

立法會
Legislative Council

LC Paper No. AS 232/11-12

(The minutes have been
seen by the Administration)

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

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

**Minutes of meeting
held on Tuesday, 10 April 2012 at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon Emily LAU Wai-hing, JP (Chairman)
Hon LEE Cheuk-yan
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP

Members absent : Hon CHEUNG Man-kwong
Hon Abraham SHEK Lai-him, SBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon IP Kwok-him, GBS, JP

Public Officers attending : **Agenda item I**

Ms Jennifer MAK
Director of Administration (D of Admin)

Miss Agnes WONG
Deputy Director of Administration

Deputations by invitation : **Agenda item I**

Councillors' Workers Association

Mr HO Kai-ming
Chairman

Yat Tung Community Network Association

Mr KWOK Chung-man
Representative

Individuals

Mr CHAN Chung-yau

Ms Ivy CHAN

Mr Martin WAN

Ms Canny LUI

Mr LAU Chi-kit

Clerk in attendance : Mr Matthew LOO
Principal Council Secretary (Administration)
PCS(A)

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

Mr Michael YU
Head (Research) (H(R))

Mr Joseph KWONG
Accountant (ACCT)

Ms Debbie YAU
Chief Council Secretary (Administration) (CCS(A))

Action

I Members' Operating Expenses Reimbursement

The Chairman welcomed D of Admin and deputations/individuals to the meeting. She remarked that the Chief Executive-in-Council ("CE-in-C") had accepted the recommendations of 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

("the Independent Commission") regarding the remuneration package for Members of the Fifth Legislative Council ("LegCo"). The Administration intended to submit a proposal to the Finance Committee on 13 April 2012 for approval of the financial implications arising from the Independent Commission's recommendations ("the Recommendations"). In view of concerns of Members and their assistants, this meeting was held for the Subcommittee to meet with the Administration and deputations/individuals on the Recommendations.

2. At the invitation of the Chairman, D of Admin briefed members on the salient points of the Recommendations which were set out in the Legislative Council Brief on Remuneration package for Members of the Fifth term Legislative Council (File Re: CSO/ADM CR 1/1136/08).

Presentation of views

Councillors' Workers Association ("CWA")

3. Mr HO Kai-ming, Chairman of CWA expressed disappointment to the Independent Commission's report. He queried whether the Independent Commission had full knowledge of the role and daily work of Members' Offices, in particular of those Members returned from the Geographical Constituencies ("GCs"). It was not fair and inappropriate for the Independent Commission to compare the salary of Members' assistants who operated district offices to those general office assistants or customer service representatives as Members' assistants had to serve a large constituency and work long hours. The Independent Commission's report was not conducive to formulating a mechanism to determine Members' Operating Expenses Reimbursement ("OER") level which had been proposed by the Subcommittee's submission based on Secretariat surveys to ascertain Members' need of resources for them to carry out their duties. He suggested that the Chairman and members of the Independent Commission should be invited to attend the meeting to listen and respond to the views of Members' assistants. He in particular queried about the Independent Commission's conclusion in paragraph 4.5 of its report that "in general, Members might require a degree holder or an experienced staff to help handle LegCo business with policy content and to supervise the operations of the offices" as this obviously could not meet Members' needs.

Yat Tung Community Network Association

4. Mr KWOK Chung-man, Representative of Yat Tung Community Network Association said that the Recommendations could not address problems highlighted in the Subcommittee's submission. While Members returned from GCs on average had more district offices and employed more staff than those returned from the Functional Constituencies ("FCs"), he considered that some Members had focused more on works at the district level instead of their core duties. Long-serving Members returned from GCs usually had more cases to handle and hence required more resources. However, they had to compete for resources with members of District Councils. Moreover, Members needed more resources to strengthen their policy research as the Secretariat only provided research service for individual committees.

Individuals

5. Mr CHAN Chung-yau pointed out that the existing OER level was insufficient, in particular for those Members serving large constituency to discharge their duties, and enhance their service for the general public.

