

**議員個人利益監察委員會
就一宗針對梁國雄先生有關他
申請發還工作開支時的行為的投訴
而提交的報告**

**Report of the Committee on Members' Interests
on a complaint against Mr LEUNG Kwok-hung
in relation to his conduct in claims for
reimbursement of operating expenses**

(2010年5月)

(May 2010)

立法會

Legislative Council

Ref: CB(3)/C/CON/8 (08-12)

Report of the Committee on Members' Interests on a complaint against Mr LEUNG Kwok-hung in relation to his conduct in claims for reimbursement of operating expenses

Introduction

This is a report of the Committee on Members' Interests ("CMI") on a complaint against Mr LEUNG Kwok-hung, a former Member of the Legislative Council ("LegCo"), in relation to his conduct when making claims for reimbursement of operating expenses ("OER claims") during his office, and related issues. The complaint had been lodged before Mr LEUNG resigned from office with effect from 29 January 2010.

Membership and terms of reference of CMI as well as its procedure for handling complaints

2. The current membership of CMI is in **Appendix I**. Dr Hon Margaret NG was appointed to CMI on 26 February 2010 by the President to fill the vacancy in the membership of CMI which had arisen from the resignation of Mr Alan LEONG Kah-kit from the office as a Member. At the time when Dr NG joined CMI, it had already completed the substantial part of its deliberations on the complaint and was in the process of considering the draft report. While Dr NG has drawn CMI's attention to a number of points in the draft report, she does not consider it appropriate for her to support or oppose this report. Mr LEUNG Kwok-hung and his employee Ms TANG Yuen-ching, who was named in the particulars of the complaint, have been informed of the above and CMI has not received any view from them on Dr NG's participation in CMI's deliberations on the complaint.

3. One of the terms of reference of CMI, as provided in Rule 73(1)(ca) of the Rules of Procedure ("the RoP"), is to consider and investigate any complaint made in relation to the conduct of Members in making OER claims or applications for advance of operating funds ("AOF applications"). For the purpose of handling complaints, CMI adopted at its meeting on 2 January 2009 the "Procedure of the Committee on Members' Interests for handling complaints received in relation to the registration or declaration of Members' interests or Members' claims for reimbursement of operating expenses" ("the Procedure"). The Procedure was issued to all Members on 13 January 2009 for their reference and a copy of it is in **Appendix II**.

4. According to the Procedure, CMI takes a two-stage approach in handling complaints, which consists of the preliminary consideration and investigation stages. Preliminary consideration refers to the process of ascertaining the subject of the complaint and the provisions of the RoP relevant to the allegations in question, as well as gathering information relevant to the complaint and the allegations in question. On the basis of information gathered at the preliminary consideration stage, CMI will determine if it will proceed to the investigation stage.

The complaint

5. On 30 December 2009, the Complaints Division of the Legislative Council Secretariat ("the Secretariat") received a complaint from a member of the public against Mr LEUNG Kwok-hung, who was then a Member of the LegCo. The complainant alleged that:

"LEUNG Kwok-hung had transferred benefits to TANG Yuen-ching by using public money to take out employees insurance policies through her so that she could earn a 10% commission from the insurance company concerned." (translation)

The complainant requested that Mr LEUNG should make an apology in the Council and provide a written explanation to the public.

6. The complaint was forwarded to all members of CMI on 5 January 2010 and, upon the instruction of the Chairman, was placed on the agenda of the CMI meeting on 11 January 2010. At the meeting, members of CMI noted that the complaint did not provide details on how Mr LEUNG Kwok-hung had transferred benefits to Ms TANG Yuen-ching, nor did it specify which rule(s) Mr LEUNG had breached. CMI also noted that the matter was in fact reported by two newspapers, namely the Oriental Daily News and The Sun, on 28 December 2009; two days before the complaint was lodged. In the press reports, Mr LEUNG was alleged to have taken out insurance policies on three occasions at an aggregate insurance premium of about \$17,000 through one of his part-time employees, Ms TANG Yuen-ching, who was also an agent of the insurance company concerned. The relevant press reports are in **Appendices III** and **IV**. CMI also noted that the Secretary General ("SG") had already started her preliminary examination as she, as the Controlling Officer, had the duty to ensure that the financial provisions allocated to The Legislative Council Commission were properly spent and the guidelines governing the claims for OER were followed.

7. After studying the complaint, the allegations made in the media reports and the information submitted by the Secretariat, members of CMI decided to focus on the following:

- (a) whether there was any conflict of interest in the taking out of the insurance policies by Mr LEUNG Kwok-hung and/or his employee

Ms TANG Yuen-ching on the three occasions quoted in the media reports, namely in November 2008, February 2009 and March 2009, from an insurance company of which Ms TANG was an agent and was able to obtain commissions from the transactions; and

- (b) whether Mr LEUNG had failed to follow the requirement under "A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council" ("the Reimbursement Guide") for not obtaining three quotations before taking out these insurance policies.

CMI also decided that it would further consider the complaint after SG had completed her examination and forwarded the findings to CMI.

Preliminary consideration of the complaint

8. CMI has held four further meetings, on 2 February, 1 March, 29 March and 14 April 2010, to study the facts of the case based on SG's report which was submitted to CMI on 1 February 2010. A copy of SG's report (with those parts unrelated to the complaint obliterated and without appendices) is in **Appendix V**.

