

立法會
Legislative Council

LC Paper No. AS 358/04-05

Ref : AM 12/01/19

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

**Minutes of meeting
held on Thursday, 2 June 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 Wong Ting-kwong, BBS
Hon Tam Heung-man
- Member Absent** : Hon Abraham Shek Lai-him, JP
- 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)²

I. Confirmation of Minutes of Last Meeting held on 25 April 2005
(LC Paper No. AS 302/04-05)

The minutes of the last meeting held on 25 April 2005 were confirmed.

II. Level of Members' Remuneration and Operating Expenses Reimbursement

(LC Paper No. AS 303/04-05)

(LC Paper No. AS 304/04-05 (*Items 1 to 5*))

– Paper prepared by the Legislative Council (LegCo) Secretariat

2. The Chairman took members through the summary of views of members and the Administration (LC Paper No. AS 303/04-05), and Items 1 to 5 of the draft opinion survey questionnaire (LC Paper No. AS 304/04-05) in respect of Members' Remuneration and Operating Expenses Reimbursement (OER).

3. The Subcommittee endorsed Items 1 to 5 of the draft opinion survey questionnaire and the summary of views, except on the matter relating to the timing of implementing changes to the level of OER.

4. In response to Ms Emily Lau, SG said that the Subcommittee had not reached any explicit consensus on the issue regarding the timing of implementing changes to the OER level, but no member objected to the proposal to discontinue the practice that substantial changes to the level of remuneration and OER should only be implemented in the following LegCo term. Mrs Selina Chow was of the view that instead of dwelling on the timeliness issue, more emphasis should perhaps be given to justifications for such changes. Members agreed.

5. SG proposed, and the Subcommittee agreed, that the opinion survey questionnaire together with the updated summary incorporating members' views on the timing of implementing changes to the OER level be circulated to Members. Members would be requested to return the opinion survey questionnaire by 15 June 2005 with a view to submitting a report of the Subcommittee to the House Committee on 24 June or 8 July 2005. Joint replies from Members of the same political affiliation would be accepted.

(Post meeting note: The summary of views on "LegCo Members' Operating Expenses Reimbursement" (LC Paper No. AS 324/04-05) and the related opinion survey questionnaire (LC Paper No. AS 322/04-05) were issued to Members vide LC Paper No. AS 328/04-05 on 6 June 2005.)

III. Retirement Benefits for Legislative Council Members

(LC Paper No. AS 305/04-05)

(LC Paper No. AS 304/04-05 (*Items 6 to 7*))

– Papers prepared by the LegCo Secretariat

6. The Chairman took members through the summary of views of members and the Administration (LC Paper No. AS 305/04-05), and Items 6 and 7 of the draft opinion survey questionnaire (LC Paper No. AS 304/04-05) in respect of medical and retirement benefits for Members.

7. The Subcommittee endorsed the draft opinion survey questionnaire and suggested the following amendments to the summary of views (LC paper No. AS 305/04-05):

- (a) revise the phrase “because the situation has changed both in terms of demand on and the standards required of Members” in item (a)(ii) to “because the community’s demand on Members is now much higher than before”; and
- (b) delete the phrase “Legislators too have to support their families.” in item (a)(iii).

8. The Subcommittee noted that the opinion survey on Members’ retirement benefits would be issued together with the one on OER. The revised summary of views on Members’ retirement benefits would also be issued to Members for their reference.

(Post meeting note: The summary of views on “Retirement benefits for LegCo Members” (LC Paper No. AS 325/04-05) and the related opinion survey questionnaire (LC Paper No. AS 322/04-05) were issued to Members vide LC Paper No. AS 328/04-05 on 6 June 2005.)

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

(LC Paper No. AS 306/04-05)

(LC Paper No. AS 307/04-05)

(LC Paper No. AS 308/04-05)

– Papers prepared by the LegCo Secretariat

(LC Papers No. AS 309/04-05(01)-(04))

– Exchange of correspondence between ICAC and the LegCo Secretariat

Compliance audit

9. The Chairman took members through the Secretariat's paper on "Suggested Areas of Compliance Audit in Response to the Independent Commission Against Corruption's Recommendations on the Procedures for the Reimbursement of LegCo Members' Operating Expenses" (LC Paper No. AS 306/04-05).

10. In response to Ms Emily Lau's enquiry as to whether relevant reference on compliance audit could be drawn from District Councils (DCs), SG advised members that the LegCo Secretariat had confirmed with the Audit Commission and Home Affairs Department (HAD) that HAD had only issued a circular in January 2004 setting out the accounting procedures to be followed by District Offices. No detailed recommendations were made on how reimbursements of DC members' expenses should be audited. HAD also advised that, due to resource constraints, no formal internal audits had been conducted so far on the reimbursement of operating expenses for DC members.

11. Dr Lui Ming-wah supported in principle ICAC's recommendation relating to compliance audit. Nevertheless, he was concerned about the proposed arrangement to set the extent of test for some audit objectives at 5% to 10% of the number or value of expense items. The sample size would be very large and would result in wastage of auditing resources. Spot-checking arrangements as adopted in the quality control of industrial products would be a more cost-effective approach. Mr Wong Ting-kwong shared Dr Lui's concern. In response, ACCT advised that the proposed extent of test was to facilitate cost estimation in the event that external auditors were to be engaged for carrying out the audit. The quantity of items in the suggested areas of compliance audit were much smaller when compared with that in an industrial production environment. In fact, the proposed extent of test might only involve one to two cases in each area. Dr Lui reiterated his reservation about the proposed extent of test.

