

立法會
Legislative Council

LC Paper No. AS 374/04-05

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

**Minutes of meeting
held on Friday, 17 June 2005 at 4:00 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, SBS, 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
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I. Summary of opinion survey on the Subcommittee's recommendations on "LegCo Members' Operating Expenses Reimbursement and Retirement Benefits"

(LC Paper No. AS 339/04-05)

The Chairman took members through the summary of 53 responses to the opinion survey questionnaire on the Subcommittee's recommendations on "LegCo Members' Operating Expenses Reimbursement (OER) and Retirement Benefits" (LC Paper No. AS 339/04-05). The majority of respondents supported the Subcommittee's recommendations, except the ones on the enhanced OER level and membership of the Independent Commission on Remuneration for Members of the Executive Council and the Legislature of the Hong Kong Special Administrative Region (the Independent Commission).

2. As regards the enhanced OER level, PCS(A) informed the meeting that, pursuant to a Member's amendment to his return, the number of Members supporting the Subcommittee's recommendation was increased from 39 to 40.

3. The meeting noted that Members of the Liberal Party (LP) did not support the Subcommittee's recommendation on the enhanced OER level. Mrs Selina Chow advised that LP Members basically agreed that the present OER level was inadequate, but a ceiling should be set for the enhanced level. LP Members would support the Subcommittee's recommendation if the increase did not exceed 20% of the present level. Mr Wong Ting-kwong concurred with Mrs Chow. He pointed out that Members of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considered it reasonable to cap the increase at 25% of the existing OER level. Taking into account members' views, the Subcommittee recommended an increase of the present OER level by up to 20%.

4. The Subcommittee also noted that Members responding to the opinion survey questionnaire did not reach a consensus on its recommendation that the membership of the Independent Commission should include "former or current directly elected LegCo Members". About half of the respondents considered it inappropriate for current Members to be appointed to the Independent Commission. Some Members also considered it unnecessary to limit such membership to directly elected Members. PCS(A) pointed out that the present membership of the Independent Commission comprised former LegCo Members. The Subcommittee agreed that this recommendation should be deleted.

Action

5. The Chairman concluded that a report on the Subcommittee's recommendations on Members' OER and medical and retirement benefits would be submitted to the House Committee (HC) on 24 June 2005. Subject to HC's endorsement, recommendations of the Subcommittee would be forwarded to the Administration for onward transmission to the Independent Commission for consideration. The Subcommittee agreed.

(Post meeting note: HC endorsed the Subcommittee's recommendations at its meeting on 24 June 2005.)

II. Summary of opinion survey on ICAC's recommendations on "Rules and Practices for the Reimbursement of Members' Operating Expenses"
(LC Paper No. AS 340/04-05)

6. The Chairman took members through the summary of 53 responses to the opinion survey questionnaire on ICAC's recommendations on "Rules and Practices for the Reimbursement of Members' Operating Expenses" (LC Paper No. AS 340/04-05).

Guiding Principles

7. The Chairman advised members that the majority of responding Members supported the guiding principles recommended by ICAC, except the reference to "close acquaintance" and "business associate".

8. The Subcommittee noted that some Members expressed the view that clear definitions of "close acquaintance" and "business associate" were necessary for compliance with ICAC's recommendations. The Chairman advised that it was understood from ICAC that there were no definitions for these two terms. After deliberation, the Subcommittee concluded that reference to "business associate" was acceptable, as this term was less ambiguous. However, reference to "close acquaintance" should be deleted, because it was too broad and vague.

Office Accommodation

9. The Subcommittee noted that ICAC's recommendations relating to office accommodation were supported by the majority of responding Members. For the same reason as stated in paragraph 8, reference to "close acquaintance" should be deleted.

Action

Recruitment of Staff

10. Mr Wong Ting-kwong had reservations about ICAC's recommendations that documentation on recruitment of staff should be deposited with the LegCo Secretariat to enhance transparency. He pointed out that keeping of personal information of candidates might contravene privacy regulations. Under normal circumstances, all information containing personal particulars of candidates should be destroyed upon the completion of each recruitment exercise. Mr Cheung Man-kwong echoed Mr Wong's view. SG clarified that ICAC recommended the documentation of the selection process and decision using a simple standard form which should then be deposited with the LegCo Secretariat. In this connection, the LegCo Secretariat would design a standard form in consultation with ICAC. The Subcommittee generally supported ICAC's recommendation, but the candidates' personal data should not be included in the form.

