

立法會 *Legislative Council*

LC Paper No. ESC14/07-08(01)

Information Note for Establishment Subcommittee

Reimbursement of Operating Expenses to Members of the Legislative Council in relation to political participation

Purpose

This paper provides a historical background of Operating Expenses Reimbursement (OER) which is part of the remuneration package for Legislative Council (LegCo) Members for discharging their LegCo-related functions. The paper also outlines the purposes and principles governing the claiming of OER and highlights the restrictions over Members' activities and involvement in their political parties for the purpose of claiming OER.

Background

2. When the proposal to create two additional layers of political appointees (EC(2007-08)11) was discussed at the meeting of the Establishment Subcommittee (ESC) on 28 November 2007, members raised concern about the different standards adopted by the Administration in promoting political participation. It was pointed out at the meeting that as LegCo Members were subject to stringent guidelines and conditions in claiming reimbursement of operating expenses which had to be strictly related to LegCo business, activities which were associated with their affiliated political parties were regarded as non-LegCo business and the related expenses were not reimbursable. Therefore, it might not be fair for the Administration to discourage political participation by LegCo Members on the one hand but create publicly-funded positions tasked to handle a full range of political responsibilities for like-minded political appointees on the other. To facilitate members of the Finance Committee (FC) to consider the relevant funding proposal which would be discussed at the FC meeting on 14 December 2007, members agreed that additional information should be provided.

3. In this connection, the Chairmen of FC and ESC directed the Secretariat to prepare an information note on OER, and the Administration to prepare a paper on issues relating to the use of public funds for assuming political responsibilities. The Administration's paper entitling "Proposed creation of 24 positions under the Political Appointment System and remuneration for these positions" was issued to all Members vide LC Paper No. ESC11/07-08 on 7 December 2007.

Reimbursement for expenses incurred by LegCo Members

4. Historically, from 1976 to 1985, LegCo Members were provided with a monthly allowance for reimbursement of expenses incurred in the discharge of their official functions. In 1985, this single allowance was replaced by a salary and a general expenses allowance to cover expenses incurred in their work as Members. In 1991, the general expenses allowance was modified to become a maximum general expenses allowance payable against certified claims for expenses incurred. In 1992, the general expenses allowance was further modified to comprise two components – an accountable component for various office and staff costs to be provided on a reimbursement basis and a non-accountable component payable against certified claims.

5. In 1994, following a review conducted by an independent commission appointed by the then Governor, the Administration proposed to FC adjustments to the salary and general expenses allowance. In the paper submitted to FC¹, the Administration stated its agreement with the commission's recommendation that the whole remuneration package should be subject to a comprehensive review once every three to five years by an independent, non-political commission appointed by the Governor. The commission should also be responsible for advising the Administration on interpreting the guidelines on the use of the allowance by LegCo Members. In 1995, the general expenses allowance was re-titled operating expenses reimbursement, made up of the accountable allowance for office (including rental) and staff expenses; an allowance for entertainment and traveling expenses of which no more than 30% should be non-accountable. An additional accountable allowance was also included for directly elected Members for maintaining an office in their constituencies to cover office rental, rates, management charges and utilities². In 1996, the non-accountable portion of traveling and entertainment component of the operating expenses reimbursement was increased to 50%.

6. In July 1998, the House Committee appointed the Subcommittee on Review of Operating Expenses for Members of the Legislative Council (the Subcommittee) to look into the financial arrangements for reimbursement of operating and setting up expenses for Members and other related matters. Views and suggestions made by the Subcommittee were relayed to and considered by the independent commission appointed by the Chief Executive. Based on the recommendations of the independent commission, the Administration formulated its proposal for submission to FC for approval. The prevailing rates of and claimable items under OER are given in **Appendices I and II**.

Guiding Principles for claiming OER

7. Approved changes to OER are incorporated into the Guide for Reimbursement of Operating Expenses for Members of the Legislative Council (the

¹ FCR(94-95)56 issued for discussion on 14 October 1994

² Non-directly elected Members are also eligible for this office allowance if they surrender their allocated offices in Central Government Offices (West Wing).

Guide) issued and updated by the LegCo Secretariat from time to time. The Guide sets out guiding principles, details of claimable items, conditions on the employment of staff, use of consultancy services, expenses on publicity, activities and office accommodation, etc.

