

**立法會**  
**Legislative Council**

LC Paper No. AS144/08-09

Ref : AM 12/01/19 (08-12)

**Subcommittee on Members' Remuneration and  
Operating Expenses Reimbursement**

**Minutes of meeting  
held on Tuesday, 18 November 2008 at 4:37 pm  
in Conference Room B of the Legislative Council Building**

**Members present** : Hon Emily LAU Wai-hing, JP (Chairman)  
Hon CHEUNG Man-kwong  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon CHAN Tanya  
Hon IP Kwok-him, GBS, JP  
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP

**Members absent** : Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon Abraham SHEK Lai-him, SBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Dr Hon LAM Tai-fai, BBS, JP

**Clerk in attendance** : Mr Andy LAU  
Principal Council Secretary (Administration)  
(PCS(A))(Acting)

**Staff in attendance** : Ms Pauline NG  
Secretary General (SG)

Mr Joseph KWONG  
Accountant (ACCT)

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## **I. Election of Chairman**

Mr CHEUNG Man-kwong, who had the highest precedence in the Council among members of the Subcommittee present at the meeting, presided over the election of the Chairman of the Subcommittee. Mr CHEUNG invited nominations for the chairmanship. Mr IP Kwok-him nominated Ms Emily LAU who accepted the nomination. The nomination was seconded by Mr WONG Ting-kwong.

2. There being no other nominations, Ms Emily LAU was declared Chairman of the Subcommittee.

## **II. The Way Forward**

LC Paper No. AS88/08-09

Paper prepared by the Legislative Council Secretariat

(issued on 17 November 2008)

### Levels of remuneration and expenses reimbursement for LegCo Members

3. The Chairman asked members to refer to the Secretariat's paper which outlined the outstanding tasks to be dealt with by the Subcommittee. She informed members that, since the beginning of the current session, many Members had reflected to her that both the remuneration and operating expenses reimbursements (OER) for Members were insufficient for them to perform their duties. She invited SG to advise the Subcommittee on the way forward.

4. SG advised members that the Secretariat suggested to conduct a review of the level of OER as the factors considered by the Independent Commission in previous reviews on the resources required by Members were less than scientific. She pointed out that in 1993 when the reimbursement system was first introduced, the level of reimbursements was based on a manning scale with reference to the type and number of the supporting staff required for servicing a Member's office(s) at that time. To review the current level of OER, it was necessary to examine the manning scale applicable to today's situation, with reference to the qualifications and working experience required for assisting Members in performing their LegCo work and the salaries which could attract and retain staff with such qualifications and experience.

5. The Chairman pointed out that one of the difficulties encountered in the past in justifying an increase in OER was that the Administration would take into account the extent of over-ceiling expenses incurred by Members to determine whether the resources provided for Members were sufficient or not. However, as Members did not normally

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submit claims to the Secretariat for expenses beyond the OER ceiling, it was not possible to ascertain the extent of over-ceiling expenses. Whilst she found the methodology adopted by the Administration ridiculous and doubted if many Members had the financial means to use their own resources to support their LegCo work, she reminded Members to report their unreimbursed over-ceiling expenses to the Secretariat.

Members

6. In response to Mr IP Kwok-him, ACCT confirmed that Members' unreimbursed expenses that satisfied the reimbursement criteria under *A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council* (Reimbursement Guide) could be accepted for tax deduction purposes. Form A2 in the Reimbursement Guide was designed to enable Members to provide the supporting documents for such unreimbursed expenses to the Accounts Office. After verification, the Accounts Office would issue a certificate, which should be submitted to the Inland Revenue Department (IRD) when the Member filed his or her salaries tax return. Where a certificate had been issued, IRD would not normally ask for further proof. Even without the Accounts Office's verification and certificate, Members could still claim tax deduction for their unreimbursed expenses, but they needed to retain the original documents for IRD's inspection if their claims were selected for audit or review. The checking mechanism for the unreimbursed expenses without certification was similar to that for donations to charitable organizations. Submission of such tax deductions claims could be made within six years after the expenses had been incurred.

