

立法會
Legislative Council

LC Paper No. AS 253/10-11

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

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

**Minutes of meeting
held on Tuesday, 15 February 2011 at 10:45 am
in Conference Room B of the Legislative Council Building**

Members present : Hon Emily LAU Wai-hing, JP (Chairman)
Hon LEE Cheuk-yan
Hon CHEUNG Man-kwong
Hon Abraham SHEK Lai-him, SBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon IP Kwok-him, GBS, JP

Members absent : Hon Albert HO Chun-yan
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Clerk in attendance : Mr Andy LAU
Principal Council Secretary (Administration)

Staff in attendance : Ms Pauline NG
Secretary General

Mr Jimmy MA
Legal Adviser

Ms Connie FUNG
Senior Assistant Legal Adviser 1

Mr Joseph KWONG
Accountant

Mr Derek LO
Senior Council Secretary (Administration)³

Action

I. Confirmation of minutes of meetings and matters arising
[LC Paper Nos. AS 141/10-11 and AS 142/10-11]

The minutes of the meetings held on 14 September 2010 and 4 October 2010 were confirmed.

2. Members noted the resignation of Hon Albert HO from the Subcommittee.

II. Members' Operating Expenses Reimbursement

[LC Paper Nos. AS 135/10-11, AS 136/10-11, AS 137/10-11, AS 156/10-11, AS 157/10-11, AS 158/10-11 and AS 159/10-11]

3. Members noted four submissions from the Councillors' Workers Association (LC Paper No. AS 156/10-11), Secretariat of Legislative Councillors of The Democratic Party (LC Paper No. AS 157/10-11) and personal assistants of the office of Hon LI Wah Ming (LC Paper Nos. AS 158/10-11 and AS 159/10-11) which were tabled at the meeting and issued to members after the meeting vide LC Paper No. AS 160/10-11.

Report on the Survey on Members' Operating Expenses Reimbursement Part I: Staffing Requirements — Research Services and Salary Adjustments

4. Secretary General (SG) briefed members on the salient points of LC Paper No. AS 135/10-11 which set out the findings of the study on the research needs of Members and provided an analysis on how the meeting of such needs would impact on the staffing complement and the computation of the salary portion proposed in LC Paper No. AS 322/09-10 in relation to Members' Operating Expenses Reimbursement (which was discussed at the meeting held on 14 September 2010).

Provision for salary increments

5. Mr LEE Cheuk-yan noted the high turnover rate of Members' staff being 34% as reported in the paper and stressed that it was of utmost importance to have sufficient resources to recruit and retain a team of good quality staff in order to enable Members to carry out their Legislative Council ("LegCo") duties effectively. In response to the enquiry of Mr LEE, SG said that the proposed additional provision for the salaries of Members' staff which was computed on the average of the first four salary points of comparable ranks in the civil service would provide resources for Members to pay salary increments to their staff. She explained that since a LegCo term was for four years and the average length of service of Members' staff as revealed by the survey was about three years, it was difficult to justify the use of the mid point of the entire pay scale of a post which was usually quite long for providing salary progression to post holders over a number of years. She said that subsequent adjustment of the salary portion of the Members' Office Operation Expenses Reimbursement ("OOER") would follow that of the civil service pay adjustment.

6. Referring to the salary scales of the civil service posts given in the paper, Mr WONG Ting-kwong enquired whether Members would be required to adopt a standardized salary level for all their staff and provide salary increments for them according to a standardized pay scale regardless of the performance of individual staff members. SG said that the civil service posts given in the paper were to provide benchmarks for computing the funding resources for Members staff in the OOER. Members could refer to the information regarding these posts, such as the scope of duties, and qualification and experience requirements, given in the paper particularly Appendix V when Members determined the salary levels which they considered appropriate for their staff. SG said that the flexibility in determining the salary levels for individual staff members still rested with Members who might take into account a variety of factors including the individual staff member's qualifications, experience and performance at work.

