

Historical development of Members' Remuneration and Operating Expenses Reimbursement

1976 to 1991

1. The provision of a remuneration package for Members of the Legislative Council can be traced back to 1976 when an "allowance" was granted to the Unofficial Members of the pre-1997 Legislature to reimburse them for their expenses on staff, office expenses, travelling, entertainment and other expenses incurred on their Legislative Council duties.¹ It was generally considered that the Unofficial Members were performing a kind of public service by accepting the appointment, and the expenses incurred from performing this service should be borne at least in part from public funds. The allowance was intended to be a partial compensation for any pecuniary loss arising from holding the office.^{2 3}

2. In 1985, in the light of the introduction of Members elected from functional constituencies and the electoral college, a stipend was introduced to provide remuneration to offset living expenses and loss of income so that intending candidates would not be deterred from coming forward in the elections.⁴ The stipend was set at 4/5⁵ of the mean salary for middle management, non-professional employees in the private sector.⁶ In 1987, the allowance and the stipend were combined to form a single allowance.

3. In August 1991, in anticipation of the election of the first batch of directly elected Members to the Council, the single allowance was replaced by a remuneration package comprising a taxable monthly salary and a non-taxable monthly general expenses allowance payable against certified claims for expenses. The remuneration package was to give clear recognition to the very important work done by the Legislative Council Members and to provide sufficient means to those Members who regarded Legislative Council work as a major occupation to sustain a reasonable living.⁷ Revisions of the monthly salary

¹ Funded under Head 54 – Office of UMELCO in the Estimates of Expenditure.

² Press release on 24 August 1976.

³ Report of the Independent Commission on Remuneration for Members of the Legislative Council (September 1994).

⁴ Finance Committee Paper FCR(91-92)89 approved on 9 August 1991, paragraph 1.

⁵ The rationale for the 4/5 factor was that it was unlikely that Members of the Legislative Council would be occupied on a full time basis.

⁶ Report of the Independent Commission on Remuneration for Members of the Legislative Council (September 1994).

⁷ Finance Committee Paper FCR(91-92)89 approved on 9 August 1991, paragraph 8.

and the general expenses allowance were carried out on an annual basis according to the relevant Hang Seng Consumer Price Index.

1991 to 1997

4. On 24 July 1992, at the Finance Committee meeting considering a proposal⁸ to revise the salaries and allowances for Members, Members asked for a review of the package of salary and allowance in view of the new development in formalizing the committee system of OMELCO and the provision of dedicated offices for Members. At the special LegCo In-House Meeting⁹ held on the same day, an Ad Hoc Group on Review of Allowances for LegCo Members ("Ad Hoc Group") was formed to conduct a comprehensive review on Members' accountable expenses which had been found to be grossly insufficient in the light of experience. In October 1992, the Ad Hoc Group submitted a report to the House committee highlighting the inadequacies of the salary and allowances in meeting Members' actual needs and the general observation that the level of allowances and benefits currently received by Members was generally below that received by Members of other legislatures. It was agreed that the review of Members' allowances should be undertaken by an independent commission. The report of the Ad Hoc Group was then submitted to the Government.^{10 11 12}

5. In May 1993, the Government proposed a new remuneration system which allowed Members to be reimbursed the expenses for setting up and winding up their offices in addition to an accountable general expenses allowance to cover staff and office expenses on a reimbursement basis and a non-accountable allowance to cover travelling and entertainment expenses. As regards Members' salary, the Government's standpoint was that the salary should aim to provide sufficient means to those who regard the work in the Legislative Council as a major occupation to sustain a reasonable living, and to provide an incentive for those of modest means to come forward as candidates in the Legislative Council elections. The level of salary of Members proposed in May 1993 was within the top 1.1% of the average income in Hong Kong.¹³ The view of the Government on Members' salary was not shared by the Ad Hoc Group which again asked for the setting up of an independent commission to deal with Members' remuneration. With an undertaking by the Government that the proposal would be implemented as an interim measure pending a more

⁸ Finance Committee Paper FCR(92-93)40 approved on 24 July 1992.

⁹ The LegCo In-House Meeting became the House Committee in October 1992.

¹⁰ Finance Committee Paper FCR(93-94)28 approved by the Finance Committee on 7 May 1993.

¹¹ Minutes of Finance Committee meeting on 7 May 1993.

¹² Report of the Working Group on the Review of Allowances for Legislative Council Members (dated 14 March 1994).

¹³ Finance Committee Paper FCR (93-94)28 for discussion on 7 May 1993.

comprehensive review to be conducted by an independent commission, the proposal was approved by the Finance Committee on 7 May 1993.

