

**立法會**  
**Legislative Council**

LC Paper No. AS 302/04-05

Ref : AM 12/01/19 (Pt 8)

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

**Minutes of meeting  
held on Monday, 25 April 2005  
at 8:30 am 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 Mrs Selina Chow Liang Shuk-ye, GBS, JP  
Hon Cheung Man-kwong  
Hon Howard Young, SBS, JP  
Hon Emily Lau Wai-hing, JP  
Hon Abraham Shek Lai-him, JP  
Hon Wong Ting-kwong, BBS  
Hon Tam Heung-man
- 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)
- Mr Matthew Loo  
Senior Council Secretary (Administration)<sup>2</sup>

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**I. Confirmation of Minutes of Last Meeting held on 1 March 2005**  
(LC Paper No. AS 247/04-05)

The minutes of the last meeting held on 1 March 2005 were confirmed.

## **II. Level of Members' Remuneration and Operating Expenses Reimbursement**

(LC Paper No. AS 248/04-05)

– Paper prepared by the Legislative Council (LegCo) Secretariat

2. The Chairman took members through the summary of views of members and the Administration contained in LC Paper No. AS 248/04-05.

### Higher level of Operating Expenses Reimbursement

3. Members unanimously supported a higher level of Operating Expenses Reimbursement (OER), but they had no strong views on the existing remuneration level. As compared with some years ago, more resources were necessary for Members to serve substantially larger constituencies and deal with a much wider range of complex issues.

4. Mrs Selina Chow noted that the Independent Commission on Remuneration for the Members of the Executive Council and the Legislature of the HKSAR (Independent Commission) maintained the view that LegCo membership was not a job but a form of public service. While she had no objection to the Independent Commission adopting such a view in determining the remuneration level of LegCo Members, she considered that this view was no longer appropriate in determining the OER level, because the nature and complexity of the work of LegCo Members had changed tremendously in the past few years. Further discussion with the Administration and the Independent Commission on this issue would be necessary. Mr Wong Ting-kwong agreed that Members should make it clear to the Administration and the Independent Commission that they were not fighting for their own benefits by emphasizing that more resources were required for OER, not remuneration of Members.

### Level of OER for Members returned from different channels

5. With regard to the level of OER for Members returned from geographical constituencies (GCs) and functional constituencies (FCs), Ms Emily Lau envisaged that it would be difficult to convince the majority of Members to adopt differential treatment for Members elected through different channels. In the circumstances, she agreed that the current arrangement of the same level of OER for all Members irrespective of the channels through which they were elected should be maintained.

6. Mr Abraham Shek, Mr Wong Ting-kwong and Dr Lui Ming-wah pointed out that FC Members served their constituents as well as the community. It was therefore inappropriate to provide them with less resources.

7. Mr Cheung Man-kwong said that Members of the previous terms had reached a consensus that all Members should be entitled to the same remuneration package. However, the situation had changed in that GC Members of the current term had to serve a larger number of constituents. Being a Member returned from the FC (Education), he was serving 80,000 to 90,000 constituents. The size of this FC was the largest among FCs, but it was small in comparison with those of GCs. He also pointed out that, due to the existing inadequate OER level, most employees of GC Members were under-paid. In this connection, Mr Cheung did not consider that differential treatment for Members elected through different channels would be discriminatory. He considered that the current level of OER for FC Members should be maintained, but that for GC Members should be enhanced. In response to Mr Cheung's enquiry, ACCT confirmed that generally OER claimed by GC Members was higher than that by FC Members.

8. Mr Cheung Man-kwong also said that if the Administration did not accede to Members' request to raise the OER level across-the-board in the next financial year, more resources should at least be provided for GC Members. Mr Wong Ting-kwong supported Mr Cheung's view. Dr Lui Ming-wah and Mr Abraham Shek reiterated that they did not support differential treatment for Members elected through different channels. Mrs Selina Chow concurred with Dr Lui and Mr Shek. She considered that some criteria and rules (e.g. the maximum number of district offices to be operated by a member) might be considered to control the enhanced OER.

9. The Chairman suggested that a separate OER ceiling might be set for Members with district offices. Mr Cheung Man-kwong supported the Chairman's suggestion. Dr Lui Ming-wah did not agree with the suggestion and stressed that Members should receive the same level of remuneration and OER irrespective of the channels through which they were elected.