Salary of long-serving staff

7. Prof Patrick LAU Sau-shing expressed support for the selection of the comparable ranks in the civil service to which Members' staff were pitched and the use of the average of pay points on the pay scale

for the first four years for the purpose of computing the funding required. However, he pointed out that practically, the salary of Members' staff would never be able to reach the maximum points of the pay scales of the comparable ranks as stated in Appendix V to the paper. Prof LAU as well as Mr CHEUNG Man-kwong enquired how the salary of long-serving staff of Members would be handled. In response to the concerns of Prof LAU and Mr CHEUNG, SG said that with a view to adopting a pragmatic approach in the discussion for additional funding with the Administration, the proposal of using the first four pay points of the comparable ranks in the civil service was more easily justified than using the entire pay scale. SG said that as stated in the paper, the salary provision should be reviewed "once every four years" and that a proper way to cater for the long-serving staff members who worked for a Member continuously for over one LegCo term would be a review on the effectiveness of the various proposals conducted some time after their implementation. SG said that a suitable time for such a review would be towards the end of the following term, i.e. 2012-2016, when sufficient post-implementation data on staff turnover and retention were available for assessing whether there would be the need for introducing changes to the basis of computing funding, for example, the adoption of longer salary scales for certain posts.

End-of-service gratuity

8. Mr CHEUNG Man-kwong expressed support for the proposals for providing salary increments and end-of-service gratuity to Members' staff as these would certainly help retain staff in Members' offices and alleviate current problems of high staff turnover. Mr CHEUNG opined that the mechanism for the payment of the end-of-service gratuity should be in line with that in the civil service and should be made payable upon completion of two or four years of service. Mr Ronny TONG Ka-wah said that the end-of-service gratuity should be made payable upon completing a minimum of two years' service, and for the sake of fairness to staff members who continuously served the same Members re-elected for two or three consecutive terms, consideration should be given to the progressive increase in the rate of gratuity with the staff members' length of service. Mr CHEUNG Man-kwong said that reference could be made to the practice in the education sector in which the employer's provision for the payment of gratuities progressively increased with the employee's length of service.

9. Prof Patrick LAU Sau-shing said that whilst the gratuity for Members was payable at the end of their four-year term as it was rare that a Member dropped out from his office in the middle of a term, it was a reasonable arrangement to pay Members' staff a gratuity at the end of two years. SG said that whether the gratuity was payable every one, two or three years should be determined between Members and their staff in the context of formulating the staff employment agreements. Reference could be made to the practice in the Government. Citing the practice of the Secretariat as an example, SG said that it paid gratuities to staff members who were employed under for contracts for a period of one year or longer. SG suggested that if the proposal for gratuity was accepted by the Administration for implementation in the final year, i.e. 2011-2012, of the current term, the gratuity could be made payable at the end of a contract for one year or longer in order that serving staff of Members could benefit from the proposal.

10. In response to the enquiry of the Chairman, SG said that in general, staff in ranks such as Executive Officer or equivalent were paid a gratuity at a rate of 15% of the total salaries the employee received during the contract period and clerical staff at a rate of 10%. In respect of whether the paper should recommend a standardized practice for Members to follow in their payment of gratuity to their staff, Mr IP Kwok-him said that he was in favour of a standardized practice across Members. For example, the rate of gratuity should be specified in the employment contracts of Members' staff.

Offsetting severance payments or long service payments by employer's contributions to MPF

11. In response to the enquiry of Mr LEE Cheuk-yan, Accountant said that pursuant to the practice in the Government with regard to gratuity, the Secretariat made monthly contributions at a rate of 5% of the employee's monthly salary (capped at \$12,000 per year) and deducted from the gratuity, payable at the end of the employee's contract, the sum of Mandatory Provident Fund ("MPF") contributions made in respect of the employee during the term of the contract. Accountant said that if the deduction of MPF contributions was waived, additional funds would be required subject to the views of the Administration and approval of the Finance Committee. Senior Assistant Legal Adviser 1 said that under section 12A of the MPF Schemes Ordinance (Cap. 485), if an employer had paid to an employee a severance payment ("SP") or long service payment

("LSP") in accordance with the Employment Ordinance (Cap. 57) and accrued benefits were held in a registered scheme in respect of the employee, the employer might offset the SP or LSP by the accrued benefits attributable to the employer's contribution made to the employee under the MPF scheme. The employer might make an application in writing to the approved trustee of the scheme for payment of the relevant amount to him for the purpose. Legal Adviser (LA) said that it was a choice for the employer whether or not to offset the SP by the employer's MPF contributions.