9. At the meeting on 2 February 2010, before members proceeded with their deliberation of the case, CMI discussed the implications of Mr LEUNG Kwok-hung's resignation from office as a Member of the LegCo with effect from 29 January 2010. Members noted that while Paragraph (1) of the Procedure provides that consideration of a complaint should not be initiated if it is made against a former Member, there is no provision in the Procedure on whether CMI should cease consideration of a complaint in the event that the Member under complaint has resigned. In view of the importance of the issues under discussion and the wide public concern on the matter, CMI decided that the consideration of the complaint against Mr LEUNG should continue even though members were aware that it might not be appropriate for CMI to recommend imposing sanctions on a person who is no longer a Member.

Rules and requirements relevant to the complaint

10. In her report and at the CMI meetings, SG has drawn to the attention of CMI the following rules and guidelines which are relevant to the present case:

- (a) Rule 83AA of the RoP which provides that a Member, when making an OER claim or an AOF application in accordance with the Reimbursement Guide, or acting for purposes related thereto, has to ensure that any information provided or any declaration or certification made is true, accurate and complete, and to act according to any undertaking that he has given;

- (b) as set out in Paragraphs 7 to 12 of the Reimbursement Guide, the important guiding principles in respect of OER claims are that a Member or his relatives must not have any direct or indirect financial interest in, or be able to derive any financial benefits from, any transaction in respect of which reimbursement is claimed. A Member should refrain from claiming reimbursement for any transaction from which he himself, his relatives or business associates may be perceived to have benefited. If a conflict of interest cannot be avoided or has arisen, a Member, when applying for reimbursement, should make a declaration of his interest which will be made available for public inspection;
- (c) Paragraph 60 of the Reimbursement Guide, which reads "A Member or his/her staff should not engage a contractor or supplier whose business he/she or any of his/her relatives has a financial interest in or control of. If this cannot be avoided, they should obtain at least three quotations for price and performance comparison (whenever practicable), declare interest and document the justifications for doing so (e.g. sole supplier, more competitive price from bulk purchase), using **Declaration Form IV**"; and
- (d) Paragraphs 10 to 15 of the "Code of Conduct for Staff Employed by Legislative Council Members" ("Code of Conduct") in relation to avoidance of conflict of interest and the way to handle conflict-of-interest situations.

11. An extract of the relevant rules and guidelines is in **Appendix VI**.

SG's findings

12. SG sought clarification from Mr LEUNG Kwok-hung and his office in response to the media reports on 28 December 2009, which alleged that Mr LEUNG, among other things:

- (a) had taken out insurance policies on three occasions, in November 2008, February 2009 and March 2009 respectively, from an insurance company through an agent who was also his part-time employee, but did not explain why he needed to do so; hence there was a conflict of interest; and
- (b) had not obtained three quotations before taking out these insurance policies, hence had violated the requirement under the Reimbursement Guide.

OER claims by Mr LEUNG Kwok-hung on insurance premiums paid

13. According to SG's report, the allegations referred to in the media reports are related to four claims made by Mr LEUNG Kwok-hung for reimbursements of the premiums paid for the insurance policies he has renewed

since the commencement of the current term. These insurance policies were taken out from AXA China Region Insurance Company (Bermuda) Limited ("AXA") through one of Mr LEUNG's part-time employees, Ms TANG Yuen-ching, who was also an agent of AXA. The details are as follows:

- (a) renewal of office insurance coverage at a premium of \$2,520 for office contents, money, business interruption and public liability of four offices, namely offices at Central Government Offices, Tai Po, Tseung Kwan O and Tai Wai (the relevant declaration form is in **Appendix VII**);
- (b) renewal of medical insurance coverage at a premium of \$1,890.75 for Mr MA Yu-sang, an employee of the Office of Mr LEUNG (the relevant declaration form is in **Appendix VIII**);
- (c) renewal of employees' compensation insurance coverage at a premium of \$8,001.36 for employees of the Office of Mr LEUNG (the relevant declaration form is in **Appendix IX**); and
- (d) renewal of medical insurance coverage at a premium of \$4,262.05 for Ms TANG Yuen-ching, an employee of the Office of Mr LEUNG (the relevant declaration form is in **Appendix X**).

14. Records show that Mr LEUNG Kwok-hung had all along been aware that Ms TANG Yuen-ching was also an appointed insurance agent of AXA, and had agreed to engage the service of Ms TANG in arranging contracts of the above insurance policies which are funded by OER. Through these contracts, Ms TANG received commission payments from AXA, ranging from 7% to 10% of the insurance premiums received by the company.

15. Records also show that when the above insurance policies were first taken out on 12 October 2004, 6 February 2006, 11 January 2005 and 24 March 2006 respectively, the requirement of obtaining three quotations had not yet been introduced. For the two insurance policies taken out in 2006 (i.e. after the requirement for making declarations was implemented) (**Appendix XI (a) and (b)**), Ms TANG Yuen-ching had declared her financial interest in Section III of the declaration form and signed as "decision-maker", while Mr LEUNG Kwok-hung had declared in Section IV of the same form that he and his relatives had no financial interest or control in AXA. Since then, these four policies had been renewed annually and the same declarations had been made by Ms TANG and Mr LEUNG.

16. When the declaration forms for the latest renewals were received, the Accounts Office did not raise any question as it considered that since both the Member and the staff concerned had no "financial interest in or control of the business" of AXA, the Member was not required to obtain three quotations for price and performance comparison.

17. In response to enquiries by the Accounts Office following the media reports, Mr LEUNG Kwok-hung provided, on the original declaration forms, additional justifications for the procurement decisions, as shown in **Appendix XII (a) to (d)**. Mr LEUNG explained that the premium rates for the renewal of these policies were set according to his past claim records. Based on his good record with AXA and market information, he was convinced that the premium for a new policy with another insurance company would not be lower than that for a renewal with AXA. Separately, Ms TANG Yuen-ching explained in a letter dated 30 December 2009 (**Appendix XIII**) that the commission rates were set by AXA.