6. In July 1993, the independent Commission on Remuneration for Members of the Legislative Council ("the Independent Commission")¹⁴ was appointed by the Governor to recommend a system of remuneration for Members of the Legislative Council and to advise on the appropriateness of the then remuneration package for non-official Members of the Legislature. The Ad Hoc Group continued to make submissions to the Independent Commission on the issues which had not been addressed in the Government's proposal in May 1993.

7. In January 1994, a Working Group on the Review of Allowances for Legislative Council Members ("Working Group") was appointed by the House Committee to re-examine the recommendations of the former Ad Hoc Group and review the situation faced by Members following the introduction of the new remuneration package. In March 1994, the House Committee, after endorsing the recommendations of the Working Group, submitted to the Independent Commission that Members' status should be properly reflected in the remuneration which should be comparable to the salary range of Directorate officers in the Civil Service and a pegging criterion should be adopted. The Working Group's recommendations also included a range of financial support and administrative services for Members which were also submitted to the Independent Commission for its consideration.

8. In September 1994, the Independent Commission submitted its first report to the Governor. The Independent Commission concluded that the work of a Legislative Council Member did not meet the requisite parameters of a job and the position did not necessarily require a full-time commitment of time and effort from the incumbent; it was more a form of service to the public and the monthly payment to Members should best be described as remuneration for service to the public. The Independent Commission considered the then level of remuneration reasonable and did not recommend any change to it. As regards the general expenses allowance, the Independent Commission considered that the requirements of directly elected Members and those returned by functional constituencies or appointed by the Governor were different. The former should be allowed to have an additional accountable allowance specifically for operating one office in their district. There were also a range of recommendations to tighten the control over the employment of staff and to restrict the use of the general expenses allowance. The recommendations in the report were endorsed by the Governor-in-Council and were reflected in a proposal put to the Finance Committee on 10 October 1994. However, Members disagreed with the recommendations of the Independent Commission and refused to accept the

¹⁴ The Commission was chaired by Professor WANG Gungwu.

revised remuneration package for Members of the term commencing in October 1995.

9. In March 1995, the Governor asked the newly reconstituted Independent Commission to reconsider Members' views on the report of the former Commission. In June 1995, the Independent Commission submitted its response to Members' comments. In its response, the Independent Commission concurred with the former Commission that work of Legislative Council Members was a service to the public but it also considered that their work was so unique and important that it should not be considered as just a job. In recognition of the tremendous work pressure put on Members, the Independent Commission agreed that more support services¹⁵ should be given to Members to help them fulfill their role properly. The "general expenses allowance" should be changed to "operating expenses reimbursement" to reflect more accurately the nature of the allowance. The Independent Commission endorsed all recommendations of the former Commission but suggested modifications to some of the recommendations in the light of Members' views. A revised remuneration package was approved by the Finance Committee on 14 July 1995.¹⁶

10. In October 1995, after the election of the last term of the pre-1997 Legislature, the House Committee set up the Subcommittee on Review of Allowances for Members of The Legislative Council (subsequently renamed as Subcommittee on Members' Remuneration and Operating Expenses Reimbursement ("the Subcommittee")) to review the use of Members' operating expenses reimbursement and allowances. In November 1995, the Subcommittee reported to the House Committee and recommended that there should be no distinction between Members elected from geographical constituencies and those who were not in their eligibility for the setting up of district offices. Members should be given equal treatment in all aspects of the remuneration and allowances system. The Subcommittee considered that all Members should be encouraged to maintain close and regular contact with the public and if necessary with the support of a district office. Given the wide geographical spread of constituencies, one district office might not be sufficient.

11. In February 1996, the Independent Commission responded to the Subcommittee and stressed that there was no intention to discriminate against any group of Legislative Council Members. Having regard to the increasing workload of legislators and to ensure equal treatment, the Independent Commission agreed that each Member should be provided with both a central office and an allowance to enable him/her to rent district offices. Whilst

¹⁵ Such services included the strengthening of the research and library support services operated by the Secretariat and provision of a modern communication network between the Secretariat and Members' central offices.

¹⁶ Finance Committee Paper FCR(95-96)44 approved on 14 July 1995.

recognizing the need for greater flexibility in the effective use of resources, the Independent Commission reiterated the importance of accountability and transparency and advised that these principles should be maintained in Members' reimbursement claims. The modifications to the remuneration package for Members were approved by the Finance Committee on 12 April 1996. The Subcommittee further submitted its views on the winding up allowance in July 1996. In January 1997, after taking into account the recommendations of the Independent Commission, the Government put forward a proposal to modify the conditions governing the reimbursement of the winding up allowance to enable Members to fulfill their contractual responsibilities and statutory obligations upon the cessation of office.¹⁷ The proposal was approved by the Finance Committee on 10 January 1997.