12. Mr WONG Ting-kwong opined that the focus of the current review should be on the ways of addressing the low salary of Members' staff. On this basis, the arrangements for Members to pay gratuity to their staff should follow those currently adopted by the Government. Requesting a waiver of the deduction of the employer's MPF contributions from the gratuity or SP was not advisable as it would complicate the issue and give the public an impression that Members were seeking for their staff a treatment more favourable than their counterparts in the Government. After deliberation, members agreed not to pursue with the waiver.

Research conducted by Members' political parties

13. Mr CHEUNG Man-kwong supported the proposed provision of research fee for Members on the ground that research support was essential for Members in fulfilling their duties to deliberate on policies in LegCo and monitor the performance of the Government. Mr CHEUNG agreed to the release of research outcomes to the public as these outcomes were produced using public funds. He further suggested that claims for research studies conducted by Members' affiliated political party should be reimbursed. SG explained that the current rule in the Guide for Reimbursement of Operating Expenses for Members of LegCo that no reimbursement could be made for expense claims for services provided by Members' political parties was derived from the Government long-standing policy that Members should not intermingle their LegCo and non-LegCo duties. Mr LEE Cheuk-yan said that the placing of such restriction on Members' political parties ignored the current political realities and served to discourage the development of political parties in Hong Kong. As such, it was outdated and unreasonable. Both Mr LEE and Mr Ronny TONG Ka-wah agreed with Mr CHEUNG's suggestion to remove the restriction.

Amount of research fee

14. Mr Ronny TONG Ka-wah said that there was a strong need for additional resources for Members to conduct policy research and expressed concern whether the current proposed level of research fee at \$11,145 was adequate for hiring researchers who could produce quality output. SG said that as stated in paragraph 11 of the paper, Members required an average of \$74,300 a month for conducting research work and of the amount, 77% would be allocated for hiring assistants to conduct research, 15% for hiring external consultants and 8% for employing Members' affiliated political parties/think tanks. The current proposed amount of \$11,145 was based on the 15% allocated for hiring external consultants. SG said that if members were of the view that the restriction on reimbursing Members' claims for research services provided by their political parties should be removed, then the proposed amount for research fee could be re-calculated on the basis of 23%, being 15% plus 8%, of \$74,300 which would give a figure in the region of \$17,000. Members agreed that the proposed research fee should be revised accordingly.

Number of Members' offices

15. Mr LEE Cheuk-yan said that he did not have strong views with the basis of three offices, i.e. one central office plus two district offices, per Member but pointed out that according to the findings of the survey, Members from geographical constituencies were actually operating an average of 2.78 district offices. Mr LEE opined that for determining the number of district offices required by Members in the long run, the requirements of Members from geographical constituencies should ideally be adopted as the basis in order to truly cater for their needs in providing services to the public.

16. SG said that in order to avoid a drastic jump in the current request for additional resources, the number of Members' offices on which the staffing complement was based on was the average number of offices that Members were currently running. The number adopted was three per Member being one central office plus two district offices. She considered that it provided a strong case in the discussion with the Government on funding provision at this stage. In respect of the reasonable and pragmatic number of offices that a Member should have, SG said that it should be dealt with in the next stage of work, and if an independent consultant was engaged to study Members' remuneration in future, it could be included in the scope of

work of the independent consultant. Mr WONG Ting-kwong opined that it was not appropriate to request an increase in the number of district offices at this stage when members should focus on securing resources for resolving staff remuneration issues.

Provision of funding resources

17. Mr Abraham SHEK Lai-him expressed support for the various proposals in the paper on the ground that the provision of sufficient resources for Members was not only essential to Members in carrying out their duties but also important to the development of the Legislature as well as the development of political talents in Hong Kong. Referring to some media reports in the past which gave the public an impression that Members received a huge remuneration package, Mr SHEK said that it should be made clear to the public that the Subcommittee was not seeking resources to set up more offices and that Members made no personal gain from the current proposals, which were aimed at coping with Members' genuine needs in carrying out their duties.

18. Mr SHEK doubted whether the Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment System of the Hong Kong Special Administrative Region ("Independent Commission") had genuinely taken into account views of Members in its recommendations on Members' OOER and said that the membership of the Independent Commission should include representatives of LegCo. The Chairman said that the Subcommittee could do little regarding the membership of the Independent Commission.