The reimbursement system

18. In SG's report, she describes the history of the changes made to the procedures for the procurement of goods and services, in particular the inclusion of the guiding principles and the procurement procedure in the Reimbursement Guide after taking into account the recommendations made by the Corruption Prevention Department of the Independent Commission Against Corruption on the basis of a review it conducted in 2005.

19. SG points out that while the guiding principle on the avoidance of conflict of interest refers to "any direct or indirect financial interest in any transaction" in respect of which reimbursement is claimed, the procurement procedure set out in Paragraph 60 of the Reimbursement Guide refers to the "financial interest in or control of the business" of the contractor or supplier. Under the circumstances, there was an understanding among staff of the Accounts Office that as both Mr LEUNG Kwok-hung and Ms TANG Yuen-ching had no financial interest in or control of the business of AXA, they were under no obligation to follow Paragraph 60 which requires that three quotations be obtained when the insurance policies were respectively renewed at a time when the three-quotation requirement had been in place since October 2008.

20. SG stresses that the avoidance of conflict of interest is the most important principle underlying the reimbursement system. A Member should be advised to refrain from claiming reimbursement for any transaction from which he himself, his relatives or business associates may be perceived to have benefited. If a conflict of interest cannot be avoided or has arisen, a Member, when applying for reimbursement, should make conscious efforts to declare his interest and obtain at least three quotations for price and performance comparison. The declaration procedure is to enable any conflict of interest which cannot be avoided or has arisen to be disclosed for public inspection. SG considers that the purpose of the declaration form for completion by Members should aim to provide the reasons why the procurement from a particular supplier is unavoidable, and not to facilitate the procurement to take place. She also considers the use of the declaration form, originally designed for a procurement exceeding \$20,000 under Paragraph 61, for making the declaration under Paragraph 60 could be confusing.

21. SG also refers to the Code of Conduct attached to the employment contract and which forms part of the contract for acceptance by the staff when accepting the appointment. Paragraph 15 of the Code of Conduct states that situations which give rise to Members or their staff being perceived to have benefited a closely related party or personally should be avoided. Special attention is also drawn to the procurement of goods and services, staff recruitment as well as delivery of the services of the Member's Office. Where there is perceived or actual conflict of interest, the staff member should abstain from dealing with the matter in question and report the situation to the Member, who may reassign the task to another staff. SG notices that this requirement has not been spelt out in the text of the Reimbursement Guide, although the Code of Conduct itself is attached as an appendix.

SG's views on the complaint and allegations in the media reports

22. CMI notes that SG considers there is no information which indicates that Mr LEUNG Kwok-hung had any financial interest in or control of the business of AXA, or that he had derived any financial benefit from the transactions concerned. In claiming the related expenses, Mr LEUNG made proper declarations in accordance with the relevant provisions in the Reimbursement Guide and provided information about the justification for his decision and the financial benefit that his staff, Ms TANG Yuen-ching, had gained from the transactions.

23. CMI notes that SG is of the opinion that the most fundamental question is whether the conflict of interest in the procurement can be avoided. The purpose of the declaration form is to allow Members to provide the reasons why the procurement is not avoidable, and not to facilitate the procurement to take place. When the four insurance policies were first taken out/ renewed after implementation of the declaration requirement, Mr LEUNG explained that the supplier was chosen on the basis of quality/functions, service/support and convenience. When clarification was sought as to why other quotations were not obtained in the latest renewals, he further explained that the rates quoted by AXA for the renewal of the policies for which no claims had been made were likely to be lower than new policies.

24. CMI notes SG's conclusion that as far as the two allegations in respect of the renewal of the four insurance policies are concerned:

- (a) Mr LEUNG Kwok-hung did provide justifications on the declaration forms for the decisions to take out the insurance policies from AXA and both Ms TANG Yuen-ching and Mr LEUNG himself had made the declaration in accordance with the Reimbursement Guide, and it is for the public to judge whether the justifications can explain why the supplier was chosen;
- (b) in view of the financial benefits (i.e. insurance commissions) from the transactions and the conflict of interest arising therefrom, Paragraph 15 of the Code of Conduct which provides that a staff in her situation "should abstain from dealing with the matter in question and report the situation to the Member, who may reassign the task to another staff" is applicable to Ms TANG's situation; and

- (c) Mr LEUNG had no obligation to obtain three quotations if "financial interest" in Paragraph 60 is taken to mean financial interest in the business of AXA, which could be the case if a literal approach is adopted (which was the approach adopted by the Accounts Office when his relevant OER claims were processed), but he would be obliged to do so if "financial interest" covers the "financial benefit from a transaction".

25. CMI notes that SG is of the opinion that in a conflict-of-interest situation, the Member should be advised to appoint a third party to handle the transaction and ensure that the requirement under Paragraph 60 is followed. In the present case, the claims were handled and submitted to the Secretariat by Ms TANG Yuen-ching herself and there is no information on the declaration form that a third party had been involved in the procurement process. In this respect, SG finds that the design of Declaration Form IV does not facilitate the Member to provide all relevant information for public scrutiny.