6. Ms Ivy CHAN opined that the Independent Commission still held the colonial view that LegCo membership was not full-time. She requested members of the Independent Commission to review the role of Members, Members' staff and Members' Offices in the context of present-day political environment. Despite that the Independent Commission had studied remuneration of Members of overseas Parliaments, it had not taken a further step to study whether these Parliaments regarded their Members as full-time, whether related declaration systems were in place and whether outside work was allowed. These factors should be taken into account in order to understand a Member's role. The Independent Commission's recommendation that "surplus from a year's Office OER ("OOER") entitlement should be allowed to roll over to the following year until the end of a LegCo term for payment of salary increments and/or gratuity for staff employed" did not recognize the work and role of Members' assistants as their remuneration should have been separated as an individual item under OOER. According to her understanding, increase in OER might largely be used to cover the increase in rental charges and other operational expenses, and might not benefit Members' assistants. She urged the Independent Commission to study the role of Members' assistants and set the appropriate remuneration package for them in future.

7. As a Members' assistant for five years, Mr Martin WAN said that the Independent Commission's view that LegCo membership not being a full-time job was of the colonial past. It showed that the Independent Commission did not understand the work of Members and Members' Offices. OER was first established in 1993 when the constituency was small and had now become bigger. The existing OOER level was insufficient for Members returned from GCs to carry out their work, and the Independent Commission's recommendation of increasing 20% in OOER could still not meet the shortfall. This called for a revamp of the OER system. He suggested that consideration should be given to separating OOER into different categories, such as staff remuneration and rental charge. Referring to Appendix H of the Independent Commission' report, he said that the illustration that employing four assistants each at \$10,000 per month was only meant to comply with the statutory minimum wage and could not recruit experienced and qualified candidates for Members' Offices. He called on all Members' assistants to unite to fight for a better remuneration package.

8. Ms Canny LUI said that she had observed several Subcommittee meetings and was disappointed with the Recommendations. The Independent Commission had not accepted the Subcommittee's proposal that any increase in OER should take effect in the current term from 1 October 2011 to address the high turnover rate of Members' assistants, nor had it attached importance to the views of the Subcommittee and Members' assistants. The recommended increase of OOER had not addressed Members' needs to employ a number of assistants and offered the remuneration at the level as recommended in the Subcommittee's submission. She said that five out of nine research staff had left her joint offices in the past six months. While the salary offered would be able to recruit fresh university graduates, it would be difficult to retain staff with a few years' experience in view of unsatisfactory prospect. On the Independent Commission's illustration that only one experienced staff at administration manager level was sufficient for each Member's Office, this establishment could definitely not meet Members' needs who had to monitor the Administration's work by undertaking policy research and to set up district offices to serve a large constituency. She was disappointed that the Independent Commission would not conduct a comprehensive review on OER with reference to the Secretariat's survey on Members' needs for resources.

9. As the existing OER level was insufficient for Members to discharge their duties, Mr LAU Chi-kit expressed dissatisfaction with the Recommendations on the proposed increase in OER. In particular, if a staff left office in the middle of the term, the long service payment, if applicable, would have to be paid out of OOER and this would further strain the already limited resources. He suggested to separate staff remuneration as an individual item under OOER. With the rising operating costs and the implementation of statutory minimum wage, the new adjustment in OOER was insufficient. The assumption that staff of Members' Offices could be employed at \$10,000 per month was unreasonable given that the salary of a bus driver was already as high as \$14,000.

Discussion

10. The Chairman pointed out that the Subcommittee had invited both the Administration and the Independent Commission to attend the meeting. D of Admin had responded to the Subcommittee's invitation by its letter dated 5 April 2012. D of Admin said that she had discussed the Subcommittee's invitation with the Chairman of the Independent Commission. After the Independent Commission began its review in 2011, it met with Members and visited Members' district offices. The Independent Commission had also received views from Members' assistants and understood their concerns. As the review of the Independent Commission had been completed and the recommendations were accepted by the CE-in-C in entirety, it was more appropriate for the Administration to attend the meeting to answer enquiries.

11. The Chairman said that Members and their assistants expected that increase in OER could take effect retrospectively from 1 October 2011 as proposed in the Subcommittee's submission made in March 2011. The Independent Commission and the Administration had taken an unreasonably long time to respond to the submission, and finally it had not heeded the Subcommittee's views and rendered the Secretariat's efforts in conducting surveys on Members' needs of resources a waste.

