

立法會
Legislative Council

LC Paper No. AS 321/09-10

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

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

**Minutes of meeting
held on Tuesday, 25 June 2009 at 3:00 pm
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Emily LAU Wai-hing, JP (Chairman)
Hon CHEUNG Man-kwong
Hon Abraham SHEK Lai-him, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon CHAN Tanya
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Members absent** : Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon IP Kwok-him, GBS, JP
- Member attending** : Hon Albert CHAN Wai-yip
- Clerk in attendance** : Mr Andy LAU
Principal Council Secretary (Administration) (Acting)
(PCS(A))
- Staff in attendance** : Ms Pauline NG
Secretary General (SG)
- Mr Joseph KWONG
Accountant (ACCT)
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I. Confirmation of minutes of meeting on 18 November 2008 and matters arising
(LC Paper No. AS 144/08-09)

The minutes of the last meeting held on 18 November 2008 were confirmed.

Matters arising

2. The Chairman recapitulated members' views on the compliance auditor's suggestion on the use of time sheets to log the LegCo and non-LegCo business for apportioning the remuneration of staff engaged on a sharing basis. Members were of the view that even if LegCo business and non-LegCo business could be differentiated, their ratio would change from time to time and any major differences between an observation period and a Member's reported period would subject the Member to allegations of false claims. Also, the time spent on time recording might not be cost-effective.

3. ACCT reported that, after considering Members' difficulties, the compliance auditor suggested to expand the existing declaration on making reimbursement claims by adding the following to claim forms: "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." The additional declaration would serve both as a reminder to Members that any substantial changes in the time deployed should be reflected in the amount claimed and as an additional assurance under an honour system that the claimant had complied with the stipulated reimbursement principles.

4. In response to Mr WONG Ting-kwong, ACCT said that apart from cases where several Members shared their staff on LegCo business, there were only a few Members who had staff employed on both LegCo and non-LegCo business.

5. Mr Albert CHAN reiterated that it was difficult to differentiate between LegCo and non-LegCo business when public service was concerned. Such division would most probably be wrong when it was analyzed in detail. He also asked how work involving several public bodies, such as LegCo, District Council and some Government consultative committees, could be divided.

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6. Mr CHEUNG Man-kwong supported Mr Albert CHAN's views and emphasized that it was difficult to time and log every minor task; the volume of LegCo work and non-LegCo work, even if capable of clearly defined, would invariably vary over time. Such variances would get Members into trouble. He opined that the existing reimbursement method, without timesheets, was already adequate.

7. Mr WONG Ting-kwong said that, from the general public's viewpoint, it would not be a problem for LegCo Members to use their LegCo-provided resources to support their work in public organizations such as the Export Credit Insurance Corporation, Mandatory Provident Fund Schemes Authority or Po Leung Kuk. He further stressed that, on the contrary, when private or commercial business was involved, a clear segregation or record was inevitable.

8. The meeting agreed to the Compliance Auditor's suggested additional declaration and considered that Members should inform the LegCo Secretariat about any changes in their staff's time spent on LegCo work. The Chairman requested the Secretariat to make the necessary arrangements for Members to comply with the additional declaration suggested. Secretariat

II. Entertainment and travelling expenses reimbursement
(LC Paper No. AS 267/08-09)

9. Referring to the news reports tabled at the meeting, the Chairman said that there was public concern about the way Members claimed their entertainment and travelling expenses, which were reimbursed on a non-accountable basis (i.e. without supporting documents).

10. PCS(A) summarized the captioned paper and briefed the meeting on the evolution of the Entertainment and Travelling Expenses Reimbursement (ETER). When first established in 1993, ETER was claimed under an honour system without supporting documents. Effective from October 1995, 70% of ETER had to be claimed with supporting documents. In April 1996, the percentage was lowered to 50% and it was further reduced to 0% in July 1999. All the adjustments were proposed by the Administration and approved by the Finance Committee. The 1999 change also included a new arrangement whereby Members could use 50% of ETER for employment of staff on an accountable basis (i.e. with supporting documents). This was a result of Members' request that more resources be provided for the operation of their offices. While Members' need for more resources were appreciated,

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the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region (Independent Commission), which advised the Administration on the resources to be provided for Members, considered it inopportune to raise the reimbursement ceilings in view of the then economic situation. In lieu of providing additional resources, the Independent Commission recommended the above changes so that Members could have more flexibility in the deployment of their limited resources.

11. On the hiring of staff using ETER, the Chairman reminded the meeting that, similar to the hiring of staff with the Office Operation Expenses Reimbursement (OOER), the subsequent severance payments concerned could also be reimbursed out of OOER or the Winding Up Expenses Reimbursement. Under the latter, there was no reimbursement ceiling for severance payments calculated according to the Employment Ordinance. If staff were otherwise hired with Members' own resources, the corresponding severance payments would have to be borne by the Members themselves.

12. In reply to the Chairman, ACCT said that currently only a few Members used ETER to hire some of their staff.

13. The Chairman invited members to consider whether there was a need to change the current arrangements having regard to the latest media report and the suggestion of ICAC in 2004/05. Mrs Regina IP referred to the allowance granted to District Council (DC) Members each month and enquired if DC Members were required to submit supporting documents to get their allowances. Miss Tanya CHAN, being a current DC Member, responded that a fixed allowance was paid to DC Members monthly with their remuneration. To her understanding, a portion of the allowance could be tax free if documents were retained to support the actual expenses incurred.

14. Mr Abraham SHEK said that he personally had no strong views over the arrangement for claiming ETER. However, as Members of the current term were different from those who took part in the survey, he had no objection to conducting a survey among Members again on the preferred arrangement for obtaining ETER.