CMI's deliberations of the complaint

26. CMI considers that while it is Members' responsibility to account for their OER claims, Members rely heavily on the advice of the Accounts Office on the interpretation of the provisions in the Reimbursement Guide. CMI notes that as the Accounts Office did not regard the "financial benefit from a transaction" as a "financial interest in the business of a contractor or supplier" in the context of Paragraph 60 of the Reimbursement Guide, Ms TANG Yuen-ching's receiving commissions from AXA was not regarded by the Accounts Office as having a financial interest in the company. It followed that the requirement in Paragraph 60 of obtaining three quotations did not apply. Nevertheless, CMI considers that had the Member provided specific justifications for making the procurement decisions, the allegation of transferring benefits might have been avoided.

27. On the basis of the interpretation of Paragraph 60 of the Reimbursement Guide by the Accounts Office and that there is no information to indicate that Mr LEUNG Kwok-hung has covered up anything, CMI considers Mr LEUNG cannot be regarded as having failed to follow Paragraph 60 of the Reimbursement Guide or breached Rule 83AA of the RoP.

28. CMI takes note of Paragraph 15 of the Code of Conduct, which provides that "When there is perceived or actual conflict of interest, the staff member should abstain from dealing with the matter in question and report the situation to the Member, who may reassign the task to another staff". CMI considers that there was a conflict of interest in Ms TANG Yuen-ching's deciding to take out the insurance policies from AXA and at the same time receiving commissions from the transactions. However, CMI does not consider that Ms TANG had failed to observe the requirement of the paragraph because:

- (a) Ms TANG had reported the conflict-of-interest situation to the Member by declaring the financial benefits she would receive from the transactions; and
- (b) the paragraph does not specify whether the staff member should or should not deal with the matter when the Member does not reassign the task to another staff after being reported of the conflict-of-interest situation.

CMI notes that the reassignment of the task to another staff as mentioned in Paragraph 15 of the Code of Conduct¹ is only a course of action which the Member may consider taking in a conflict-of-interest situation. As there is no provision in the Reimbursement Guide requiring a Member to reassign the task to another staff, CMI does not consider that Mr LEUNG Kwok-hung's not having done this is a failure to follow any provision in the Reimbursement Guide.

CMI's conclusion on the complaint

29. On the basis of the considerations set out above, CMI considers that the complaint is not substantiated as Mr LEUNG Kwok-hung has not failed to follow the provisions of the Reimbursement Guide or breached any rule of the RoP. Accordingly, there would be no need for CMI to recommend a sanction under Rule 85 of the RoP² even if Mr LEUNG were still a LegCo Member. According to the Procedure, CMI considers that there is no need to proceed to the investigation stage.

CMI's views on the Reimbursement Guide

30. Rule 73(1A) of the RoP provides that CMI shall have regard to the provisions of the Reimbursement Guide in considering or investigating a complaint on OER claims or AOF applications. CMI therefore supports SG's initiatives to improve the Reimbursement Guide by the following measures:

- (a) setting out more clearly in Paragraph 60 the extent of actual or perceived conflict of interest, arising from the relationship of a Member or his staff with a contractor or supplier, that the Member ought to avoid and, if such is not avoidable, to declare the conflict of interest for public scrutiny;

¹ According to Paragraph 19 of the Reimbursement Guide, the Code of Conduct is for observance by Members' staff.

² Rule 85 of RoP provides that "Any Member who fails to comply with Rule 83 (Registration of Interests), 83A (Personal Pecuniary Interest to be Disclosed), 83AA (Claims for Reimbursement of Operating Expenses or Applications for Advance of Operating Funds) or 84(1) or (1A) (Voting or Withdrawal in case of Direct Pecuniary Interest) may be admonished, reprimanded or suspended by the Council on a motion to that effect."

- (b) rewriting Paragraph 60 so as to reflect the broader meaning of "financial interest" which should cover "financial benefits from a transaction" and to incorporate the measures to avoid conflict of interest as suggested in the Code of Conduct; and
- (c) providing different declaration forms for Paragraph 60 and Paragraph 61, which deal with two different situations, as follows:
 - (i) "Declaration Form IV(a)" for Members to provide information on why conflict of interest cannot be avoided, details of the financial interests, quotations obtained, any third party who has handled the transaction, and a certification from the Member that the transaction, though with the interests involved, is in order (**Appendix XIV**); and
 - (ii) "Declaration Form IV(b)" for Members to provide information on the three quotations obtained for price and performance comparison in support of claims of an expenditure item exceeding \$20,000 (**Appendix XV**).

31. CMI considers that there should be a provision in the Reimbursement Guide that a Member should take appropriate action when a conflict-of-interest situation has arisen on the part of his staff. CMI also welcomes SG's recommendation that in future revision exercises, all changes made to the Reimbursement Guide would be listed on a separate sheet for easy reading and the last date of amendment to any paragraph in the Reimbursement Guide would be included.

32. At present, the Reimbursement Guide is regularly updated by the Secretariat. Since the provisions of the Reimbursement Guide would have an impact on the operation of Members' offices, CMI recommends that the Secretariat should devise a mechanism whereby Members and their staff are consulted on the changes proposed to the Reimbursement Guide before they are implemented.

