying on was because of their mission in politics. He opined that their political talent should be nurtured and they should be remunerated according to their qualifications. The Independent Commission should exchange views with Members, particularly those returned from geographical constituencies, on the difficulties they faced in running their offices in the absence of sufficient funding. It should also explain to the public that OER was not for Members' personal benefits but intended for the operation of Members' offices which were set up to serve the public. The Chairman concurred with Mr SHEK on the need for the Independent Commission to visit Members' offices at the district level to see for themselves the operation of these offices.

12. D of Adm reiterated that the Independent Commission was sympathetic to the reasons put forward by the Subcommittee in support of its request for enhancing OER. It had agreed that an increase was warranted, given the increased complexity and pressure of LegCo work. The inadequacy of the current level of OER was also evidenced by the fact that the majority of Members had spent 90% or above of their OER in 2004-2005. At the meeting on 2 August 2006, the Independent Commission exchanged views with Members of the Subcommittee and other LegCo Members on the magnitude of the increase. Having taken into account a basket of factors, including the utilization rates of OER, statistics on the number of offices operated and staff employed by Members (assuming that each member would engage five full-time and two part-time staff on average and that staff payments were to constitute only 68.5% of OER), changes in population and the number of registered electors for geographical constituency elections, as well as the nature of work and demands placed on Members, the Independent Commission had come to a view that a 10% increase to OER would be appropriate.

13. Mr Albert HO said that it was unfair that the same level of OER should apply to all Members, irrespective of the channel through which they were elected. He pointed out that Members returned from geographical constituencies were accountable to much more voters than their counterparts returned from functional constituencies. By way of illustration, the New Territories West (NTW) constituency from which he was elected covered more than 1.8 million voters, but he was only able to set up two offices in NTW to provide service to the public given the limited funding. The Chairman echoed that consideration should be given to setting an objective criterion to determine the optimum number of Member's offices and assistants. Reference could be made to the number of District Councils within one geographical constituency. Assuming that each office would be manned by two Members' assistants, the amount of office expenses incurred and hence the OER required could then be worked out. For those Members who did not set up any district offices, they

would not be entitled to OER as this was paid on an accountable and reimbursement basis.

14. D of Adm said that the proposal would be difficult to implement since the number of District Councils within different geographical constituencies differed. Besides, it was the Subcommittee's recommendation to maintain the present arrangement whereby all Members would be entitled to the same remuneration package and OER, irrespective of the channels through which they were elected.

15. Mr LEUNG Kwok-hung said that under Article 64 and 73 of the Basic Law, the Government of the Special Administrative Region (SAR) was accountable to LegCo which was tasked with the responsibility to monitor the work of the Government. However, without sufficient resources, LegCo would not be in a position to discharge its monitoring role. While not opposing to the proposed 10% increase in OER, he held the view that the magnitude of increase was still insufficient to enable Members to recruit adequate or quality staff to operate district offices and to conduct policy researches. He further pointed out that as OER had to be used for operating Member's offices and was paid on an accountable and reimbursement basis, any increase would not benefit Members' pockets and would not be susceptible to abuse.

16. D of Adm said that the Independent Commission was mindful of the need to ensure the prudent use of public money. In assessing the magnitude of increase in OER, it had carefully assessed the justifications for the increase, taking into account a basket of factors. In its press release to the public, the Administration had made it clear that the 10% increase was meant for OER which was paid on an accountable and reimbursement basis and not for Members' remuneration.

17. Mrs Selina CHOW said that Members of the Liberal Party (LP) had all along held the view that the Finance Committee (FC) was not the right forum to deliberate on the remuneration package for Members in view of the possible conflict of interest. As a result, the Subcommittee was set up to examine issues relating to the level of remuneration and expense reimbursement for Members in collaboration with the Independent Commission. The latter had undertaken a review of the remuneration package for Members with due diligence taking into account a basket of factors before arriving at the proposed increase of 10% in OER, albeit some Members might not agree to its recommendations. LP Members had found the recommendations of the Independent Commission acceptable and did not consider it appropriate for FC to further deliberate the issues.