12. D of Admin said that the Independent Commission had considered all views received, including the Subcommittee's submission, before making the recommendations on the increase in OOER to meet the higher rental charges and increasing workload of Members' Offices. With reference to Appendix H of the Independent Commission's report, she said that the two examples were mere illustrations on how the

proposed amount of OOER could be utilized, having regard to the basic assumptions regarding the number of staff and the number of district offices etc. adopted in the Subcommittee's report. Members had full discretion to utilize OOER according to their needs as they were in the best position to apportion the expenditures on their staff remuneration expenses and other office operation expenses. The suggestion of setting up separate categories under OOER would reduce the flexibility and might not cater for the needs of individual Members. The Independent Commission acknowledged the growing demand in public expectation on Members in terms of time and efforts to be spent on LegCo business. These factors had been taken into account in considering the level of Members' remuneration in the new term. Medical allowance and an end-of-term gratuity had already been provided for Members starting from the current term. The Independent Commission considered that if LegCo membership were treated as a full-time job, Members might need to declare their outside employment and earnings. It would also be reasonable to expect that some restrictions, or at least certain requirements, be imposed on Members for taking up other employments which in turn might have implications for those candidates who intended to stand for elections in FCs.

13. D of Admin further said that the Independent Commission had considered the Subcommittee's proposal to enhance OOER in the current term with effect from 1 October 2011. The present increase in OOER by 20% was a substantial enhancement and Members were fully aware of the level of OOER within the current term when they made the decision to stand for election in the first place. It had been the established practice for any substantial change to the package or fundamental changes to the existing framework to only take effect from the next term. While there had been mid-term increase in OOER, they were the exceptions rather than the rule. Considering that 2011-2012 session was the last session of the current term and in order to preserve the integrity of the remuneration regime and to avoid any real or potential conflict of interest, the Independent Commission considered it appropriate for the increase in OOER to take effect from the Fifth LegCo.

14. With all her four assistants being university graduates who were responsible for a wide range of tasks from meeting the public to reviewing policies, Mrs Regina IP agreed that the present OER level was not satisfactory and would not be conducive to recruiting and retaining experienced and qualified staff. The assistants' fringe benefits, such as medical benefits, should also be considered in order to improve the remuneration package. She asked whether resources for new Members

returned from District Council (second) FC had been discussed as these Members would serve a much larger constituency and require employing more assistants.

15. D of Admin said that the Independent Commission had considered the proposal of providing different remuneration packages for Members returned from FCs, GCs and District Council (second) FC but concluded that all Members were performing the same duties under the Basic Law to serve the public, and thus they should be provided with the same level of resources. SG pointed out that the Secretariat's study on Members' needs for resources which commenced in 2008 and completed in 2009 had not taken into account the needs of Members returned from District Council (second) FC. When the Subcommittee's submission was made in March 2011, it was mentioned that a further review should be conducted to consider the needs of ten new Members at the commencement of the Fifth LegCo.

16. Mr LEE Cheuk-yan stressed that the Independent Commission had not acknowledged the role of Members' assistants. He queried the conclusion of the Independent Commission in paragraph 4.5 of its report that "in general Members might require a degree holder or an experienced staff to help handle LegCo business with policy content and to supervise the operations of the offices". It was apparent that the Independent Commission had no adequate knowledge of the daily work and operation of Members' Offices as one degree holder or experienced staff could not handle the wide scope of work which included policy research and handling public requests for assistance. The Subcommittee's submission had set out the proposed establishment for Members' Offices (i.e. 1 Executive Officer I, 2 Executive Office II and 4 Clerical Assistants) and the corresponding salary package but the Independent Commission had not made reference to this suggestion. A staff establishment for Members' Offices was necessitated to facilitate further deliberation on an appropriate OER quantum. The Administration had not addressed the high turnover rate of Members' assistants and the need for an establishment. He pointed out that it was apparently the Administration's plan to undermine Members' work to monitor the Administration by restraining resources provided to Members. As such, the Administration would become an executive hegemony and a balance would be tilted towards the Administration.

17. Mr Martin WAN concurred with Mr LEE Cheuk-yan that it might be the Administration's plan to restrain resources provided to Members in order to undermine Members' work.

18. D of Admin said that the increase in OOER and monthly remuneration should help to reduce the staff turnover rate in Members' Offices for the next term. The Independent Commission had considered and decided not to specify an establishment for Members' Offices as Members would lose flexibility to apportion OOER on different expenses according to their actual needs. The Independent Commission had already made reference to the Subcommittee's submission on a Member's need of seven staff to operate the offices.