Timing of implementing changes to the level of OER

10. On the question of whether substantial changes to the level of remuneration and OER should only be implemented in the following LegCo term, SG advised members that, according to the Administration, the principle of this established practice was to preserve the credibility of the remuneration system. The meeting generally considered that there was no conflict of interest on the part of Members, as changes were determined by the Independent Commission. The practice should therefore be discontinued.

11. On SG's advice that the Administration normally planned the budget for the next financial year towards the end of each calendar year, Ms Emily Lau stated that if Members could reach a consensus before the end of the current session, the Administration might have sufficient time to consider Members' request for a higher level of OER for the next financial year.

Membership of the Independent Commission

12. Ms Emily Lau questioned the membership of the Independent Commission in that none of its members had the experience of a directly elected LegCo Member. Mr Abraham Shek agreed that some directly elected Members should be appointed to the Independent Commission. Mr Cheung Man-kwong suggested, and the meeting agreed, that the Administration should be requested to appoint current or former directly elected Members to the Independent Commission.

Sharing of staff among Members

13. Ms Emily Lau was of the view that the present rule which disallowed Members to jointly hire an assistant was not conducive to the economical use of Members' resources. Mrs Selina Chow and Mr Cheung Man-kwong also considered the rule outdated. In response, ACCT explained that successive Independent Commissions had upheld this rule for the reason that accountability should be clearly established as to which Member was responsible for a certain employee. The meeting was of the view that the rule should be relaxed.

Draft questionnaire

14. Ms Emily Lau suggested, and the meeting agreed, that all LegCo Members should be consulted on the deliberations and recommendations made by the Subcommittee. The LegCo Secretariat would draft a questionnaire for members' consideration at the next meeting.

Secretariat

### **III. Retirement Benefits for Legislative Council Members**

(LC Paper No. AS 249/04-05)

– Paper prepared by the LegCo Secretariat

15. The Chairman took members through the summary of views of members and the Independent Commission contained in LC Paper No. AS 249/04-05.

16. The Chairman opined that the crux of the problem was that the Independent Commission still maintained its view that LegCo membership was not a job but a form of public service. Mrs Selina Chow agreed.

17. Ms Emily Lau said that LegCo Members' work should be recognized as a job. She found it unacceptable that it was necessary for LegCo Members to declare, or restrictions to be imposed on, their outside employment and earnings if LegCo membership was recognized as a job. Reasonable retirement benefits should be provided so as to encourage and attract the younger generation and able people to take up a career as a legislator. She agreed with the Independent Commission's view that contributions to a Members' retirement scheme fell outside the ambit of the OER account. Additional resources should be provided for any retirement protection scheme for Members.

18. Mr Cheung Man-kwong said that, similar to the Chief Executive (CE) and principal officials of HKSAR, many LegCo Members had given up their jobs to serve as full-time legislators. While CE and the principal officials were granted contract gratuities, Members were not provided with any retirement benefits. Mr Cheung pointed out that his constituents received generous retirement benefits, but as a LegCo Member, he had no such benefits. Although it was his personal choice to give up his job and all related benefits to become a full-time legislator, he considered the existing arrangement unreasonable. He supported a reasonable retirement protection scheme for Members.

19. On behalf of Members belonging to the Liberal Party (LP), Mrs Selina Chow supported the provision of retirement protection for legislators and agreed that contributions to Members' retirement scheme should fall outside the ambit of the OER account. As the situation had changed both in terms of the demand on and the standards required of Members, she held the view that the legislators' work had become a full-time professional job. Although some Members might still have other employment, they had to spend most of their time in and give priority to the legislative work. Further discussion with the Independent Commission and the Administration on this issue was necessary. Mr Wong Ting-kwong supported Mrs Chow's views.

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20. Mr Abraham Shek supported the proposal of retirement benefits for Members. He also opined that the provision of other fringe benefits, such as medical benefits, should also be considered. Although Members' personal medical and dental insurance payments were reimbursable under OER, some Members who had already had certain illnesses might not be accepted for medical insurance cover. Ms Emily Lau agreed that it was necessary to devise a set of terms and conditions of service for LegCo Members, but the Independent Commission and the Administration should first be convinced that LegCo membership was a job.

21. The meeting agreed that the LegCo Secretariat should prepare a questionnaire to consult LegCo Members on the Subcommittee's views and recommendations on Members' retirement benefits.