15. In response to Mr WONG Ting-kwong, ACCT confirmed that LegCo Members' ETER was tax-free because Members certified on each claim that they had actually paid such expenses on LegCo business.

16. Mr WONG Ting-kwong indicated that Members belonging to Democratic Alliance for the Betterment and Progress of Hong Kong had

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no strong views over the various arrangements for claiming ETER. They would follow the majority view expressed by Members.

17. Mr Albert CHAN objected to the submission of receipts and the recording of such expenses as it was difficult to prove certain expenses such as those arising from the use of vehicle for LegCo business. It was due to the substantial increase in the time spent on making reimbursement claims and at present, half of an assistant's time was required to meet the more and more elaborate reimbursement requirements. He would rather have the ETER amount taxed than spending his staff's time on preparation of the claim documents.

18. Miss Tanya CHAN said that Members belonging to the Civic Party would comply with public opinion. Nevertheless, she agreed that there were practical difficulties such as requesting for a receipt for a tram ride. She wondered whether part of ETER could be claimed with receipts and part without.

19. Mrs Regina IP opined that ETER at \$13,700 a month was comparatively low. Keeping track of all such receipts would nonetheless pose a problem. She doubted whether the top officials in the Hong Kong Government were required to produce all the receipts related to their entertainment expenses.

20. Mr CHEUNG Man-kwong shared Mr Albert CHAN's views stated above. The problem of getting and retaining receipts would further be aggravated if Members were in a hurry for meetings. Adding a new requirement of submitting supporting documents for ETER claims would not only increase the Members' and their offices' workload but also that of the Secretariat.

21. Professor Patrick LAU said that while he took the advice of keeping a record of his ETER expenses, he also shared Mr Albert CHAN's views about the practical difficulties and the administrative work involved.

22. In response to Mr Ronny TONG's suggestion to take a vote and in view of the presence of most major political groupings' representatives at the meeting, the Chairman invited members to vote on whether a survey as suggested by Mr Abraham SHEK should be conducted among LegCo Members. By a show of hands, only two members voted for a survey. The suggestion was not carried.

23. On the question of whether the existing arrangement (i.e. claiming reimbursement without production of supporting documents) should be maintained, five members voted for the status quo while two members abstained. In compliance with the majority view, the

Subcommittee would not propose a revision to the existing reimbursement arrangement for ETER.

III. Disclosure of information about medical claims
(LC Paper No. AS 276/08-09)

24. PCS(A) told the meeting that Members were advised to use loose paper to cover any information which they did not wish to disclose on the medical claim forms. This was to facilitate checking of such information by the Accounts Office but prevent such information to be revealed during photocopying for public inspection.

25. Responding to Mr CHEUNG Man-kwong, ACCT confirmed that the kind of illness needed not be disclosed to the Accounts Office. But the nature of an expense had to be ascertained to ensure that it fell within the permissible categories.

26. Mr Ronny TONG stated that a data collector had a duty under the law to protect the confidentiality of the personal data collected unless the data subject had given consent for their disclosure. ACCT asserted that in the Explanatory Note and the related claim form (Form M), Members were reminded that if they did not consent to the disclosure of their personal data or private information, they could have them blocked out before the claim forms were submitted^(Note).

27. In reply to the Chairman, ACCT confirmed that there was no requirement in the reimbursement guidelines (i.e. Explanatory Note) that the exact illness had to be specified in the invoices or receipts. Accounts Office just needed to know that no non-medical or non-dental expenses were included in the claim. He also referred to paragraph 7 of the Explanatory Note which set out the information requirement.

28. SG reiterated that it was necessary for Accounts Office to have access to the information on the nature of an expense to ensure the item claimed met the reimbursement criteria. Provision of detailed, exact description of an illness was not required. Subsequent to the media's reports on individual Members' medical conditions, the Secretariat had conducted a review on the reimbursement guidelines and found that medical claims were currently subject to the same public inspection arrangement as other claims under OOER as medical claims were reimbursed under OOER in previous terms. However, as the newly

^(Note) In the claim form, Form M, the following consent for disclosure is stated above the Member's signature box: "Unless blocked out by me, information disclosed on the supporting documents may be made available for public inspection."

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introduced medical allowance was a kind of benefits for Members and taxable, it was considered unnecessary to continue to subject these medical claims to public inspection, unless Members considered it otherwise.

29. The meeting agreed that no indication of the exact illness was necessary and disclosure of Members' medical claims should be discontinued. Nevertheless, the nature of an expense such as consultation or medicine charges should still be stated in the supporting documents. If personal data and private information were shown on the claim documents, they could be blacked out before submission.

30. On the question of whether amounts claimed by individual Members should be disclosed, Mr WONG Ting-kwong commented that showing the amount of medical expenses claimed by a Member would amount to showing his or her health condition. SG agreed that as the medical allowance was a taxable personal benefit, disclosure of individual Members' claimed amounts was not absolutely necessary. Consequently, the meeting agreed that only the monthly totals of all Members' medical claims should be made available for public inspection at the LegCo Library.

31. The Chairman instructed the Secretariat to inform all Members of the new arrangements agreed at the meeting. Secretariat

(Post-meeting note: On 13 July 2009, vide LC Paper No. AS 280/08-09, a modified Explanatory Note on Remuneration and Benefits of Legislative Council Members was issued.)

IV. Any other business

32. There being no other business, the meeting ended at 4:10 pm.

Administration Division
Legislative Council Secretariat
7 October 2009