19. Prof Patrick LAU recalled that in the Third LegCo, the Subcommittee had made proposals, among others, on increasing OER. As the adjustments in OOER for the Fourth and Fifth LegCo were lower than the requested level, the accumulated shortfall was significant. He pointed out that the rental charges for Members' district offices had increased substantially and it was preferable to separate rental charge as an individual item under OOER. He was disappointed that the Independent Commission had not made use of the findings of surveys conducted by the Secretariat to draw up new OOER package to meet Members' needs. As the public did not fully understand the functions and work of Members, public education on Members' work should also be enhanced. For Members' assistants, the difference in market rates for fresh university graduates and those with experiences was quite substantial. Members required experienced graduates to operate Members' Offices and assist Members in their work, and a better remuneration package would be able to attract and retain qualified and experienced staff.

20. D of Admin reiterated that the examples in Appendix H to the Independent Commission's report were mere illustrations of the deployment of staff for Members' Offices. Members had full flexibility to use OOER to operate their offices and recruit staff with the required qualification/experience according to individual circumstances and needs. The establishment and remuneration of Members' Offices should not be pre-determined as it would lower Members' flexibility. Prof Patrick LAU stressed that the present OOER was insufficient for Members to carry out their work effectively and asked if further increase could be made on top of the Administration's proposals. D of Admin said that the Independent Commission was of the view that the recommended 20% increase in OOER was appropriate taking into account the requests of Members and the need to ensure prudent use of public money..

21. Mr HO Kai-ming Chairman of CWA said that D of Admin had not addressed concerns of Members and deputations at the meeting. He considered that the Administration did not respect the Subcommittee.

22. Mr LAU Chi-kit said that D of Admin only repeated the contents of the Independent Commission's report and the Administration was not sincere to listen to the views of Members' assistants. Members' work had been seriously affected by the lack of sufficient resources. In view of the rising operating costs and the implementation of statutory minimum wage, Members had reduced their assistants' salary. The Independent Commission and the Administration had not considered why Members' staff left office during the middle of a term during which long service payment or severance pay might have to be paid out from OOER, further restraining resources for Members in carrying out their daily work.

23. Mr KWOK Chung-man, Representative of Yat Tung Community Network Association suggested that a separate research provision should be set up for Members' work. He was not satisfied that D of Admin only repeated the Independent Commission's report and hoped that the Administration would have more constructive replies.

24. Ms Ivy CHAN said that the Independent Commission had not acknowledged the hard work and professionalism of Members' assistants. Members' assistants did not have any promotional prospects as they might be dismissed if the relevant Members could not be re-elected. She reiterated that it was necessary for Chairman and members of the Independent Commission to attend the Subcommittee meeting so that Members and their assistants could understand the rationale behind the Recommendations. She enquired details of the Members' offices that had been visited by the Independent Commission and the views expressed by Members' assistants during the visits.

25. D of Admin said that the Independent Commission had visited the offices of Hon WONG Kwok-kin, Hon LEUNG Yiu-chung and Hon WONG Yung-kan in July 2011. During the visits, the Independent Commission had listened to the views of Members' assistants about insufficient OER and the operation of Members' offices. The Independent Commission had considered views of Members and their assistants as well as the Subcommittee. As a balance had to be achieved between providing resources for Members to discharge their duties and the prudent use of public money, the Independent Commission's views might not fully meet their expectations. She added

that severance payment expenses could be claimed from the Winding Up Expenses Reimbursement.

26. Ms Canny LUI said that severance payment could be claimed from the Winding Up Expenses Reimbursement only when a Member ceased to be a Member, either because he/she did not seek re-election or for reason over which he/she had no control. However, for staff leaving service in the middle of a term, the long service payment or severance payment had to be paid out of OOER. She considered the Independent Commission's recommendation to rollover surplus from a year's OOER entitlement not practicable as there could be no surplus from the insufficient OOER amount. Members' assistants should be offered a reasonable salary comparable to the market rate which would allow them to have a reasonable standard of living. The proposed 40% increase in OER as proposed by the Subcommittee might appear substantial only due to the unexceptionally low baseline. The Independent Commission and the Administration had delayed the response to the Subcommittee's submission which was sent to the Independent Commission in March 2011. D of Admin said that for staff leaving service in the middle of a term, the long service payment or severance payment, if applicable, would have to be paid out by Members who had been informed of the arrangements at the beginning of each term.