1997 to present

Provisional Legislative Council

12. In the run-up to 1 July 1997, the newly elected Chief Executive appointed an Independent Commission¹⁸ to determine the remuneration packages for Members of the Executive Council and Legislature of the HKSAR. One of its tasks was to recommend to the Chief Executive the criteria for and the level of remuneration to be paid before 1 July to Members of the Provisional Legislative Council having regard to the volume and nature of business of the Provisional Legislature. On 23 July 1997, based on the recommendations of the Independent Commission, the Government proposed to the Finance Committee that Members of the Provisional Legislative Council should be given a lump-sum payment for the period from its first meeting on 25 January 1997 to 30 June 1997 in view of its lighter workload than that of a full-fledged legislature, but should be entitled to the same remuneration package for the former Legislative Council from 1 July 1997 onwards as the Provisional Legislature would operate in essentially the same manner as the former Legislature after 1 July 1997. The proposal was approved.¹⁹

13. In March 1998, the Chief Executive-in-Council endorsed the recommendations of the Independent Commission on the remuneration package of the First Legislative Council. As the functions and workload of the Legislature of HKSAR would be broadly comparable to those of the pre-1997 Legislature, the Independent Commission recommended that the same remuneration package should be adopted. The Commission also recommended that a review should be carried out about a year before the start of the Second Legislative Council but the

¹⁷ Finance Committee Paper FCR(96-97)89 approved on 10 January 1997.

¹⁸ The Independent Commission was chaired by Mr Wong Po Yan, GBM, JP.

¹⁹ Finance Committee paper FCR(97-98)26.

Commission would also consider any ad hoc requests from Members to review any particular aspects of the remuneration package.

First Legislative Council

14. On 10 July 1998, the House Committee of the First Legislative Council set up a subcommittee with the same terms of reference of the former Subcommittee to review the operating expenses for Members. Between September 1998 and June 1999, the Subcommittee held meetings with the Government and submitted its views to the Independent Commission on the level of operating expenses required by Members. On 2 July 1999, based on the agreed understanding between the Subcommittee and the Independent Commission²⁰, the Government presented a proposal to the Finance Committee to modify Members' remuneration and reimbursement package by providing greater flexibility in the use of the reimbursements and creating a new expenses reimbursement to improve Members' communication with the public through wider use of the information technology. The proposal was approved.

Second Legislative Council

15. One of the recommendations of the then Working Group in its submission to the Independent Commission in 1994 was a request for the Independent Commission to make reference to the remuneration systems in other Parliaments, having regard to the amount of time spent on legislative work, the level of responsibility and the status of a legislator. The matter was revisited by the Subcommittee of the Second Legislative Council²¹ which, in its report submitted to the Government after endorsement of the House Committee on 8 December 2000, requested that the issue of Members' remuneration should be studied from a longer term perspective. The Subcommittee considered that the question of whether Legislative Council work should be regarded as a full-time commitment of Members or their main occupation should be studied. As legislators, Members worked with those in the top echelons of the administration, Members' remuneration should therefore be comparable to that of senior Government officials. The Independent Commission²², in its report submitted to the Chief Executive in October 2003 for the remuneration package for Members of the Third Legislative Council, reaffirmed that legislative Council membership was a form of service. Noting that the then remuneration had put Members at the top 2.7% of salary earners in Hong Kong, the Independent Commission

²⁰ Second Report of the Subcommittee on Review of Operating Expenses for Members of the Legislative Council presented to the House Committee on 25 June 1999 (Paper AS339/98-99).

²¹ The Subcommittee was set up by the House Committee of the Second Legislative Council on 20 October 2000.

²² The Independent Commission was renamed as the Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment Systems of the HKSAR in 2002.

considered this level sufficient to meet the objective of attracting people of modest means to come forward to stand for elections, and therefore recommended no changes to the level and also the adjustment mechanism.

16. As regards the operating expenses reimbursement, the Subcommittee of the Second Legislative Council made a number of submissions to the Government throughout its 4-year term. Noting Members' difficulties, the Government, after consulting the Independent Commission, put forward a proposal to the Finance Committee on 6 July 2001²³ to increase the accountable expenses reimbursement for office operation and merge the monthly provision of the operating expenses reimbursement into an annual provision. In view of this enhancement which took effect on 1 October 2001, the Independent Commission in its 2003 report did not recommend any major changes to the level of office operating expenses but agreed to remove some conditions in the use of the setting-up allowance to provide greater flexibility for utilizing their setting-up and information technology allowances. Regarding the Subcommittee's request for a pension scheme for Members having regard to the practices of overseas legislatures, the Independent Commission was not convinced that there should be a retirement scheme for Members.