Members' remuneration to reflect the nature of LegCo membership

18. Prof Patrick LAU said that LegCo Members had devoted a great deal of time and efforts to LegCo work but this had not been adequately reflected in their remuneration package, which in his view was not able to attract and nurture political talent. As the Chairman of the Subcommittee, he was disappointed that the

Independent Commission's report had not included the views of the Subcommittee. He hoped that the Subcommittee's views could be taken into account in the forthcoming review of the remuneration package for the Fourth LegCo.

19. Mr Wong Ting-kwong also stressed that there was a need to review the remuneration package for Members, which in his view was not enough to encourage high calibre candidates to become legislators as they could reap better financial gains if they joined the business sector.

20. Dr YEUNG Sum held the view that the Administration should also look into Members' remuneration package. He pointed out that under the Basic Law, the SAR Government was accountable to LegCo. While civil servants were entitled to medical and retirement benefits, Members were not because LegCo membership had all along been recognized as a public service rather than a job. Unlike part-time legislators who were provided with medical and retirement benefits by their employers, full-time legislators were not eligible to any such benefits. In order to attract and nurture political talent, the principle which had all along been adopted by the Administration that service as a LegCo Member was a form of public service should be reviewed. This review was particularly important when the Administration intended to encourage members of the public to take a more active part in politics and to make it a career. He enquired how Members' remuneration package compared with that of the civil service.

21. The Secretary for Financial Services and the Treasury said that it would be difficult to compare the remuneration package of LegCo Members with that of civil servants given the different nature of their work. D of Adm explained that it would not be appropriate to draw a direct comparison between the salary and conditions of employment of civil servants and LegCo Members given their different nature of work. The principle that LegCo membership was a form of public service rather than a job was the basis upon which the remuneration package for Members was worked out. The Independent Commission had undertaken to carefully examine the nature of LegCo membership with an open mind in its forthcoming review of the remuneration package for the Fourth LegCo.

22. Dr Fernando CHEUNG was not convinced of the Administration's response. He pointed out that civil service was also a form of public service but civil servants were well paid for their work. Given the constitutional importance of LegCo and Members' professionalism and devotion to their work, it would be wrong in principle for the Independent Commission to regard LegCo membership as a form of public service rather than a job. The present remuneration package was barely enough for him, as a Member returned from functional constituency, to service his voters, let alone the need to set up district offices as required by Members returned from geographical constituencies. In fact, many Members could not solely rely on their present remuneration as a Member to maintain their standard of living. The package would not be able to attract the needed political talent, but rather dampen public interest in entering into politics. The adherence to the principle that LegCo

membership was a form of public service rather than a job had actually dwarfed the role of LegCo. He further pointed out that the proposals under the consultation document on the “Further Development of the Political Appointment System” to create new positions dedicated to political work, namely Deputy Directors of Bureau and Assistants to Directors of Bureau, with a view to grooming political talents to run as LegCo Members would not be successful since the persons so appointed would unlikely be willing to give up two-thirds of their pay to run for LegCo membership.

23. Dr YEUNG Sum considered it unfair that Members and their assistants had to live with the low remuneration because their work was regarded as a form of public service while those to be appointed under the Political Appointment System would be eligible for much higher salary. He considered it necessary for the Administration to review the nature of LegCo membership to decide whether this should be regarded as a form of public service or a job. The Chairman however pointed out that according to the terms of reference of the Independent Commission, it was responsible for the review of the remuneration package for LegCo Members. Policy issues relating to the nature of LegCo membership might fall outside its purview.

24. D of Adm clarified that while the Independent Commission used to have an established view on the nature of LegCo membership, it was prepared to revisit it with an open mind and to comprehensively review the remuneration package for the Fourth LegCo. There would be opportunities for Members to exchange views with the Administration and the Independent Commission on the matter.