27. Mr LEE Cheuk-yan said that the Political Assistants to the Directors of Bureau were responsible for liaising with Members and their salary was more than \$130,000 a month while Members' OER was only \$143,000 a month to cover all operational and staffing expenses of Members' Offices. The difference was ironic and showed that the Administration did not attach importance to Members' work. In order to run the Members' Offices effectively, all Members would like to employ assistants with relevant experience but the OER limited the remuneration package that could be offered to the assistants. The low remuneration and poor prospect were difficult to attract and retain qualified staff to work as Members' assistants. While the illustrations in Appendix H of the Independent Commission might be applicable for newly elected Members, the salary of Members' assistants, with increments, would be much higher for Members who had been re-elected to serve for a few terms. He queried the resources for granting salary increments to Members' assistants.

28. In response to the Chairman's enquiry, D of Admin said that the funding proposal relating to the Recommendations would be submitted to the Finance Committee on 13 April 2012. The Chairman said that there was no need to rush the proposal to the Finance Committee as the Recommendations were only announced in late March 2012 and would only take effect from October 2012. Prof Patrick LAU said that Members' assistants were not satisfied with the new increase in OER. He and Mr LEE Cheuk-yan agreed that the Independent Commission should attend the Subcommittee meeting to listen to the views of Members' assistants. Mr LEE expressed objection for the funding proposal to be submitted to the Finance Committee on 13 April, and requested the Independent Commission and the Administration to reconsider the views of Members and deputations/individuals expressed at the meeting. He considered that D of Admin was not sincere at all in listening to the views of Members and Members' assistants.

29. Ms Ivy CHAN requested Members to seriously consider whether it was necessary for the funding proposal to be submitted to the Finance Committee on 13 April 2012. She queried the need to rush the proposal to the Finance Committee as this would take effect from the next term. As the Administration did not listen to the Subcommittee's views, it did not show respect to LegCo. She requested D of Admin to relay the views of Members' assistants to the Independent Commission.

30. Ms Canny LUI said that instead of increasing OOER by a certain percentage, it was an opportune time to consider restructuring OER based on the actual needs of Members to carry out their work.

31. In response to the Chairman's enquiry, SG advised that overseas Parliaments had a mechanism to review and adjust Members' remuneration package and the calculation was based on an accepted formula or a study by an independent statutory body. In the case of Hong Kong, there were two precedents of mid-term adjustment of OER, one in 2001 and one in 2006.

32. In response to the Chairman's enquiry on delaying the submission to the Finance Committee, D of Admin said that the Administration wished to finalize the Recommendations so that those who planned to stand for election for Fifth LegCo would have knowledge of the resources available to them if they were elected. After the Independent Commission had completed its review and the CE-in-C had accepted the Recommendations, the Administration planned to submit the proposal to the Finance Committee following the past practice in

reviewing the remuneration of the Fourth LegCo. Despite the fact that the Independent Commission had considered all views and comments, including those reiterated at the present meeting, she would reflect the views of the Subcommittee to the Independent Commission again..

33. The Chairman asked D of Admin to discuss with the Chief Secretary for Administration and the Independent Commission on views of Members and deputations expressed at the meeting and revert to the Subcommittee accordingly. Members of the Subcommittee did not support that the proposal should be submitted to the Finance Committee on 13 April 2012. The meeting also agreed that the Chairman should write to the Director of Administration relaying members' views on the remuneration package of LegCo Members.

(Post-meeting note: the Chairman has written to the D of Admin on 12 April 2012 relaying members' views on the captioned subject vide LC Paper No. AS160/11-12. In its reply dated 16 April 2012 (LC Paper No. AS165/11-12), the Administration did not propose any change to the proposal, which was subsequently approved by the Finance Committee at its meeting on 11 May 2012.)

34. The Chairman noted that some media reported about Members procuring IT items near the end of a term. SG explained that Members could procure IT items, either out of OOER or the Information Technology and Communication Equipment Expenses Reimbursement. Outgoing Members had the choice of returning all capital items, including IT items, procured with OOER to the Secretariat, or buying the items at market values as determined by an independent valuer engaged by the Secretariat.

II. Any other business

35. There being no other business, the meeting ended at 4:25 pm.