7 May 2010

Committee on Members' Interests

Membership List

(Year 2008 - 2012)

Chairman Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP

Deputy Chairman Hon Emily LAU Wai-hing, JP

Members Dr Hon Margaret NG (*since 26 February 2010*)

Hon WONG Yung-kan, SBS, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon Paul CHAN Mo-po, MH, JP

Hon WONG Sing-chi

**THE PROCEDURE OF
THE COMMITTEE ON MEMBERS' INTERESTS
FOR HANDLING COMPLAINTS RECEIVED
IN RELATION TO THE REGISTRATION OR
DECLARATION OF MEMBERS' INTERESTS OR
MEMBERS' CLAIMS FOR REIMBURSEMENT OF
OPERATING EXPENSES**

January 2009

**The procedure of the Committee on Members' Interests
for handling complaints received
in relation to the registration or declaration of Members' interests or
Members' claims for reimbursement of operating expenses**

Convening the first meeting

- (1) Upon receipt of a written complaint by the Committee on Members' Interests ("the Committee") from a Member or a member of the public (hereinafter referred to as "the complainant") about the registration or declaration of interests of a Member or a Member's claims for reimbursement of operating expenses (hereinafter referred to as "the Member under complaint"), the Clerk to the Committee ("the Clerk") shall forthwith contact and verify the identity of the complainant. The Clerk shall then distribute the complaint in the form of a confidential document to members of the Committee ("members") and he shall ask the Chairman of the Committee ("the Chairman") to decide within two working days whether a meeting on the matter should be held (in the event of the absence of the Chairman from Hong Kong or the Member under complaint being the Chairman, the Clerk shall seek instruction from the Deputy Chairman; the same principle shall apply in subsequent paragraphs). If a complaint (i) is made by an anonymous or unidentifiable person or by a person who cannot be contacted, or (ii) is made against a former Member, or (iii) is about a Member's act(s) or omission(s) which allegedly took place seven years or more prior to the date of the complaint, the Chairman shall instruct the Clerk to circulate the complaint to other members in the form of a confidential document for information. However, the Committee will not consider the complaint.
- (2) In deciding whether a meeting should be held to consider the complaint received, the Chairman may consider not to hold such a meeting for the following reasons:
 - (a) the complaint is not related to the registration or declaration of a Member's interests, or a Member's claims for reimbursement of operating expenses;
 - (b) the complaint is merely based on speculations, inferences or unfounded judgements;
 - (c) the complaint involves substantially repeated allegations which have already been dealt with by the Committee, except where fresh evidence has been produced; or
 - (d) other reasons he deems appropriate.
- (3) If the Chairman decides that the Committee should meet, he shall instruct the Clerk to arrange for the first meeting to be held within the next seven working days to consider the complaint.

- (4) If the Chairman decides not to hold such a meeting and conveys to the Clerk his decision as well his reasons for making such a decision, the Clerk shall inform other members of the Chairman's decision and his reasons. If any member indicates disagreement with the decision in writing, the Clerk shall, by way of a circular, ask the members to forward replies to him within three working days on whether a meeting should be held to consider the complaint. In the event that the Clerk receives replies in which the majority of members indicate their support for holding a meeting, he shall ask the Chairman to fix the date, the time and the venue for the meeting. The first meeting shall be held within the next seven working days.
- (5) If the Chairman makes a decision of not holding a meeting and the Clerk does not receive replies from a majority of members indicating disagreement with this decision after the expiry of the three-day deadline since the issue of the circular, the Committee will not take any further action on the complaint.

Preliminary consideration

- (6) The Committee may hold a meeting or a series of meetings to consider the complaint.
- (7) The purposes of such meetings are:
- (i) To ascertain the subject of the complaint and the provisions of the Rules of Procedure relevant to the allegations in question; and
 - (ii) To gather information relevant to the complaint and the allegations in question, such as the dates, amounts of money (if any), persons involved, etc. Such information should not include media reports, information provided by anonymous persons and speculations, inferences or judgements made by individuals.
- (8) In considering a complaint relating to a Member's claims for reimbursement of operating expenses, the Committee shall, in addition to any other matter that the Committee may consider relevant, have regard to the provisions of the Guide for Reimbursement of Operating Expenses for Members of the Legislative Council.
- (9) The Committee may invite the complainant to attend a meeting(s) to provide information. The Committee may also invite the Member under complaint to attend a meeting(s) to give explanations, and provide information. At the time of making the invitation, the Committee shall inform the Member under complaint that if he refuses to attend such meeting(s) or refuses to answer questions of the Committee at such meetings, the Committee may invoke the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to order him to attend before the Committee, and to give evidence or to produce documents, and may cause him to be examined on oath.

- (10) In attending before the Committee, the Member under complaint may be accompanied by a maximum of three persons for the purpose of giving him assistance or advice. These persons may include legal adviser(s) and they may be different persons for different meetings of the Committee. Yet, the Member under complaint must answer questions, give explanations or provide information himself. The accompanying person(s) is(are) not allowed to address the Committee.
- (11) If the Member under complaint admits all the allegations at this stage, and the Committee is of the opinion that it is able to determine whether the complaint is substantiated and decides that an enquiry is not necessary, the Committee shall report to the Council and make a recommendation as to a sanction to be imposed on the Member under complaint.
- (12) The Committee may decide not to proceed with an investigation if it is of the opinion that the complaint is not substantiated.

Investigation

- (13) If the Committee decides to conduct an investigation into the complaint, the Committee shall instruct the Clerk to convey the decision to the complainant and the Member under complaint and to provide the Member under complaint with information received in relation to the complaint.
- (14) In the course of conducting an enquiry, the Committee may, in accordance with section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382), order any person to attend before the Committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person. At such a hearing, the Committee may cause witnesses to be examined upon oath. The Committee may ask the complainant, the Member under complaint and other persons to confirm upon oath the information and statements they have provided at previous meetings.
- (15) The Member under complaint shall have the right to give explanations, make clarification and provide information on the subject of the complaints and the related matters. In attending before the Committee, the Member under complaint may be accompanied by a maximum of three persons for the purpose of giving him assistance or advice. These persons may include legal adviser(s) and they may be different persons for different meetings of the Committee. Yet, the Member under complaint must answer questions, give explanations or provide information himself. The accompanying person(s) is(are) not allowed to address the Committee.