Third Legislative Council

17. The Subcommittee of the Third Legislative Council submitted a package of proposals to the Government in June 2005 on possible adjustments to the reimbursements including the provision of medical benefits to Members. The Subcommittee also met with the Independent Commission to put forward its views on the need to peg Members' remuneration at a certain percentage of the salary range of the directorate officers in the Civil Service or an independent remuneration scale to be set for Legislative Council Members, as well as the need to provide medical and retirement benefits for Members. The Subcommittee also reiterated the need to enhance the operating expenses reimbursement for setting up more district offices in view of the substantial growth of geographical constituencies in terms of area and population over the years.

18. In January 2008, the Government put forward a proposal to the Finance Committee based on the recommendations of the Independent Commission. The Independent Commission did not respond to the view of the Subcommittee on the pegging mechanism. It nevertheless recommended an increase in Members' remuneration to bring the remuneration to the price level of 2007 and agreed to the provision of an end-of-service gratuity at 15% of the total remuneration received by a Member in his/her term of service. As regards medical benefits, the Independent Commission recommended the provision of a separate,

²³ Finance Committee Paper FCR(2001-02)32 approved by the Finance Committee on 6 July 2001.

additional annual accountable medical allowance²⁴ to enable Members to pay for the premium of their personal medical and/or dental insurance policies or to use the allowance to pay for the actual medical and dental expenses. Taking into account the utilization rate and the difficulty in devising an objective yardstick to determine the number of staff members and district offices a Member required, the Independent Commission could only adopt a more prudent approach in adjusting the operating expenses reimbursement. The proposal for the package of remuneration and reimbursements for Members of the Fourth Legislative Council was approved by the Finance Committee on 11 January 2008.

Fourth Legislative Council

19. The Subcommittee of the Fourth Legislative Council was set up on 17 October 2008 to follow up with the Independent Commission on two outstanding issues, namely the enhancement of the operating expenses reimbursement and the lack of a mechanism to determine Members' remuneration. After conducting a series of surveys among Members and their Personal Assistants, it was revealed that there was a serious problem of staff retention due to low salaries, poor career prospect and irregular/long working hours. The turnover rate of full-time staff was as high as 34%. On 18 March 2011, based on the analysis of the staff required for providing core support services at the central office and other services at the district offices of Members, the Subcommittee submitted to the House Committee a package of proposals²⁵ to enable Members to employ and retain a team of good quality staff and to have the necessary support as well as the furniture and equipment to support the work of their offices. The proposals were supported by the House Committee and put to the Independent Commission for its consideration in March 2011.

20. In February 2012, the Subcommittee circulated a draft report to all Members inviting their views on the mechanism to be recommended to the Independent Commission for determining Members' monthly remuneration, including a proposal to peg Members' remuneration to 30%-50% of that of a Director of Bureau.²⁶ Following consultation with Members, the Subcommittee decided that it would not put forward any specific proposal on the monthly remuneration of Members of the Fifth Legislative Council. However, in its submission to the Independent Commission, it reiterated that a long-term mechanism to determine Members' remuneration should be put in place to avoid unnecessary arguments over the subject between the Administration and the Council once every four years. The remuneration so determined should be able to

²⁴ The annual medical allowance was set at \$25,000 in the proposal to the Finance Committee on 11 January 2008.

²⁵ LC Paper No. AS 197/10-11 endorsed by the House Committee on 18 March 2011.

²⁶ LC Paper No. AS 103/11-12 circulated to all Members for comments in February 2012.

reflect the important role of the Legislature and the constitutional status of Legislative Council Members under the Basic Law.

21. In March 2012, the Chief Executive-in-Council endorsed the recommendations of the Independent Commission and put forward a revised remuneration package for the Fifth Legislative Council. Regarding Members' remuneration, the Independent Commission maintained that given the very unique nature of Legislative Council membership, it was not appropriate to derive a formula to determine Members' remuneration or to compare their remuneration directly with that of other sectors or to peg it to that of the civil service or politically appointed officials. The Independent Commission recommended to bring the monthly remuneration to the median monthly salary of the top 25% of salary earners working as managers and administrators. As regards the operating expenses reimbursement, the Subcommittee noted that the Independent Commission had only taken on board some of the proposals of the Subcommittee but ignored the proposed staffing complement which formed the basis of its proposals. The Government's proposed package revealed that the Independent Commission had failed to acknowledge the nature and complexity of Members' work in present day and the support required by Members to perform their constitutional functions under the Basic Law. While Members approved the proposed remuneration package for the Fifth Legislative Council at the Finance Committee meeting on 11 May 2012, the Subcommittee was asked to follow up with the Government on the issues which were still outstanding at the start of the next term.

Fifth Legislative Council

22. In June 2013, after consulting Members, the Subcommittee of the Fifth Legislative Council noted that a vast majority of Members of the Council supported that the Subcommittee should pursue the outstanding proposals from the report of the Subcommittee of the Fourth Legislative Council.