*(Post-meeting note:* The tax deduction arrangements are detailed in paragraphs 13 to 19 in the explanatory note entitled "Remuneration and Benefits for Legislative Council Members", which was issued on 10 October 2008 vide LC Paper No. AS 34/08-09. A copy of the explanatory note is posted on the Secretariat's internal email system, Lotus Notes, under the category 'Members' in the Bulletin Folder, and on the LegCo Website at ——— [http://www.legco.gov.hk/general/english/sec/corg\\_ser/admin\\_benefit.pdf](http://www.legco.gov.hk/general/english/sec/corg_ser/admin_benefit.pdf))

7. Mr Ronny TONG found it absurd that Members had to pay out of their own pockets for years for performing a public duty. It clearly indicated that the resources provided by the Administration were insufficient. This was hardly conducive to the objective of nurturing political talents. Citing the example that there were different limits of election expenses for candidates of constituencies of different sizes, he questioned why Members were not provided with different amounts of resources according to the number of their constituents. Mr TONG added that as Members' expenses were reimbursed on actual basis, chances of abuse were slim. The Chairman remarked that this point had been argued among Members for many years. So far, no consensus could be reached on

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the suggestion that Members of different constituencies should be given different remuneration packages. Some Members had insisted that all Members should be treated alike.

8. Mr CHEUNG Man-kwong said that some Members had to contribute to the political party to which they were affiliated. The political party would in turn provide these Members with manpower and research support. He enquired whether such contributions, which were similar to the reimbursable consultancy fees paid to a non-party controlled consultancy company, could be claimed as tax-deductible expenses. ACCT replied that, under the Reimbursement Guide, Members could not claim reimbursement for consultancy services provided by their political parties. Therefore, such contributions could not be regarded as unreimbursed operating expenses for tax-deduction purposes. On this point, the Chairman requested the Secretariat to study the matter and put this as an item for discussion. Secretariat

9. As regards the basis for determining Members' remuneration, Mrs Regina IP opined that the factors set out in the Finance Committee paper by the Administration were irrelevant and out of date. The appropriate level of remuneration for Members could not be justified by the argument that Members' remuneration was already at the top 2 or 3 percentile. Unlike LegCo Members in the old days who were appointed and normally performed their LegCo duties in their spare time, elected Members today had to devote much of their time to study and deliberate on the numerous important issues considered by the Council and its committees. As these issues had great impact on the well-being of Hong Kong, they imposed an onerous responsibility on Members. A Member's remuneration of \$68,200 a month could not even be compared to that of a Senior Administrative Officer (viz \$80,485 to \$92,720 a month) and was way below that of a Political Assistant to a Director of Bureau (viz \$104,340 to \$163,950 a month). With such a low remuneration, LegCo was in no position to compete with the Administration for political talents or attract young high-fliers from the private sector. For the heterogeneous development of the legislature and the filling of LegCo seats with younger candidates, the conventional belief of just grooming elite bureaucrats in the Government was outdated and ought to be changed.

10. As regards the expenses reimbursement for Members, Mrs Regina IP supported the suggestion that the reimbursement ceilings for directly elected Members should be raised because directly elected Members had to deal with much more constituents than those returned by functional constituencies.

11. Mr IP Kwok-him agreed that the allowances and reimbursements for Members should be increased. However, he did not agree that the reimbursement ceilings for Members returned through geographical and functional constituencies be different. He also said that, as his constituents were District Councillors representing all the people of Hong Kong, he too had to maintain ward offices in districts.

12. Mr CHEUNG Man-kwong opined that Members returned through different channels should not be remunerated differently. As regards the reimbursement ceilings, he suggested that a common ceiling be set for all Members after deciding the maximum number of ward offices that a Member returned by a Geographical Constituency could operate. The reimbursable amount for a Member could then be calculated according to the actual number of ward offices operated by the Member, but subject to the same ceiling. As a safeguard against opening more offices than necessary, he suggested that the reimbursable amount for each additional office could be reduced accordingly, but there should be a minimum reimbursable amount for each Member to maintain a team of staff to discharge his or her core LegCo business, such as committee work.

