

立法會

Legislative Council

LC Paper No. CRM 621/15-16

Ref: AM 12/01/19 (12-16)

Subcommittee on Members' Remuneration and Operating Expenses Reimbursement

Review of "A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council"

Purpose

This paper invites members to consider proposed amendments to "A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council" ("Reimbursement Guide") after a review conducted by the Legislative Council Secretariat ("the Secretariat").

Background

2. Legislative Council ("LegCo") Members are provided with reimbursements to cover expenses arising out of their LegCo duties. The Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment System of HKSAR ("Independent Commission") has laid down guiding principles for reimbursement of expenses which include, among others, that a Member should use public funds in an open, fair and accountable manner. Based on these principles, the Secretariat has issued the Reimbursement Guide which sets out in detail the types of expenses that are reimbursable and the rules and administrative procedures for claiming reimbursement.

3. In the light of the operational experience in processing Members' reimbursement claims and views expressed by Members, the Secretariat has reviewed the Reimbursement Guide and proposed certain amendments, details of which are set out below.

Proposed amendments

LegCo business

4. Expenses relating to LegCo business incurred by Members are reimbursable. Paragraph 27 of the Reimbursement Guide defines "LegCo business" as "activities relating to the exercising of the powers and functions of LegCo as stipulated in Article 73 of the Basic Law, general policy issues as well as matters which have been raised or discussed at meetings of LegCo and/or its committees." As reimbursement of Members' expenses is founded on this cardinal principle, it is proposed that the definition of "LegCo business" be set out in the introduction section of the Reimbursement Guide. The proposed amendments to paragraphs 2 and 27 of the Reimbursement Guide in marked-up version are in **Appendix I**.

Publications

5. Members may claim reimbursement of expenses for the production and distribution of publications on LegCo work. Where a Member's publication is not solely on LegCo work, paragraph 80 of the Reimbursement Guide provides for reimbursement of shared expenses as follows:

"Where publications and publicity items also report the work and/or achievements of the Member's political party or an organization to which the Member is affiliated, or the work of the Member in his/her other capacity (such as a District Councillor), the expenses incurred on the production and distribution of such items should be shared on a fair basis. For example, reimbursement claims should be scaled down according to the percentage of printed areas not used solely for reporting the Member's LegCo work."

6. At present, the Secretariat makes a distinction between photograph and text of a publication in considering a reimbursement claim. Where a Member appears in a photograph with only the name or logo of his/her political party or affiliated organization, the photograph is taken as also reporting the work of the political party/affiliated organization and reimbursement of the related expenses will be scaled down by 50% calculated according to the percentage of the size of the photograph vis-à-vis the whole publication. The same yardstick applies to text of a publication. If a paragraph or a part thereof reports the work of a Member as well as that of his/her political party or affiliated organization, the text is taken as also reporting the work of the political party/affiliated organization and reimbursement of the related expenses will be deducted by 50% according to the percentage of the area of the text vis-à-vis the whole publication. The reimbursable amount for the publication is then calculated by the Secretariat according to this deduction formula.

7. Some Members are concerned that the existing deduction formula for apportioning shared expenses relating to publications has generated a large amount of administrative work on Members' offices and the Secretariat. The adherence to this formula is also out of sync with the political reality as the majority of Members, be they returned by geographical constituencies or functional constituencies, are affiliated to certain political parties or organizations. Some Members consider it unrealistic and sometimes impracticable to report LegCo work in their publications without mentioning their affiliated political parties or organizations.

8. Taking into account Members' views and to streamline the administrative procedure for processing claims, the Secretariat proposes to revise the approach in considering whether a Member's publication relates to his/her LegCo work. A Member's publication will be read in context on a per-page basis without a distinction between photograph and text. If the content of a page mainly (over 50%) covers LegCo work, the expenses for such a page are reimbursable. Conversely, if the content of a page is mainly (over 50%) about non-LegCo business or the work of a political party or organization, the expenses for such a page are not reimbursable. In short, the amount of a reimbursement claim for a publication will be determined according to the proportion of pages in the publication used primarily for reporting LegCo business. The proposed amendments to paragraph 80 of the Reimbursement Guide in marked-up version are in **Appendix II**.