LegCo
Secretariat

11. With regard to ICAC's recommendations on intermingling of Members' private business and LegCo duties, Mr Wong Ting-kwong said that Members of DAB agreed with ICAC's original recommendation that a Member should not claim reimbursement for using his private employees for LegCo work. Hence, they did not support ICAC's proposed alternative arrangements. Ms Emily Lau also considered that intermingling of Members' private business and LegCo duties was undesirable. In response to her enquiry about the present arrangement, ACCT said that the LegCo Secretariat had accepted Members signing two separate contracts with employees for their private business and LegCo duties respectively.

12. Other members noted that the majority of respondents supported ICAC's proposed alternative arrangements. They also agreed with Mr Cheung Man-kwong's proposal that the LegCo Secretariat should incorporate these arrangements in a standard form to facilitate Members' compliance with ICAC's recommendations.

LegCo
Secretariat

13. Responding to Miss Tam Heung-man's enquiry about intermingling of LegCo and District Council (DC) duties, Mr Cheung Man-kwong considered that all duties unrelated to LegCo business, including DC duties, would fall outside the ambit of "LegCo" duties under ICAC's recommendations. The Subcommittee agreed.

Entertainment and Travelling Expenses (ETE)

14. The Subcommittee noted that most Members preferred to maintain the existing arrangement that ETE should be provided on a non-accountable basis without the requirement for receipts. Ms Emily Lau said that she supported the option that ETE should be made non-accountable in the form of a lump-sum allowance. While she had no strong view on maintaining the existing arrangement, the Administration should review it in the light of ICAC's recommendations, because the arrangement had been endorsed by the Independent Commission.

Procurement

15. The Subcommittee noted that the majority of respondents supported ICAC's recommendation that Members and their staff should not engage a contractor or supplier in which they had a financial interest; and that declaration of interests and justifications were required, if necessary. For the same reason as stated in paragraph 8, reference to "close acquaintance" should be deleted.

16. The Chairman advised members that most responding Members generally supported ICAC's recommendation that quotations should be obtained for purchases. However, some Members proposed a higher level of the value of purchases requiring quotations, in view of the extra administrative work involved. Miss Tam Heung-man pointed out that in most private companies, quotations were only required for purchases over \$20,000. Ms Emily Lau was of the view that setting the ceiling at \$20,000 might be too high. Having considered that Members had already been barred from engaging contractors or suppliers in which they had a financial interest, or companies owned/run by their relatives, Mrs Selina Chow opined that \$20,000 was a reasonable level. Mr Wong Ting-kwong and Mr Cheung Man-kwong concurred with Mrs Chow. The Subcommittee therefore recommended that quotations for purchases exceeding \$20,000 should be obtained.

17. On Ms Emily Lau's enquiry about ICAC's recommendation that the LegCo Secretariat might consider purchasing commonly used goods on behalf of Members using government's standing contracts, SG advised that further discussion with the Administration on the implementation of this proposal was being held. Mr Cheung Man-kwong said that, in view of the already very heavy workload of the LegCo Secretariat, he did not consider it necessary to implement this recommendation. The Subcommittee shared Mr Cheung's view.

Action

Sharing of Other Office Operation Expenses

18. The Subcommittee noted that the ICAC's recommendation was supported by the majority of responding Members.

Others

19. In view of the support from the majority of responding Members, SG advised that the LegCo Secretariat would draw up relevant guidelines and code of conduct for reimbursement of expenses and procurement of goods and services. These guidelines and code of conduct would be incorporated in the Guide for Reimbursement of Operating Expenses for Members of the Legislative Council (the Guide).

LegCo
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20. As regards the proposed compliance audit, ACCT reiterated that it would focus on ICAC's recommended procedures to enhance transparency and accountability in Members' OER claims. Unlike the checking of claim documents currently conducted by the Accounts Office, auditors of the compliance audit would conduct field audit on Members' offices. Mr Cheung Man-kwong considered that standard forms to be drawn up by the LegCo Secretariat would facilitate Members' compliance of the audit requirements.