13. Miss Tanya CHAN agreed that the resources provided for Members were insufficient. Even though she did not have to bear the full cost of a district office, as it was shared out by her fellow party members, she could only afford to operate about one-and-a-half district offices with the resources provided. She also said that the remuneration for a LegCo Member was unattractive to a young professional who had to raise a family. To foster political talents, she suggested that Hong Kong could follow the example of France, where an allowance would be given to a political party if its member(s) got elected. The allowance would go up with the number of successful candidates. To encourage female participation in politics, Miss CHAN also suggested that Hong Kong should follow the French law in imposing penalties on political parties if they fielded fewer female candidates than male ones.

14. In response to Miss Tanya CHAN and Mr IP Kowk-him, ACCT confirmed that a district office could be used for both LegCo and District Council business on a sharing basis. The expenses could be claimed on a pro-rata basis from the respective Secretariats.

15. In response to the Chairman, SG explained that the survey to be carried out in OER would be conducted to establish the needs of Members in maintaining a core team to assist them in handling the work of the Council and committees; and staff to maintain district offices. The Secretariat's current plan was to conduct a survey among 10 to 12 Members initially to ascertain their experience in recruiting and retaining suitable staff. The survey might take two to three months to complete. Secretariat

The Chairman reminded that, apart from consulting individual Members, party leaders should also be consulted as individual Members' views might not reflect those of their political parties. She also requested that the study should cover both the levels of Members' remuneration and expenses reimbursement.

Sharing of Members' offices and staff between LegCo and non-LegCo business

16. The Chairman briefed the meeting on the recommendation of the compliance auditor in respect of situations where Members' staff were not solely deployed on LegCo business. Under such circumstance, use of time sheets to record the time spent by Members' staff on LegCo business would provide evidence to justify the proportion of their remuneration claimed.

17. SG advised that following members' objection to the use of time sheet to log the proportion of LegCo work on a regular basis, the compliance auditor was further consulted. As a result, the compliance auditor agreed to the use of a simplified time sheet, which required no information on the nature of work performed, but only the hours spent on LegCo and non-LegCo business. The auditor also agreed that a week's recording could be sufficient provided the week chosen was a representative one and a review of the time spent on LegCo business was conducted once every few months. Such periodical reviews would ensure that any significant changes in the time spent on LegCo business would be reflected in subsequent reimbursement claims.

18. Mr IP Kwok-him and Mr CHEUNG Man-kwong objected to the proposal of asking Members' staff to record their time for LegCo and non-LegCo business, because it was impossible to have a clear-cut definition between the two, especially when functional constituency affairs were involved. Mr IP said that it was comparatively easier to differentiate commercial business from LegCo business, but where functional constituencies were concerned, the difference between LegCo business and that of the functional constituency, such as District Councils (DCs) in his case, was not so clear-cut. Mr CHEUNG also quoted the example of offering condolences or assistance to his constituents (or relatives of his constituents), which could be counted both as LegCo business and matters relating to his constituency work.

19. Mrs Regina IP and Miss Tanya CHAN also found it difficult to differentiate the two. Mrs IP ran a think-tank, and their activities included a lot of reading and discussions. Whether her participation and her staff's involvement in the think-tank's activities could be regarded as LegCo business had to be determined. In the case of Miss CHAN, who

was also a District Councillor, it was difficult to apportion the work handled by her district office between DC and LegCo work.

20. In response to Miss Tanya CHAN, ACCT confirmed that, if an assistant was deployed by a Member on both LegCo and non-LegCo business, the Reimbursement Guide already required information on shared employment, as well as the proportion of time to be dedicated to LegCo business, be stated in the employment contract. The compliance auditor considered that periodic confirmation of the time spent on LegCo business was an added assurance about the actual sharing ratio between the two.