Publicity items

Greeting cards and Christmas cards

9. Expenses on publicity items are reimbursable under paragraph 26 of the Reimbursement Guide. All along, publicity items associated with Chinese New Year, such as red packet envelopes, spring festival couplets and banners with Chinese New Year greetings, are reimbursable. However, if the publicity item is associated with any other festive seasons, such as Mid-autumn Festival or Christmas, the expenses for such a publicity item are not reimbursable. The Secretariat has adopted this approach in compliance with paragraph 88 of the Reimbursement Guide which lists out examples of non-reimbursable items among which are greeting cards and Christmas cards.

10. Members consider that there should be consistency in determining whether publicity items associated with festive seasons are reimbursable. Members are of the view that publicity items could be in various forms. Provided that they contain the Member's contact details, such as website, email address, telephone number, fax number, etc, as required under paragraph 26 of the Reimbursement Guide, Members should be given the flexibility to decide whether and if so, how a publicity item should be associated with a festive season.

11. Having regard to Members' views and the criteria for reimbursing expenses for publicity items as stipulated under the Reimbursement Guide, the Secretariat proposes that expenses for publicity items associated with festive seasons are reimbursable provided that the publicity item contains the Member's name and his/her contact details. Reimbursable publicity items should be of little resale value and should not contain any commercial content. Perishable publicity items such as food, beverages or flowers, are not reimbursable. The proposed amendments to paragraph 88 of the Reimbursement Guide in marked-up version are in **Appendix III**.

Expenses on election-related activities

12. According to the report issued by the Independent Commission in 1995, "LegCo Members should not use public money to pay for election-related activities or other non-LegCo related business". Applying this principle, the Secretariat has adopted the practice of not reimbursing expenses incurred on any publicity items that related to voter registration. Some Members have expressed the view that as matters relating to voter registration are discussed by LegCo committees and are clearly LegCo business, the Secretariat should review the scope of election-related activities.

13. Having reviewed the practice, the Secretariat proposes that a publicity item relating to voter registration that has no political inclination and does not call for political support or opposition of any person, political party, or organization in an election should not be regarded as an election-related activity. For example, a publicity item which calls upon eligible persons to register as electors is reimbursable. However, if a publicity item calls upon members of the public to register as electors so as to support the election of certain persons belonging to certain political parties/organizations as District Council ("DC") members or LegCo Members, this will be regarded as an election-related activity and the related expenses for the publicity item are not reimbursable. To reflect the principle laid down by the Independent Commission and for the avoidance of doubt, the Secretariat proposes to set out explicitly in the Reimbursement Guide that "expenses on election-related activities" are non-reimbursable. The proposed amendment to paragraph 88 of the Reimbursement Guide in marked-up version is in **Appendix III**. Subject to Members' agreement, the Secretariat will seek confirmation from the Administration that this proposed amendment is consistent with the Independent Commission's position on "election-related expenses".

Capital items

14. Under paragraph 72 of the Reimbursement Guide, a capital item is defined as any piece of equipment or furniture costing \$1,000 or more and with a life span of over one year. A Member is required to keep an inventory list of

all capital items reimbursed and provide the list to the Secretariat in March and September each year.

15. The existing requirement that an item costing \$1,000 or more should be capitalized was set in 1995 and the amount has not been reviewed since then. The Secretariat has consulted the compliance auditor¹ who has been appointed to conduct audits on Members' operating expenses on the amount for capitalizing items for non-governmental organizations of size similar to that of Members' offices. The auditor has advised that for such organizations, items costing \$5,000 or over may be capitalized. Some Members have expressed the view that it is more appropriate to revise the amount for capitalizing items to \$3,000. To enhance the cost-effectiveness of the asset management process, the Secretariat proposes that consideration be given to raising the threshold for capitalizing items from \$1,000 to, say, \$3,000 or \$5,000.

Return or purchase of capital items

16. Paragraphs 73 to 77 of the Reimbursement Guide deal with the disposal of capital items acquired with Members' operating expenses reimbursements. Where a Member ceases office, he/she is required to return to the Secretariat those capital items to which reimbursement of expenses has been claimed. The Member should notify the Secretariat of the capital items that he/she will return or purchase. Outgoing or incoming Members may buy the returned capital items at market value to be set by the Secretariat. An outgoing Member is given the first option to purchase his/her capital items.

17. Prior to May 1998, The Legislative Council Commission ("LCC"), on the advice of the Independent Commission, adopted predetermined depreciation methods in determining the value of returned capital items for purchase by outgoing or incoming Members. In May 1998, LCC endorsed that the value of returned capital items should be determined by an independent valuer engaged by the Secretariat and the valuation fee is charged against the sale proceeds.