Action

12. In response to Ms Emily Lau, SG and PCS(A) said that the Secretariat had adopted a prudent approach to define the scale of the compliance audit, which was in line with common audit practice.

13. Miss Tam Heung-man supported the suggested areas of compliance audit, but she considered that it might not be necessary to specify the extent of test so as to allow more flexibility for the audit. SG advised that the proposed extent of test was specified for the purpose of cost estimation. ACCT added that the extent of test would normally be expanded if problems were revealed in the audit. In view of members' concern about the sample size of the tests, ACCT would refine the extent of test proposed, and express it in more explicit terms.

Secretariat

14. Mr Wong Ting-kwong enquired whether there was any overlap between the proposed compliance audit and the work of the Accounts Office in administering Members' OER reimbursement. SG and ACCT advised that the checking against supporting documents conducted by the Accounts Office was to ensure that Members' claims were in compliance with the Reimbursement Guide at the document level. The compliance audit recommended by ICAC would focus on aspects relating to the avoidance of conflict of interest and declaration of interest, if applicable. Furthermore, unlike the desktop checking of documents conducted by the Accounts Office, auditors of the compliance audit would conduct field audit in Members' offices.

15. On the Chairman's enquiry about the frequency of the proposed compliance audit, ACCT advised that all Members' offices could be covered in a random order on an annual or biennial basis. Ms Emily Lau suggested, and the Subcommittee agreed, that an annual audit should be conducted on each Member's OER claims.

16. In response to Miss Tam Heung-man's enquiry about how the compliance audit would be arranged, ACCT advised that for cost-effectiveness and consistency in standards, the LegCo Secretariat was prepared to coordinate the audit centrally for all Members. For transparency and credibility reasons, an external professional auditor would be appointed. Members had no objection to the proposed arrangement.

17. In response to Ms Emily Lau, SG advised that the LegCo Secretariat would follow up with Member's offices concerned to rectify any problems revealed in the audit. She considered it appropriate to report the audit results to The Legislative Council Commission.

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18. The Subcommittee endorsed the proposed areas of the compliance audit. The Secretariat would incorporate members' views and suggestions in the proposed audit scope and extent of test.

Secretariat

Intermingling of private and LegCo duties

19. The Chairman advised that, in its letter to the Clerk of the Subcommittee dated 9 May 2005 (LC Paper No. AS 309/04-05(02)), ICAC maintained its view that "a clear delineation of LegCo resources viz-a-viz Members' private resources would be the best way to demonstrate that Members spent all the reimbursed amounts solely on LegCo-related activities". Pursuant to his discussion with ICAC reiterating members' concerns about the practical difficulty in implementing its recommendation against intermingling of Members' private and LegCo duties, ICAC proposed, in its further letter dated 26 May 2005 (LC Paper No. AS 309/04-05(04)), some alternative arrangements that "would enhance transparency and accountability in the sharing of LegCo and private resources". In this regard, the Subcommittee might wish to consider requiring a Member to:

- “ (a) declare in the employment contract whether the staff member he proposed to hire was also in his private employ and the capacity in which the staff member was to be employed;
- (b) detail the duties involved and, if the staff member was also employed in the Member's private business, the percentage of work that was related to his LegCo business;
- (c) make available a copy of the employment contract for public inspection (personal identifiers and data might be blocked out if necessary); and
- (d) certify on the monthly reimbursement claim form that the staff member had performed the duties as detailed in the employment contract. ”

20. The Subcommittee accepted the alternative arrangements. Members' views would be sought on these arrangements.

Entertainment and Travelling Expenses (ETE)

21. SG and PCS(A) advised that the LegCo Secretariat had informed ICAC that the operation of ETE on a non-accountable basis was based on the recommendation of the Independent Commission on Remuneration for the Members of the Executive Council and the Legislature of the HKSAR. Nevertheless, ICAC maintained its view that if the present non-accountable reimbursement mode were to continue, Members should retain receipts as far as practicable or at least keep a log of the expenses. ICAC also suggested that LegCo should review the whole arrangement and consider whether ETE should be made non-accountable in the form of a lump sum allowance, forming a part of a Member's remuneration.

22. The Subcommittee agreed to consult Members on the options on ETE proposed by ICAC.

Opinion survey

23. The Subcommittee agreed that the Secretariat should revise the draft opinion survey questionnaire (LC Paper No. AS308/04-05) and the summary of views of ICAC and Subcommittee members (LC Paper No. AS 307/04-05) incorporating members' views expressed at the meeting. The revised opinion survey questionnaire, together with the updated summary of views and revised proposed areas of compliance audit, would be circulated to Members. Members would be requested to complete and return the opinion survey questionnaire by 15 June 2005.

Secretariat

(Post meeting note: ICAC's recommendations on "Rules and Practices for the Reimbursement of Members' Operating Expenses" (LC Paper No. AS 326/04-05), the revised proposed areas of compliance audit (LC Paper No. AS 327/04-05) and the related opinion survey (LC Paper No. AS 323/04-05) were issued to Members vide LC Paper No. AS 328/04-05 on 6 June 2005.)

V. Date of Next Meeting

24. The Subcommittee agreed to schedule a tentative meeting on 17 June 2005, immediately after the House committee meeting, to discuss the results of the opinion survey.

25. There being no other business, the meeting ended at 9:45 am.