8. Claims for OER are subject to compliance audit conducted annually. The guiding principles for claiming OER are -

- (a) a Member or his/her relatives must not have any direct or indirect financial interest in, or be able to derive financial benefits from, any transaction in respect of which reimbursement is claimed;
- (b) a Member should refrain from claiming reimbursement for any transaction from which he himself/she herself, his/her relatives³ or business associates may be perceived to have benefited;
- (c) a Member should use public funds in an open, fair and accountable manner;
- (d) if a conflict of interest cannot be avoided or has arisen, a Member, when applying for reimbursement, should make a declaration which will be made available for public inspection;
- (e) should there be a transaction in respect of which reimbursement is claimed or may be claimed, and there is a conceived conflict of interest, or the transaction has become a matter of public concern, the Member should take steps to resolve the conflict in favour of the public interest; and
- (f) a Member should separate his/her private and LegCo operations/interests as far as possible, and be seen to be doing so to avoid any perception of conflict of interest or personal benefit.

Restrictions in relation to employment of staff

9. A major part of the operating expenses is spent on the employment of staff. In employing staff, the Guide stipulates that intermingling of LegCo and non-LegCo business in the duties of a staff member should be avoided as far as practicable. If LegCo and non-LegCo business cannot be clearly separated and accounted for, the Member should make due declaration and detail the duties involved and percentage of work that is related to LegCo business and claim for the portion of the salary that is related to LegCo business. A code of conduct, as recommended by the Independent

³ "Relatives" means spouse (including a concubine); any person with whom the Member is living in a regular union as if man and wife; fiancé, fiancée; parent, step-parent, lawful guardian; spouse's parent, spouse's step-parent, spouse's lawful guardian; grandparent, great-grandparent; child, ward of court; spouse's child, spouse's ward of court; grandchild; child's spouse; brother, sister; spouse's brother, spouse's sister; half-brother, half-sister; step-brother, step-sister; brother's spouse, sister's spouse; brother's child, sister's child; parent's brother, his spouse and child, parent's sister, her spouse and child.

Commission Against Corruption, is provided to set out the standard behaviours expected of Members' staff in the handling of resources and information obtained in their official capacity. Particular emphasis is placed on the avoidance of conflict of interest. The code states that "Staff should not, in their capacity as assistants of LegCo Members, use their official position or any information made available to them in the course of performing their duties, to seek to influence another person in furtherance of their private interest"⁴. The code further defines "private interests" to include, *inter alia*, the clubs and associations to which he belongs; any group of people with whom he has personal or social ties, etc.

Other conditions in relation to political parties

10. As regards the use of consultancy service, there are also clear guidelines to ensure avoidance of conflict of interest. One of the guidelines is that "the Member should not engage as his/her consultant his/her political party or any company/organization in which his/her political party has a financial interest or is in control".

11. Regarding expenses on publicity items, "no publicity relating to a political party is allowed, except the name and logo of the political party to which the Member belongs".

12. As for office accommodation expenses, "a Member should avoid leasing his/her district office from his/her business associates or affiliated organizations (including but not limited to the Member's employer, political party and constituency association) as far as practicable. Should a Member consider it appropriate to lease accommodation from a political party, the Member must provide justifications, disclose his/her relationship with the landlord and obtain independent valuation of the market rental from a qualified property valuer".

Comparison of the scope of political activities

13. To facilitate understanding of the scope of political activities which can be undertaken by LegCo Members and their staff within the boundary of OER and by the political appointees, a table which compares the selection process, the entry salary and the job description is given in **Appendix III**.

Council Business Division 1
Legislative Council Secretariat
13 December 2007

⁴ Para 11 of Code of Conduct For Staff Employed By Legislative Council Members

Prevailing rates of Members' Operating Expenses Reimbursement
 (As at October 2007)

Expenditure item	Amount of provision
Annual expenses reimbursement	
Office operation expenses reimbursement	Up to \$1,534,020 (i.e. \$127,835 a month on average)
Entertainment and travelling expenses reimbursement	Up to \$157,310
One-off expenses reimbursement per term	
Setting up expenses reimbursement	Up to \$150,000
Information technology and communication equipment expenses reimbursement	Up to \$100,000
Winding up expenses reimbursement	(a) Up to \$127,835 for all expenses other than severance payments (b) An amount with no pre-set ceiling to cover the actual severance payments made in accordance with the provisions of the Employment Ordinance for staff employed

Appendix II

CLAIMABLE ITEMS AND QUANTITY LIMITS

Procurement of the following items may be reimbursed. However, the total number of items procured must not exceed the approved quantity.

