

立法會
Legislative Council

LC Paper No. AS 118/04-05
(The minutes of meeting on
Item II have been seen by
ICAC)

Ref : AM 12/01/19 (Pt 7)

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

**Minutes of meeting
held on Thursday, 11 November 2004
at 4:30 pm in Conference Room B of the Legislative Council Building**

- Members Present** : Hon Patrick Lau Sau-shing, SBS, JP (Chairman)
Dr Hon Lui Ming-wah, JP
Hon Cheung Man-kwong
Hon Emily Lau Wai-hing, JP
Hon Abraham Shek Lai-him, JP
Hon Wong Ting-kwong, BBS
Hon Tam Heung-man
- Members Absent** : Hon Mrs Selina Chow Liang Shuk-ye, GBS, JP
Hon Howard Young, SBS, JP
- Member Attending** : Hon Albert Jinghan Cheng
- Public Officers Attending** : Mr Thomas Chan Chi-sun
Director of Corruption Prevention (DCP)
- Mr Davey Chung Pui-hong
Assistant Director of Corruption Prevention
- Mr Carmel Chow Jun-lung
Group Head, Corruption Prevention Department
- Clerk in Attendance** : Mrs Anna Lo
Principal Council Secretary (Administration) (PCS(A))
- Staff in Attendance** : Mr Ricky C C Fung, JP
Secretary General (SG)
- Mr Joseph Kwong
Accountant (ACCT)

I. Confirmation of minutes of the last meeting held on 1 November 2004
(LC Paper No. AS 88/04-05)

The minutes of the last meeting held on 1 November 2004 were confirmed.

II. Submission from ICAC: Administration of operating expenses reimbursement claims
(LC Paper No. AS 89/04-05 (01))

2. The Chairman welcomed representatives of ICAC to the meeting. At the invitation of the Chairman, DCP briefed members on the contents of the paper.

ICAC's recommendations for District Councils (DCs)

3. Ms Emily Lau noted that District Councillors were unaware of ICAC's review for Home Affairs Department (HAD) on its "Guidelines on Reimbursement of Operating Expenses Allowance for Members of DCs" (DC Guidelines). She asked if the Corruption Prevention Department (CPD) had consulted District Councillors before making its recommendations. DCP replied that in late 2003 CPD was invited by HAD to comment on the DC Guidelines, which were being revised to tie in with the new term of DC commencing 1 January 2004. Within the short period of time available, CPD made its recommendations, which were subsequently accepted by HAD and incorporated in the DC Guidelines. Although no consultation of District Councillors was conducted by CPD, he believed that HAD might have gone through that process.

Related-party transactions

4. Mr Cheung Man-kwong pointed out that, for a Member elected through functional constituency, renting a part of the office of an association affiliated with the constituency as his/her district office was a practical and effective way of accessing his/her constituents. It was equally reasonable for Members to purchase items required for running their offices from co-operatives operated by such affiliated associations, because, as widely known, their prices were lower. However, such transactions had been subject to allegations that they were improper. Mr Cheung invited CPD's views on whether such transactions should be banned. DCP replied that the crucial point was whether such transactions were competitive and justified, and whether proper declaration had been made. He added that the whole issue was a matter of degree.

Action

5. Ms Emily Lau agreed that renting one's own property was undesirable. She, however, believed that thorough consideration should be given to cases such as whether Members should be allowed to share office space with their own businesses (at a rent) or rent a room from one's own trade union. She further asked DCP's views on the renting of offices from one's own political party. DCP replied that the ICAC would have to review the issues involved such as the perceived extent of conflict of interest before making recommendations. If renting an office from one's own political party or affiliated organization was unavoidable, there should be a system to properly document the transactions and the system should be made transparent. Mr Wong Ting-kwong remarked that the rental level could be justified by professional valuation. In his view, sharing of offices or renting from related parties could be a prudent way of using public funds as this might be more economical.

6. Ms Emily Lau suggested that, if renting from related parties were to be banned, ICAC should consider ways to deal with any existing cases.

Staff engaged in more than one employment

7. Miss Tam Heung-man enquired whether hiring a person who also worked for the Member's political party would be construed as benefiting the political party. DCP considered that it should be for LegCo to decide whether LegCo Members' staff should pay undivided attention to Members' LegCo work.

Pricing

8. In reply to Mr Albert Cheng, DCP said that not buying from the cheapest source was not against the law; the crucial point was whether the purchase was made in a fair and accountable manner, and whether there was a conflict of interest. Mr Wong Ting-kwong remarked that prices might not be the only criterion in a decision to buy; other factors such as after-sale service might also be taken into consideration.