25. Mr Albert HO said that the underlying principle that LegCo membership was a public service should only be valid back in the colonial days when most of Members were appointed and working as part-time legislators. The political environment was quite different nowadays when LegCo membership was regarded as a professional job which required full-time commitment. As the remuneration package would reflect the degree of importance of the position, there was a need to review Members’ remuneration so that it would commensurate with their status as professionals participating in politics. He pointed out that the present remuneration was not sufficient since some Members had to use 20% to 30% of their remuneration to subsidize office expenses, such as staff salaries, in excess of the OER limit. They also had to pay for other expenses, including travelling and social functions, related to LegCo membership but not reimbursable under OER. Some of them were not aware that such payment should be reported. Mr HO said that he would not object to the proposed 10% increase in OER which provided the needed funding for Members to pay for operating expenses, but hoped that the Independent Commission would review the remuneration package for LegCo Members with a new perception on the nature of LegCo membership, taking into account the practices of overseas legislatures.

26. D of Adm said that the Independent Commission had met with the Subcommittee twice and the Administration had also attended a meeting of the Subcommittee to receive their views. The Administration concurred with the recommendations of the Independent Commission.

27. Mr LAU Kong-wah said that the Administration should be well aware that LegCo membership required a lot of commitment and devotion. He recalled that at an earlier Question and Answer session on 12 January 2006, the Chief Executive had confirmed that LegCo membership should no longer be regarded as a form of public service. As the Government was now committed to the nurturing of political talents through further development of the Political Appointment System, he held the view that the Administration should, in collaboration with the Independent Commission, review the nature of LegCo membership as well as the remuneration package for the Fourth LegCo in the interest of future political development.

28. D of Adm advised that the Independent Commission would conduct a comprehensive review of the remuneration package for the Fourth LegCo in early 2007. The nature of LegCo membership would also be revisited in the context of the review targeted to be completed by October 2007 so that those who intended to run for the Fourth LegCo would have an idea about the remuneration package to be offered. She could not commit on exactly when the Independent Commission would complete the review on the nature of LegCo membership. As to when the Administration could come up with a conclusion on the nature of LegCo membership, D of Adm said that the exact time table had yet to be decided but this would hinge on the public consultation exercise on the "Further Development of the Political Appointment System" being conducted by the Constitutional Affairs Bureau.

29. Noting from the Independent Commission's report that a consensus had yet to be reached on the nature of LegCo membership, the Chairman enquired whether efforts, if any, had been made to reach a consensus on the subject. D of Adm said that the Independent Commission would be reviewing the nature of LegCo membership in its forthcoming comprehensive review.

30. The Chairman asked if the proposed provision of medical and retirement benefits would be included in the review of Members' remuneration package. D of Adm said that the Independent Commission held the view that the proposals, if accepted, would amount to substantial changes in the remuneration package for Members. In order to preserve the credibility of the remuneration regime and to avoid LegCo Members of a particular term acting as proposer and approving authority for changes to be made to their own remuneration package, the Independent Commission felt that it could not support the implementation of these proposals within the current LegCo term. It had agreed to consider these proposals/requests in the context of the forthcoming comprehensive review of the remuneration package for the following term. Mr Abraham SHEK was not convinced of the Administration's explanation. The Chairman added that in a study conducted by the LegCo Secretariat, none of the selected legislatures had imposed restrictions to prevent changes to be made to legislators' remuneration. The legislatures under study were able to introduce changes to the remuneration package within a particular term or in the following financial year.

Action

31. The Chairman put the item to vote. The Committee approved the proposal.
32. The Chairman reminded members that the FC meeting scheduled for 17 November 2006 had been cancelled and the next FC meeting would be held on 1 December 2006 at 3:00 pm.
33. The meeting was adjourned at 4:20 pm.

Legislative Council Secretariat
22 January 2007