Suspension of work on the complaint

- (16) If, during the preliminary consideration or the investigation stages, the Committee has come to the knowledge that the complaint or related matters is/are being investigated by a law enforcement agency, or is/are relating to a case pending in a court of law, the Committee may suspend its investigation until the conclusion of the investigation by the law enforcement agency or the legal proceedings.

The Committee's decision as to whether a complaint is substantiated

- (17) If the Committee decides that there is sufficient evidence to substantiate a complaint, it shall inform the complainant and the Member under complaint of its decision.
- (18) Upon receipt of the Committee's notification of its decision that the complaint is substantiated, the Member under complaint may make a request in writing to the Committee for a review of the decision within the next seven working days, and he may submit written statements and provide any other information which is unavailable at hearings held earlier. Upon receipt of the written request for a review of the Committee's decision from the Member under complaint, the Chairman shall instruct the Clerk to arrange for a meeting to be held for such purpose within the next seven working days to hear the explanation made by the Member under complaint and to review its earlier decision.
- (19) If the Committee is of the opinion that the complaint is substantiated, or it is still of the opinion after the review that the complaint is substantiated, the Committee shall present a report to the Council on the complaint, in which the evidence and its opinion should be set out. The Committee may also make a recommendation to the Council as to a sanction to be imposed on the Member under complaint under Rule 85 of the Rules of Procedure. In considering whether or not to recommend a sanction, or what sanction to recommend, the Committee shall take into account whether the failure of the Member under complaint to comply with the relevant rule(s) of the Rules of Procedure was due to an honest mistake on his part.
- (20) If the Committee is of the opinion that the complaint is not substantiated, it shall convey the decision to the complainant and the Member under complaint. The Committee may decide whether it should submit a report on this to the Council. If the Committee decides not to submit a report on this to the Council, members or any other person must not disclose any information regarding the complaint, except the evidence taken before the Committee and documents presented to it during meetings of the Committee held in public.

Confidentiality Requirement

- (21) All members and other persons attending meetings of the Committee held in camera (except the Member under complaint) shall be required to sign a confidentiality undertaking that they will not publish evidence taken before the Committee, documents produced to it, or its deliberations and decisions before the Committee has presented its report to the Council. Where the Committee finds that a member or other person has breached the undertaking he gave to the Committee, the Committee will consider whether and how to deal with the member or that other person, and may take actions including moving a motion in the Council for the admonishment or reprimand of the member under Rule 81 (Premature Publication of Evidence) of the Rules of Procedure, or passing a motion of the Committee expressing its disapproval of the member or that other person for breaching the undertaking.
- (22) Before the Committee informs the Member under complaint of its decision in accordance with paragraph 17 or 20, the latter shall be required to sign a confidential undertaking not to publish any document marked as confidential by the Committee before it has presented its report to the Council. Where the Committee finds that the Member under complaint has breached the undertaking he gave to the Committee, the Committee will consider whether and how to deal with the Member, and may take actions including passing a motion of the Committee expressing its disapproval of the Member for breaching the undertaking.
- (23) Meetings of the Committee, including those at which hearings are conducted, shall be held in camera. However, hearings shall be conducted at meetings held in public if the Member under complaint makes such a request.
- (24) The transcript of evidence taken at such hearings shall be published in full as far as possible and form part of the report of the Committee.

Participation of members in the deliberations of the Committee

- (25) No member of the Committee shall participate as a member of the Committee in the handling of a complaint or in the meetings of the Committee to deliberate on or inquire into a complaint where the complaint was made by or against him.

2. 東方日報 | (發行量/接觸人次: 536,614) | 2009-12-28
A23I 港聞
字數: 901 words

長毛公帑買保險益自己友

經常批評政府親疏有別、利益輸送的社民連立法會議員梁國雄，被揭發在未經任何獨立報價下，三次透過一名本身為保險經紀的辦事處兼職員工，動用了約一萬七千元公帑購買保險，令該名職員可從中賺取最高一成佣金，涉嫌違反立法會相關指引。有議員及學者批評梁國雄的做法，有利益衝突及濫用公帑益自己人之嫌，要求立法會徹查事件。

根據立法會的議員申領工作開支紀錄，梁國雄先後在去年十一月、今年二月和今年三月，為轄下四個議員辦事處及其職員，購買了保費分別為二千五百多元、六千多元和八千多元的全保、醫療保險及勞工保險；作出有關決定是一位名為唐婉清、每月向立法會申領五千多元公帑作為薪酬的辦事處兼職員工；而她亦同時是有關保險公司的經紀，並從中抽了百分之七至十的保費佣金。

「始終要搵人做」

《立法會議員申請發還工作開支的指引》規定，倘議員、其職員或他們的任何親屬，對某承辦商或供應商的業務存有財務利益或控制權，議員或其職員便不應聘請該承辦商或供應商；如無法避免，他們應在可行情況下最少索取三分報價書，就價格和服務作出比較，並在申領開支時申報利益及填報有關理由。

在梁國雄的個案之中，唐婉清有就抽佣金額作出申報，但是並沒有交代梁國雄的辦事處為何必須聘用她的理由，亦沒有提供其他保險公司或經紀的獨立報價資料。

梁國雄接受本報查詢時表示，知悉唐婉清的保險經紀身份及有關保險安排，但認為買保險的工作「始終要搵人做」，他亦已特別提醒職員切勿違規和作出申報，否認事件涉及益自己人。問及指引訂明要盡量避免有關情況及索取三個報價，他則說不清楚有關規定，會再向職員查詢。