19. Prof Patrick LAU Sau-shing said that it was not reasonable nor fair for the Independent Commission to base its views on the premise that some Members did not fully utilize the OOER. Prof LAU held the view that the level of funding should be based on the needs of Members for carrying out their duties effectively. The data collected on the current level of Members' expenditure under OOER could only be used as a reference for the reason that Members had suppressed their spending or curtailed expenditure in certain areas since they were not given the adequate amount of resources in the first place to initiate the work they desired to do. In response to the enquiry of the Chairman on Members' utilization of OOER, Accountant said that 37% of Members spent over 99% of their OOER entitlements and two

thirds of Members spent over 90%. For the year 2008-09, four members from the geographical constituencies reported having spent a total of \$160,000 in excess of the OOER.

20. Prof Patrick LAU Sau-shing relayed the view of Mr Raymond HO Chung-tai that the funding proposals should take retrospective effect from 2010-2011 on the ground the requested resources were long overdue. SG said that to her understanding, requests for retrospective provision of funds were rarely approved by the Government. Mr IP Kwok-him cautioned that such a request would unlikely be accepted by the public as it was hard to justify. After deliberation, members agreed not to pursue with the request.

21. Prof LAU relayed another view of Mr Raymond HO Chung-tai that the additional funds should be placed under Members' OOER in order to enable Members to use their resources flexibly. SG said that a view from Members' personal assistants was that additional funds for providing salary increments should be kept in a separate account under Members' OOER in order that Members might not use the funds for other purposes, such as hiring additional staff instead of paying the increased salary. Similarly, there were views that gratuity should be kept by the Secretariat and paid directly to Members' staff at the end of the term. LA said that gratuity was contractual in nature subject to conditions agreed between the employer and the employee. In principle, it should be provided as an incentive for retaining staff members who performed satisfactorily and therefore it should be differentiated from an additional payment of salary. Members were in support of the payment of gratuity by the Secretariat to the individual staff members direct upon their satisfactory completion of contract.

22. Referring to comments on the paper given by Members' personal assistants in the submissions tabled, SG said that a suggestion was that the funding for the four years of a Member's office should be provided one-off instead of annually in order to accord greater flexibility to the Member in using the resources. Members agreed that the various views on resource funding and other issues raised at the meeting should be presented where appropriate in the report that the Secretariat was going to prepare for the discussion of the House Committee.

Summary

23. After deliberation, members agreed with the proposals as set out in paragraph 33 of the paper for inclusion in the report to the House Committee. In addition, members agreed to include the following in the report:

- (a) The recommendation that gratuity could be paid for employment contract of one year or longer;
- (b) Information on different rates of gratuity, i.e. 15% or 10% for different ranks of staff in the Civil Service for Members' reference;
- (c) The recommendation on specifying in the employment contracts of Members' staff a rate of gratuity appropriate to the post;
- (d) The payment of gratuity should be made by the Secretariat to Members' staff direct; and
- (e) Members' consensus that the current requirement that Members could not claim reimbursement for research studies conducted by their political parties should be removed.

Report on the Survey on Members' Operating Expenses Reimbursement Part II: Office Furniture and Equipment

24. Principal Council Secretary (Administration) (PCS(A)) briefed members on the salient points of LC Paper No. AS 136/10-11. Members noted from the paper that on the basis of setting up a central office and two district offices with a staffing complement of 7 full-time staff members, the resources required would be \$482,422. Against the sum of provisions under Setting Up Expenses Reimbursement ("SUER") and the Information Technology and Communication Equipment Expenses Reimbursement ("ITER") being \$250,000 at present, which was based on one central office and one district office, an additional funding of \$232,422 was required. After deliberation, members agreed with the Secretariat's recommendations to merge the SUER and the ITER into one single item to increase flexibility, and to make a request to the Administration to increase the combined sum of the two items to \$482,422.

Report on the Survey on Members' Operating Expenses
Reimbursement Part II: Members' need for the Setting-up of District
Offices

25. PCS(A) briefed members on the salient points of LC Paper No. AS 137/10-11 which set out the findings of the study on Members' need for setting up district offices to facilitate their work and the operating characteristics of district offices and central offices. SG said that the findings could provide the groundwork for the next phase of work needed for establishing the principles for determining the suitable number of offices which a Member should have.

Way forward

26. The Chairman requested the Secretariat to incorporate members' views in the draft report to the House Committee and circulate it among Members with a view to submitting the finalized report to the House Committee for endorsement on 18 March 2011.

27. There being no other business, the meeting ended at 12:40 pm.

Administration Division

Legislative Council Secretariat

May 2011