21. To cater for situations where some of the staff of a Member might have to deal with matters that might not be categorically classified as LegCo business, Mr CHEUNG Man-kwong suggested that the reimbursement system could offer the Member an option of not claiming full reimbursement for his or her staff's remuneration. This partial reimbursement option could simply be applied to just one or two staff members as a full settlement on the issue of non-LegCo work, because handling of non-LegCo business at a Member's office should not be extensive.

22. Mrs Regina IP and Mr CHEUNG Man-kwong also pointed out that LegCo business was subject to seasonal fluctuation. If an observation was made during a period in which LegCo activities were lower than usual, the Member concerned could be put in a precarious position for overstating the claimed amount.

23. ACCT advised that the reimbursement ratio should change if the amount of time spent on LegCo work changed significantly. Under the current proposal, changes necessitated by periodical reviews would not require retrospective adjustment of previous claims.

24. SG undertook to reflect Members' practical difficulties to the compliance auditor and work out with the latter a feasible and objective method to assure everyone that the staff remuneration claimed was related to LegCo business. Secretariat

*(Post-meeting note: In the light of Members' practical difficulties, the compliance auditor has agreed that instead of recording staff's time on LegCo business with time sheets, Members can confirm that they will adjust future claims whenever there are substantial changes in their staff's actual time spent on LegCo business. Accordingly, in the standard claim form for Office Operation Expenses Reimbursement (i.e. Form A), the Secretariat will append to the existing declaration "I hereby declare that all staff remunerations reimbursed are for performance of duties and for time worked as detailed in the respective employment contracts;"*

with the following “*where an employee is also in the employ of my business, relatives, business associates or affiliated organizations, a copy of the employment contract concerned has been provided for public inspection; should there be any substantial changes to the employment in relation to the time sharing between LegCo business and non-LegCo business, an addendum to the employment contract will be filed with the next reimbursement claim form.*” For easy reference, a tentatively revised Form A showing the Declaration and Certification Section after incorporating the above modification is shown in the **Appendix.**)

**III. Any other business**

25. There being no other business, the meeting ended at 5:34 pm.

Administration Division  
Legislative Council Secretariat  
19 June 2009



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 (LegCo), certify that my expenses listed below arose out of my LegCo 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 which my political party has a financial interest in or control of; furthermore, my relatives and I have no interest in the consultants employed;
- c) I have not claimed any reimbursement for leasing any property in which I/my relatives have a financial interest;
- d) all staff remunerations reimbursed are for performance of duties and for time worked as detailed in the respective employment contracts; where an employee is also in the employ of my business, relatives, business associates or affiliated organizations, a copy of the employment contract concerned has been provided for public inspection; should there be any substantial changes to the employment in relation to the time sharing between LegCo business and non-LegCo business, an addendum to the employment contract will be filed with the next reimbursement claim form;
- e) I have no objection to disclosing the individual staff remuneration acknowledgments for public inspection;
- f) 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;
- g) 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
- h) this reimbursement claim complies in all respects with the Reimbursement Guide, which has been read and fully understood by me.

In addition,

- \* I have claimed reimbursement for paying my staff who are also in the employ of my business/relative/business associate/affiliated organization<sup>#</sup>. Details and justifications have been provided on Declaration Form I *attached/earlier\**;
- \* I have claimed reimbursement for leasing property owned by my business associate/affiliated organization<sup>#</sup>, and consider that it is in the interest of my constituents/the public to do so. Details and justifications have been provided on Declaration Form II *attached/earlier\**;
- \* I have claimed reimbursement for procuring goods/services from a supplier/service provider whose business I or my relative(s) has a financial interest in or control of. Details and justifications have been provided on Declaration Form IV *attached/earlier\**.

\_\_\_\_\_  
Signature of Member

\_\_\_\_\_  
Date

\* delete where inappropriate      # affiliated organizations (e.g. employer, political party and constituency association)  
(Note 1) Subject to Note 2 below, the yearly claimable ceilings from 1.10.2008 to 30.9.2009 are (A) \$1,603,050 and (B) \$164,390. Any expenditure exceeding these ceilings are not reimbursable.  
(Note 2) 50% of the entitlement for (B), i.e. \$82,195, 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.