勞聯議員李鳳英去年中曾被立法會委聘的核數師，揭發在替員工續購勞保時沒有依例索取三個報價，最終要為事件致歉及補交書面解釋。

學者批評做法不當

民建聯議員陳鑑林直言，梁國雄的做法涉利益衝突及有益自己人之嫌，認為立法會議員個人利益監察委員會應該跟進，他續指，議員最好以全職聘請職員，不應讓職員有其他工作。

城大專業進修學院學術統籌宋立功則指，議員申領的款項始終屬於公帑，故必須盡量避免瓜田李下，並且要「比白色更白」，例如向非其職員的人士購買保險，以避免市民猜疑，所以認為梁國雄的做法並不理想。

■記者呂浩然

2. 太陽報 | (發行量/接觸人次: 230,000) | 2009-12-28
A04 | 港聞
字數: 871 words

梁國雄公帑買保險益自己友

經常批評政府親疏有別、利益輸送的社民連立法會議員梁國雄，被揭發在未經任何獨立報價下，三次透過一名身為保險經紀的辦事處兼職員工，動用約一萬七千元公帑買保險，令該名職員最高可賺取一成佣金，涉嫌違反立法會指引。有議員及學者批評梁國雄的做法，有利益衝突及濫用公帑益自己人之嫌，要求立法會徹查事件。

根據立法會的議員申領工作開支紀錄，梁國雄先後在去年十一月、今年二月和今年三月，為轄下四個議員辦事處及其職員，購買了保費分別為二千五百多元、六千多元和八千多元的全保、醫療保險及勞工保險；作出有關決定是一位名為唐婉清、每月向立法會申領五千多元公帑作為薪酬的辦事處兼職員工；而她同時是有關保險公司的經紀，並從中抽了百分之七至十的保費佣金。

議員促立會跟進

《立法會議員申請發還工作開支的指引》規定，倘議員、其職員或他們的任何親屬，對某承辦商或供應商的業務存有財務利益或控制權，議員或其職員便不應聘請該承辦商或供應商；如無法避免，他們應在可行情況下最少索取三份報價書，就價格和服務作出比較，並在申領開支時申報利益及填報有關理由。

在梁國雄的個案中，唐婉清有就抽佣金額作出申報，但沒有交代梁國雄辦事處必須聘用她的理由，亦沒有提供其他保險公司或經紀的獨立報價資料。

梁國雄接受本報查詢時表示，知悉唐婉清的保險經紀身份及有關保險安排，但認為買保險的工作「始終要搵人做」，他亦已特別提醒職員切勿違規和作出申報，否認事件涉及益自己人。問及指引訂明要盡量避免有關情況及索取三個報價，他則說不清楚有關規定，會再向職員查詢。

勞聯議員李鳳英去年中曾被立法會委聘的核數師，揭發在替員工續購勞保時沒有依例索取三個報價，最終要為事件致歉及補交書面解釋。

民建聯議員陳鑑林直言，梁國雄的做法涉利益衝突及有益自己人之嫌，認為立法會議員個人利益監察委員會應該跟進，他續指，議員最好以全職聘請職員，不應讓職員有其他工作。

城大專業進修學院學術統籌宋立功指，議員申領的款項始終屬於公帑，故必須盡量避免瓜田李下，並且要「比白色更白」，例如向非其職員的人士購買保險，以避免市民猜疑，所以認為梁國雄的做法並不理想。

文章編號: 200912280340332

立法會
Legislative Council

LC Paper No. AS 135/09-10

Ref: AM15/03/02

Committee on Members' Interests

**Secretary General's Report
on the allegations against Hon LEUNG Kwok-hung
concerning non-compliance with procurement procedures**

Purpose

This report contains the findings and recommendations of the Secretary General following her examination of the allegations which appeared in the press reports on 28 December 2009 concerning Mr LEUNG Kwok-hung's claims for reimbursement of operating expenses ("OER") for taking out insurance policies through his part-time employee who was also an agent of the insurance company concerned.

The Allegations

2. On 28 December 2009, it was reported in the Oriental Daily News that Mr LEUNG Kwok-hung had taken out insurance through his part-time employee, who was also an agent of the insurance company concerned, on three occasions at an aggregate premium of about \$17,000. There was allegation in the media reports that Mr LEUNG might have violated the procurement procedures set out in the Guide for Reimbursement of Operating Expenses for Members of the Legislative Council ("the Reimbursement Guide"). The relevant press reports are at **Appendices I and II**.

3. The allegations made in the media reports have focused on the following:

- (a) That Mr LEUNG Kwok-hung took out insurance policies on three occasions, in November 2008, February 2009 and March 2009 respectively, from an insurance company through an agent who was also his part-time employee, but did not explain why he needed to do so; hence there was a conflict of interest;

- (b) That Mr LEUNG did not obtain three quotations before taking out these insurance policies, hence had violated the requirement under the Reimbursement Guide.



The reimbursement system

4. At present, a Member is entitled to seek reimbursement of office operating expenses up to a maximum of \$1,631,900 per year on an accountable basis. A Member is also eligible for expenses reimbursement of up to \$150,000 in a term for setting up his/her offices on an accountable basis.