Section A

<i>EQUIPMENT AND FURNITURE</i>	<i>APPROVED QUANTITY</i>
Photocopying machine and accessories -paper feeder -document sorter Cheque writer Franking machine Paper shredder Folding machine * Overhead projector Slide projector * Wall screen Document binder Document duplicator/Speed printing machine Safe Laminator Water purifier Dehumidifier Sound system with microphones and loudspeakers Vacuum cleaner Water dispenser Refrigerator Microwave oven Conference table * Video conferencing equipment (including ancillary video cameras and other accessories) * Computer server and related accessories	not more than one for each office
* Camera (digital and otherwise) First aid kit Television set Video cassette recorder VCD/DVD player MD/MP3 player Typewriter * Scanner	not more than two for each office
Electric fan Air-conditioner Loudhailer Walkie-talkie White board Sofa * Electronic display	not more than three in each office
Calculator * Printer * Mobile phone * Pager * Integrated mobile computing device/Portable digital assistant Electronic dictionary/diary	not more than one for each staff and Member
* Telephone set with telephone line installation	not more than one set for each staff and Member plus five
* Hand-held video camera * Car phone	not more than one for each Member
* Facsimile machine * Answering machine	not more than two for each office plus two

* Items that may be reimbursed with the information technology and communication equipment expenses reimbursement

* Computer hardware and accompanying software Computer table and rack	not more than two sets for each staff and Member
Fire extinguisher	as required by law
File cabinet	not more than five for each staff and Member plus additional five for each office
Chair	not more than one for each staff and Member plus additional fifty chairs for activities
Desk/folding table/work bench	not more than one for each staff and Member plus four for each office

Section B

PUBLICITY ITEMS	APPROVED QUANTITY
Signboard/light box with - name - address of the Member's office - telephone and fax numbers of the Member's office - office hours - website and email addresses to be placed in the same building of the Member's office	not more than the number of entrances in a building in which the office is located plus five
Invitation card for each activity	not more than 10,000 pcs
Display board/banner with - name - address of the Member's office - telephone and fax numbers of the Member's office - office hours - website and email addresses	no limit

Section C

ACTIVITIES	CLAIMABLE ITEMS
Seminar Press conference Exhibition Quiz Competition Office opening ceremony	Rent of venue Hire of extra staff Banners Display boards Hire of sound system Set up charges Cleaning up charges Transportation for attendance and equipment Printing of handouts Printing of admission tickets Printing of leaflets Hire of video display equipment Advertisements Souvenirs with little or no resaleable value
Telephone survey Signature collection campaign Questionnaire	Hire of extra staff Printing charges Postage

Remarks : Recreational activities such as picnic, cruise and barbecue are not reimbursable.

Appendix III

A table comparing the selection process, entry salary and job description between staff of LegCo Members within the boundary of OER and the political appointees

Item	Guidelines and conditions applicable to Members	The Administration's proposal to fill political positions
Selection of staff	A Member should recruit his/her staff based on merit, preferably by open recruitment. The selection process and decision should be documented in the Declaration Form which should be deposited with the LegCo Secretariat when reimbursement for the new recruit's remuneration is claimed for the first time.	The Chief Executive (CE) will chair an Appointment Committee to consider nominations and appointments of potential candidates to fill the new political positions. The Appointment Committee will comprise the Secretaries of Department, the relevant Director(s) of Bureau, and the Director of CE's Office.
Entry salary	A Member should ensure that the total remuneration offered is reasonable and commensurate with the appointee's abilities. Reimbursement of staff remuneration is one of the expenses items claimable under office operation expenses reimbursement. The total amount which each Member may claim for all his/her operating expenses which include office rental, staff, etc. is up to \$1,534,020 per annum, i.e. \$127,835 a month.	The Appointment Committee will give advice on the remuneration package recommended for individual appointees having regard to the recommendation of the Principal Official to whom these appointees will report. For Deputy Directors of Bureau (DDs of B) and Personal Assistants to Director of Bureau, they may be offered remuneration package at three entry points ranging from \$193,775 - \$223,585 per month and five entry points ranging from \$104,340 - \$163,960 per month respectively. Apart from being provided with a Senior Personal Secretary, each DD of B is provided with his own office and an office for his/her Senior Personal Secretary.
Job description	The job descriptions must be specified in the employment contract. Intermingling of LegCo and non-LegCo business in the duties of a staff member should be avoided as far as practicable. If LegCo and non-LegCo business cannot be clearly separated and accounted for, a Member is requested, inter alia, to detail the duties involved and the percentage of work that is related to LegCo business for pro-rata reimbursement purpose and to make available the employment contract for public inspection, subject to the consent of the staff concerned.	The DDs of B are expected to assist the Directors of Bureau in handling a full range of political responsibilities (including the handling of LegCo business). The Political Assistants will take up various aspects of political liaison work.