Secretariat

**IV. ICAC's Review on "Rules and Practices for the Reimbursement of Members' Operating Expenses"**

(LC Paper No. AS 250/04-05)

– Paper prepared by the LegCo Secretariat

22. The Chairman took members through the paper which summarized ICAC's recommendations/views and Members' view on the ICAC's review.

Guiding principles

23. The meeting expressed general support for the guiding principles recommended by ICAC in claiming expenses reimbursement.

Office Accommodation

24. Ms Emily Lau, Mr Wong Ting-kwong and Mr Cheung Man-kwong supported ICAC's recommendation that Members should not claim reimbursement to lease office accommodation in which he or his relatives had any financial interest. Mrs Selina Chow personally saw no objection to allowing a Member to lease his private office accommodation at market rental. However, in order to avoid public perception that a Member subleased a part of his private office to subsidize his own private operations, she agreed that ICAC's recommendation was a prudent approach.

Action

25. With regard to ICAC's recommendation on the arrangement for a Member to rent office accommodation from his affiliated association/political party, Mrs Selina Chow was of the view that so long as the Members' office was clearly demarcated, the sharing ratio was fair, and the whole arrangement was transparent and made in the public interest, the subleasing arrangement should be allowed. Mr Wong Ting-kwong was concerned that independent valuation of market rental under the proposed arrangement would be costly. He wondered if it was feasible to use government rates as a reference to estimate the market rental. With regard to Mr Wong's concern, Mr Abraham Shek advised that the cost of independent valuation normally ranged from \$2,000 to \$3,000. Mr Cheung Man-kwong supported ICAC's recommendation and considered that independent valuation of market rental was inevitable so as to justify the subleasing arrangement. He also opined that the lease should be renewed every two years, which was the common practice in the property market. Mrs Selina Chow considered that a four-year lease covering the duration of a LegCo term would be better. Ms Emily Lau also pointed out that the rental valuation cost should be reimbursable from OER. The meeting generally considered it acceptable for a Member to rent office accommodation from his affiliated association/political party as the arrangement would be in his constituents' interest. SG said that, subject to Members' endorsement of the office-sharing arrangement, the LegCo Secretariat would prepare detailed guidelines for Members' consideration.

Secretariat

Recruitment of Staff

26. The meeting had no objection to ICAC's recommendation on staff recruitment. In gist, recruitment of Members' staff should be open and based on merits. The remuneration offered to the chosen candidate should commensurate with his skills and experience. The meeting also agreed that, to enhance transparency, the selection process and decision should be properly documented and deposited with the LegCo Secretariat. Detailed arrangements would be stipulated in the guidelines to be prepared by the LegCo Secretariat.

Secretariat

Intermingling of staff resources

27. On behalf of LP Members, Mrs Selina Chow expressed strong reservation about ICAC's view that intermingling of private and LegCo duties of Members' staff was undesirable. She stressed that there was a practical need for some Members, particularly FC Members, to intermingle the services of some of their staff, for example, secretaries and personal assistants, on private and LegCo duties. It would be unfair to preclude such Members from claiming a part of the salary for those

staff whose duties were partially on LegCo business. Mrs Chow was not convinced that sharing of staff was undesirable, provided that the sharing arrangement was transparent and accountable to the public. Mr Cheung Man-kwong agreed with Mrs Chow. Mr Abraham Shek also supported Mrs Chow's views. In response to members' enquiry about the present sharing arrangement, ACCT advised that it would suffice if Members clearly spelt out in their claims the percentage of work relating to LegCo business performed by the staff concerned.

### Entertainment and Travelling Expenses

28. Members unanimously considered that ICAC's recommendation which required Members to keep a log of their entertainment and traveling expenses (ETE), where practicable, and to retain receipts issued for such expenses, was a retrograde step. ICAC's recommendation contradicted the Independent Commission's recommendation that ETE should be operated on a non-accountable basis. They also pointed out that it would be administratively very cumbersome, if not impossible in some cases, to obtain receipts and log down every meal and trip. Furthermore, additional staffing resources might be required to implement this recommendation.