9. Ms Emily Lau enquired whether Members should be forbidden to buy from their relatives even if the price offered was the lowest. She also expressed her concern that Members' assistants might not have kept full documentation of the quotations they had obtained. She suggested that the reimbursement guide should be very specific about the number of quotations and the kind of documentation required if there were to be such requirements. The Chairman believed that only transactions above a certain price level would have to comply with such detailed requirements, if any.

10. Mr Cheung Man-kwong agreed with the Chairman on the differential treatment based on the amount involved. He further enquired whether purchases could be made from a ‘friend’ and how a ‘friend’ should be defined. In exemplifying his question, he said that a printer might in time become a friend of a Member after printing publications for the Member for a long time, and yet this friend’s price might be the most competitive.

General principles

11. Mr Abraham Shek commented that the LegCo Secretariat’s reimbursement guidelines were already very clear and detailed. When exercising discretionary powers, Members had to be fair and righteous in judging what was acceptable, and their transactions should be open to the public. He considered that declaration of interest might be necessary for some kind of transactions, whereas a fair price was essential. He welcomed ICAC’s review, which hopefully would help plugging any loopholes.

12. Mr Cheung Man-kwong opined that, as a matter of principle, Members should abstain from situations where they could be implicated, such as hiring of relatives, even if they could make their interest involved known to the public. With regard to renting an office from one’s own political party, the rental should be at fair market value and a rental adjustment mechanism should be in place. He also supported a transparent system, so that members of the public could monitor Member’s use of public money. On the whole, he stressed that the use of public funds should be seen by the public as sensible, reasonable and legitimate.

13. Mr Albert Cheng commented that as Members were responsible for their own moral behaviour and had to be accountable to their electors, too rigid rules were unnecessary. Mr Wong Ting-kwong and Mr Abraham Shek also agreed that too minute, complicated and rigid rules would not be practicable. Mr Wong added that the public would judge what was fair and what was not. In Mr Shek’s opinion, the critical point was whether someone had benefited unfairly from such transactions. If someone did so, it would be unacceptable even if the price was the lowest.

Correct description of the financial resources provided for Members

14. Ms Emily Lau reminded CPD that the financial resources provided for Members should be called “expense reimbursement”, not “allowance”. These expense reimbursements were based on actual expenditure, which was different from the “allowance” for civil servants that was part of their remuneration.

Scope of the ICAC review and the time required

15. In reply to Ms Emily Lau's enquiry on the scope of the ICAC review and her suggestion that CPD should study some of Members' reimbursement claims before making its recommendations, DGP said that they would review the existing reimbursement guide for LegCo Members, taking into account other legislatures' practices and experience. It would be useful to consult Members, their assistants and the LegCo Secretariat. The review would take about two months. Members supported the ICAC review and welcomed CPD to visit their offices for more thorough understanding of their operation.

16. On Ms Emily Lau's suggestion, the Chairman requested that a paper be prepared for the House Committee informing Members of the ICAC review and seeking their co-operation with CPD.

Secretariat

(Representatives of ICAC left the meeting at this point.)

III. Any Other Business

Insufficient resources

17. Mr Albert Cheng pointed out that the expense reimbursements were insufficient for him to operate even one district office. Miss Tam Heung-man responded that they were sufficient in her case. Mr Albert Cheng considered that the requirements of directly-elected Members were different from Members elected through functional constituencies. The maximum scales for election expenses were different for different constituencies, which reflected the recognition of the different sizes of the various electorates. In the same way, the expense reimbursements for Members elected from different channels and constituencies should also vary in amount.

18. Mr Abraham Shek agreed that the expense reimbursements should be set at an adequate level for a Member to serve his electorate. He doubted if the Independent Commission on Remuneration for the Members of the Executive Council and the Legislature of the HKSAR fully understood the work of LegCo Members and whether it was inclined to adopt the Administration's perspective.

Action

19. Ms Emily Lau reminded that Members could submit their over-ceiling expenses to the Secretariat for verification, so as to substantiate that the amounts of expense reimbursements were insufficient. However, she reckoned that these over-ceiling expenses might not be able to reflect the full amount of financial resources required, because some Members might not be financially capable of subsidizing their LegCo work.

Retirement protection

20. Mr Albert Cheng also pointed out that as Members had to devote a prime part of their working lives to LegCo, they should be provided with retirement protection.

21. SG undertook to provide background papers on previous discussions regarding the level of expense reimbursements and retirement benefits for Members. The Chairman agreed that the Administration should be invited to the next meeting for discussion on these two issues.

Secretariat

IV. Date of Next Meeting

22. The next meeting would be held on 6 December 2004, Monday, at 4:30 pm.

23. The meeting ended at 5:42 pm.

Legislative Council Secretariat
December 2004