18. The Secretariat has reviewed its experience and made reference to the guidelines for DC members for disposal of capital items. Under the relevant DC guidelines, all capital items are assumed to have a useful life span of five years with an annual depreciation rate of 20%². For computer items and mobile

¹ Under the compliance audit system, an external auditor is appointed to conduct audits to ensure that Members' operating expenses claims are made in compliance with the provisions on conflict of interest and declaration of interest as stipulated in the Reimbursement Guide.

² Depreciated value of an item (excluding computer items and mobile phones) is calculated using the following formula:

$$\text{original cost} \times \frac{\text{unexpired useful life span (in full months)}}{\text{useful life span (60 months)}}$$

phones, an accelerated depreciation method (i.e. the "sum of digit" method) is used for calculating the depreciation of these items to reflect their higher initial depreciation charge and fall in book value. Based on such method, the depreciated value of computer items and mobile phones after year 1, 2, 3, 4 and 5 of the purchase will be 2/3, 2/5, 1/5, 1/15 and 0 of the original purchase price respectively. Outgoing DC members have the option to buy back capital items at depreciated value or 5% of their original value, whichever is the higher.

19. The Secretariat considers that using predetermined depreciation methods to determine the residual values of capital items is simpler and easier to administer. It will obviate the need to engage a valuer to assess Members' assets at the end of a LegCo term and when any Member ceases office before the end of a term. Both the cost of valuation and administrative work could be saved. To enhance the cost-effectiveness of the arrangements for handling capitalized items returned by Members, the Secretariat proposes that predetermined depreciation methods be adopted for determining the value of capital items returned by Members for purchase by outgoing or incoming Members, as in the case of DC. All capital items except electronic equipment are assumed to have a useful life span of five years with an annual depreciation rate of 20%. For electronic equipment (including computer items, mobile phones, cameras, etc.), the depreciated value will be calculated by the "sum of digit" method used by DC. Outgoing or incoming Members have the option to buy back capital items at depreciated value or 5% of their original value, whichever is the higher. The proposed amendments to paragraphs 72, 73 and 82 of the Reimbursement Guide in marked-up version are in **Appendix IV**. The proposed depreciation methods, if adopted, will be included in the relevant form in the Reimbursement Guide.

Effective date

20. Subject to Members' views, the Secretariat suggests that the proposed amendments to paragraphs 2, 27, 80 and 88 of the Reimbursement Guide to take effect from the 2015-2016 reimbursement year (i.e. 1 October 2015) and the predetermined depreciation methods be applied to the disposal of capital items returned by Members of the current term.

21. As the capital items of Members of the current term have been included in the inventory list and based on general accounting principles, the Secretariat proposes that the proposed amendment to the threshold for capitalizing items to take effect from the Sixth LegCo.

Advice sought

22. Members are invited to consider the proposed amendments. Subject to Members' view, the Subcommittee may wish to consider consulting all Members on the proposed amendments.

Complaints and Resources Management Division
Legislative Council Secretariat
April 2016

**Proposed amendments to paragraphs 2 and 27 of
"A Guide for Reimbursement of Operating Expenses
for Members of the Legislative Council"**

Introduction

2. *A Member may claim reimbursement of expenses relating to LegCo business. "LegCo business" refers to activities relating to the exercising of the powers and functions of LegCo as stipulated in Article 73 of the Basic Law, general policy issues as well as matters which have been raised or discussed at meetings of LegCo and/or its committees. The guiding principles which should be observed by Members in claiming reimbursement of expenses are set out in paragraphs 7 to 12. General principles of the reimbursement system and the mechanism for adjustment of the reimbursable amounts are detailed in paragraphs 57 to 88 and paragraph 89 respectively.*

* * * *

Expenses on Activities

27. A Member may use the office operation expenses reimbursement to pay for the publicity and organization of activities relating to LegCo business. ~~"LegCo business" refers to activities relating to the exercising of the powers and functions of LegCo as stipulated in Article 73 of the Basic Law, general policy issues as well as matters which have been raised or discussed at meetings of LegCo and/or its committees.~~ Items normally claimable are detailed in *section C of Appendix I*.

Legend:

Text proposed to be added are shown in italics.