29. In response to Ms Emily Lau, ACCT advised that under the current arrangement, 50% of ETE reimbursement might be used to meet staff expenses on an accountable basis. The associated severance payments for staff so employed might be claimed from the office operation expenses reimbursement and winding up expenses reimbursement. This arrangement was stipulated in paragraph 27 of "A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council" issued by the LegCo Secretariat. ACCT also stated that less than ten Members had made use of ETE reimbursement to meet staff expenses.

### Procurement

30. Members accepted ICAC's recommendations relating to procurement. They considered it reasonable that Members and their staff should not engage a contractor or supplier in which they had a financial interest, or companies owned or run by their relatives or close acquaintances. If this could not be avoided, they should declare interest and document the justifications for doing so. They also agreed that there should be some procurement guidelines on the requirement to obtain quotations for purchases exceeding \$5,000 to ensure value for money. In response to Ms Emily Lau, PCS(A) advised that the LegCo Secretariat obtained a minimum of three quotations for purchases valued above HK\$2,000. Similar requirements were adopted in some government departments. In response to Mr Cheung Man-kwong's enquiry about the



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purchase of commonly used goods from government's standing contracts, SG advised that it would not be a compulsory arrangement.

Sharing of Other Office Operation Expenses

31. In response to members' enquiry about ICAC's recommendation that only expenses that were individually identifiable, clearly separable from private purposes and wholly attributable to Council business might be claimed, SG and PCS(A) advised that ICAC quoted the expenses relating to telecommunication services, such as telephone lines and fax lines, in shared offices. Members generally had no objection to this recommendation, but some expressed concern that separate equipment, such as fax machines and photocopiers, might have to be acquired and placed in Members' small offices. Also, sharing of a central telecommunication system would no longer be allowed according to ICAC's recommendation. All these would cause much inconvenience to Members, in particular to those whose offices operated on a shared basis with their private companies. Moreover, the extra costs involved would further strain the already inadequate provision of OER for Members.

Others

32. Pursuant to ICAC's recommendation, SG agreed that the LegCo Secretariat would provide, for Members' reference, practical examples of situations in which expenses were reimbursable or not reimbursable. The related claim forms would also be revised to facilitate Members' declaration of interest.

Secretariat

33. Members noted that ICAC had offered to assist the LegCo Secretariat in drawing up a Code of Conduct and organizing training and briefings for their staff. They welcomed ICAC's offer and asked the LegCo Secretariat to follow the matter up with ICAC.

Secretariat

34. On ICAC's recommendation that LegCo should establish an audit capability in ensuring Members' compliance with principles and procedures when claiming their expenses reimbursement, PCS(A) advised members that having informally discussed the matter with the Administration, the preliminary thinking was that it would be more cost-effective for the LegCo Secretariat to co-ordinate an audit for all Members' offices. SG supplemented that, subject to members' endorsement of the recommendation, the LegCo Secretariat would work out the details for further deliberation. He also advised members that hiring external professional auditors for the work was one possible option. Verification would be conducted at random.

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35. Mrs Selina Chow supported ICAC's recommendation in principle. She considered that the auditors should directly report to The Legislative Council Commission. Mr Cheung Man-kwong was concerned that the proposed audit would inevitably touch on the work of Members' political parties and affiliated organizations, because it was very common for them to share staff and offices. Mr Wong Ting-kwong shared Mr Cheung's concern and pointed out that LegCo should clearly stipulate the scope of the compliance audit. Mrs Chow concurred with Members' views. She foresaw that Members' staff would need to put in more effort in their daily office operation in order to meet the audit requirements. She suggested that the LegCo Secretariat should look into the details of the proposed arrangement and prepare a paper for members' deliberation at the next meeting. Ms Emily Lau stated that Members' offices were under the purview of the Audit Commission; hence, it would be unavoidable for Members' staff to get accustomed to more prudent accounting practice to ensure that their claims were in compliance with the reimbursement guide. She agreed with Mrs Chow that the LegCo Secretariat should consider the detailed arrangements for implementing ICAC's recommendation regarding compliance audit.

36. The meeting agreed that, except for ICAC's recommendation relating to compliance audit, the LegCo Secretariat should forward views expressed by members to ICAC for consideration. The LegCo Secretariat should also prepare a paper suggesting the scope of the proposed compliance audit recommended by ICAC, for members' consideration at the next meeting.

Secretariat  
Secretariat

37. The meeting ended at 10:55 am.

Legislative Council Secretariat  
May 2005