*(Post meeting note: Taking into account of the Subcommittee's views, the revised areas of compliance audit are in the **Appendix**.)*

Report to HC and Implementation

21. The Chairman proposed, and members agreed, to submit a report on the Subcommittee's recommendations regarding the review of ICAC on "Rules and Practices for the Reimbursement of Members' Operating Expenses" to HC on 8 July 2005.

22. The Subcommittee also agreed that, subject to HC's endorsement of its recommendations, the LegCo Secretariat should revise the Guide with a view to implementing ICAC's recommendations in the 2005-06 LegCo session. The LegCo Secretariat should conduct seminars, in collaboration with ICAC, for Members' staff on the new arrangements before their implementation.

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(Post meeting note: HC endorsed the Subcommittee's recommendations at its meeting on 8 July 2005.)

III. Any other business

23. There being no other business, the meeting ended at 5:10 pm.

Legislative Council Secretariat
July 2005

Outline of 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

Audit Objectives	Extent of Test *	Remarks
1. Leasing of offices		
(a) Ascertain whether the Member and his/her relatives have any financial interest in the offices leased with the Operating Expenses Reimbursement (OER)	All district offices [3 offices] (for subsequent audits, all new leases)	The central office provided by the LegCo Secretariat is excluded.
(b) Ensure leasing from related parties or organizations (hereafter referred as "related parties") has been properly declared	All district offices concerned [1 office]	Only some of the district offices are leased from related parties.
(c) Ensure valid valuation reports have been obtained by the Member concerned to prove that the rentals for offices leased from related parties are not above the fair market value at the time when the leases are entered into; and subsequent adjustments (if any) are in accordance with the terms of the leases concerned	All district offices concerned [1 office]	- ditto -
(d) Ensure Members' offices are clearly demarcated and separated from other non-LegCo business; ensure the measurements and office layout plan stated in the valuation report submitted to the LegCo Secretariat for public inspection are consistent with the current demarcation of the office	All district offices [3 offices]	
(e) Ensure the proportion of rental shared is reasonable if the Member's office is not the sole tenant of an individually identifiable lease	All district offices concerned [1 office]	Joint tenancies and subleasing are not common at present.

* For each Member's annual audit, the estimated average sample size is indicated within [].

Action

Audit Objectives	Extent of Test *	Remarks
(f) Ensure only LegCo-related activities are carried out in Members' offices	At least one occasion in a year (preferably not at the pre-arranged time for carrying out a field audit)	
2. Staff recruitment		
(a) Ensure new staff are openly recruited	at least 1 in 10 new staff [1 staff member]	In ICAC's opinion, part-time staff employed on a regular basis should also be openly recruited.
(b) Ensure the recruitment and selection processes are properly documented, with declarations (on the issue of conflict of interest) from all persons involved	at least 1 in 10 [1 recruitment exercise]	Personal data are not subject to disclosure or audit. Documentation would centre on recruitment and selection procedures undertaken.
3. Procurement of goods and services		
(a) Ensure at least three quotations are obtained for any purchase/contract over \$20,000, whether it be a one-off purchase or a multi-year contract	5% in number [1 transaction/contract]	Service and consultancy contracts are covered by this rule.
(b) Ensure assessment factors and selection decisions are properly documented, with declarations (on the issue of conflict of interest) from all persons involved	5% in number [1 transaction/contract]	

* For each Member's annual audit, the estimated average sample size is indicated within [].

Action

Audit Objectives	Extent of Test *	Remarks
4. Sharing of expenses (sharing of expenses among LegCo Members for LegCo business is excluded)		
(a) Ensure separately identified and billed equipment and expenses (for which reimbursement has been claimed) are used on LegCo business	5% of such expenses (in value) [1 type of equipment/ expenses]	By observation of the location and usage rate of such equipment; where appropriate, usage rate or consumption records should be inspected. (Sharing of office expenses is usually on a consistent basis throughout a long period of time.)
(b) Ensure sharing bases of common expenses (if any) are reasonable	5% of such expenses (in number) [1 type of equipment/ expenses]	
5. Public inspection		
(a) Ensure declarations of interests relating to OER claims are available at the LegCo Library for public inspection	5% of such declarations [1 declaration]	

* For each Member's annual audit, the estimated average sample size is indicated within [].

Legislative Council Secretariat
July 2005