Text proposed to be deleted are shown with deletion lines.

**Proposed amendments to paragraph 80 of
"A Guide for Reimbursement of Operating Expenses
for Members of the Legislative Council"**

Shared Expenses

80. *A Member may claim reimbursement of expenses incurred in the production and distribution of publications and publicity items that arise from his/her LegCo duties.* Where *parts of the* publications and publicity items ~~also~~ report *solely* the work and/or achievements of the Member's political party or an organization to which the Member is affiliated, or the work of the Member in his/her other capacity (such as a District Councillor), the expenses incurred on the production and distribution of such items should be shared on a fair basis. For example, reimbursement claims should be scaled down according to the ~~percentage of printed areas not used solely for reporting the Member's LegCo work~~ *proportion of pages in the publications not used primarily for reporting LegCo business.*

Legend:

Text proposed to be added are shown in italics.

Text proposed to be deleted are shown with deletion lines.

**Proposed amendments to paragraph 88 of
"A Guide for Reimbursement of Operating Expenses
for Members of the Legislative Council"**

Non-reimbursable Items

88. Examples of non-reimbursable items are given as follows :

- (a) refundable deposits;
- (b) (i) penalties; and
(ii) charges incurred as a result of an act ruled by the LegCo President as inappropriate;
- (c) entertainment expenses solely for the Member himself/herself, his/her staff, other Members and/or their staff, unless specifically allowed by The Legislative Council Commission;
- (d) cooking utensils and appliances (other than kettle, distilled water dispenser, refrigerator, microwave oven and steamer cookware);
- (e) decorative items for Member's Office such as paintings, photo frames and flowers;
- (f) ~~greeting cards, Christmas cards, etc (notwithstanding the presence of contact details)~~ *perishable publicity items (such as food, beverages or flowers);*
- (g) publicity items having resale value (other than those of little or no resale value, such as pens) or containing commercial content;*
- (h) expenses on election-related activities;*
- (i) training of personal skills for the Member himself/herself; and*
- (j) sponsorship.*

Legend:

Text proposed to be added are shown in italics.

Text proposed to be deleted are shown with deletion lines.

**Proposed amendments to paragraphs 72, 73 and 82 of
"A Guide for Reimbursement of Operating Expenses
for Members of the Legislative Council"**

Capital Items

72. A capital item refers to any piece of equipment or furniture costing ~~\$1,000~~ ~~\$3,000/\$5,000*~~ or more and with a life span of over one year, but excluding software and fixtures such as built-in cabinets and wall-mounted air-conditioners. Installation charges should not be capitalized.

73. When a Member ceases office, he/she is required to return to the Secretariat those capital items for which reimbursement of expenses has been claimed. Before returning an item to the Secretariat, the Member must settle all outstanding payment and liability in respect of the item. Outgoing, returning or incoming Members may purchase these capital items at ~~market value to be set by the Secretariat~~ *depreciated value as determined by the Secretariat or 5% of their original value, whichever is the higher*. An outgoing Member has the first option to purchase his/her capital items, but he/she has no right to purchase capital items returned by other Members. In the event that a capital item was not fully reimbursed, the ~~market-price~~ *value* payable by the outgoing Member is discounted by the proportion of acquisition price borne by him/her personally.

Shared Expenses

82. A Member may only share the procurement expenses of a capital item with another Member or other Members. The Members concerned (i.e. the group) should sign an undertaking agreeing to the following disposal arrangements when any Member of the group ceases office —

- (a) If an outgoing Member of the group wishes to purchase the item, he/she will seek the agreement of other Members of the group and pay to the Secretariat the ~~market-price~~ *depreciated value or 5% of the original value* of the item, *whichever is the higher*.
- (b) If re-elected or remaining Member(s) of the group wish(es) to retain the item for use in relation to LegCo business, the Member(s) will seek the agreement of the outgoing Member(s) of the group and pay to the Secretariat an amount equivalent to the outgoing Member(s)' share of

the item at ~~market price~~ *depreciated value or 5% of its original value, whichever is the higher.*

- (c) If Members of the group fail to reach an agreement regarding the disposal of the item within two months, the Secretariat may take possession of the item in question without payment.

Note:

* Consideration may be given to revising the amount to say, \$3,000 or \$5,000.

Legend:

Text proposed to be added are shown in italics.

Text proposed to be deleted are shown with deletion lines.