5. For reimbursement of Members' operating expenses, the Secretariat has issued the Reimbursement Guide. The Reimbursement Guide sets out the guiding principles of the reimbursement system, the reimbursable amounts and conditions applicable to different types of expenses and the mechanism for adjustment of the reimbursable amounts. It also provides standard forms for claiming various types of expenses and for making declarations. The stipulations in the Reimbursement Guide are based on the financial proposals approved by the Finance Committee, as recommended by the Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment System of the Hong Kong Special Administrative Region. The procedures for administering the OER claims made by Legislative Council ("LegCo") Members and the related guidelines and rules were refined in 2005, following a review by the Corruption Prevention Department of the Independent Commission Against Corruption ("ICAC"). The most recent major review was conducted by the LegCo Secretariat during the summer of 2008 and a number of changes were made in the Reimbursement Guide published in October 2008 to reflect best practices.

6. Since the operating expenses are met from the public coffer, there is a strong public expectation that these operating expenses are used in an open, fair and accountable manner. One important guiding principle in respect of claims of operating expenses is that a Member or his relatives must not have any direct or indirect financial interest in, or be able to derive any financial benefits from, any transaction in respect of which reimbursement is claimed. A Member should refrain from claiming reimbursement for any transaction from which he himself, his relatives or business associates may be perceived to have benefited. If a conflict of interest cannot be avoided or has arisen, a Member, when applying for reimbursement, should make a declaration of his interest which will be made available for public inspection. (**Appendix III**)

7. This guiding principle was first reflected in the procurement procedures set out in Paragraph 60¹ of the Reimbursement Guide published in September 2005 for the 2005-2006 legislative session, which stipulated that Members and their staff should not engage a contractor or supplier in which they have a financial interest, or companies owned/run by their relatives; and if this cannot be avoided, they should declare interest and provide justifications for doing so (e.g. sole supplier, more competitive price from bulk purchase). In addition, Members should obtain three quotations for procurement of goods or services above \$20,000 to ensure value for money. These requirements were incorporated in the Reimbursement Guide after taking into account the views of ICAC.

8. Paragraph 60 of the Reimbursement Guide was modified when it was re-issued in January 2006². In this version, Members and staff were reminded to avoid engaging a contractor or supplier in whose business they or their relatives had a financial interest or was in control. If this could not be avoided, declaration should be made, and with justifications, on Declaration Form IV.

9. In the Reimbursement Guide published in October 2008, Paragraph 60 was revised to incorporate best practices into the procurement procedure. In addition to describing the financial interest as "a financial interest in or control of the business of" a contractor or supplier, a Member or his staff is required to obtain at least three quotations for price and performance comparison (whenever practicable). The relevant provisions in the Reimbursement Guide are in **Appendix IV**.

10. Since the work of a Member's staff is closely related to the duties of the Member, a Code of Conduct (**Appendix V**), as recommended by ICAC, is attached to the employment contract and forms part of the contract for acceptance by the staff when accepting the appointment. The code of conduct, a sample of which is given in the Reimbursement Guide, states that situations which give rise to Members or their staff being perceived to have benefited a closely related party or personally should be avoided. In handling conflict of interest situations, staff should ensure the business conducted by the Member's Office is done in an open, impartial, reasonable and acceptable manner. Conflict of interest situations should be avoided, but when they do happen, they should be declared and resolved in favour of the public interest.

¹ Paragraph 60 of the Reimbursement Guide issued in September 2005 for the 2005-2006 legislative session read as follows: "Members and their staff should not engage a contractor or supplier in which they have a financial interest, or companies owned/run by their relatives. If this cannot be avoided, they should declare interest and document the justifications for doing so (e.g. sole supplier, more competitive price from bulk purchase)."

² The Reimbursement Guide was modified and re-issued in January 2006. Paragraph 60 was re-numbered as paragraph 59. It reads as follows: "A Member or his/her staff should not engage a contractor or supplier in whose business he/she or any of his/her relatives has a financial interest or is in control. If this cannot be avoided, they should declare interest and document the justifications for doing so (e.g. sole supplier, more competitive price from bulk purchase), using **Declaration Form IV**."

11. The Code of Conduct particularly draws special attention to the procurement of goods and services, staff recruitment as well as delivery of the services of the Member's Office. Where there is perceived or actual conflict of interest, the staff member should abstain from dealing with the matter in question and report the situation to the Member, who may reassign the task to another staff.

The circumstances

12. A preliminary examination of the circumstances was conducted by the Legislative Council Secretariat under the direction of the Secretary General who has the responsibility to ensure that the financial provisions allocated to The Legislative Council Commission are properly spent.

Claims for reimbursement of insurance premium paid

13. The Secretary General notes that the allegations referred to in the media reports were in fact related to the four claims (**Appendices VI to IX**) made by Mr LEUNG for reimbursements of the premium for the insurance policies he had renewed since the commencement of the current term. These insurance policies were purchased from AXA China Region Insurance Company (Bermuda) Limited ("AXA") through one of Mr LEUNG's part-time employees, Ms TANG Yuen-ching, who is also an agent of AXA. The details are as follows:

- (a) Renewal of office insurance coverage at a premium of \$2,520 for office contents, money, business interruption and public liability of four offices, namely offices at Central Government Offices, Tai Po, Tseung Kwan O and Tai Wai (the relevant declaration form is in **Appendix VI**);
- (b) Renewal of medical insurance coverage at a premium of \$1,890.75 for Mr MA Yu-sang, an employee of the Office of Hon LEUNG Kwok-hung (the relevant declaration form is in **Appendix VII**);
- (c) Renewal of employees' compensation insurance coverage at a premium of \$8,001.36 for employees of the Office of Hon LEUNG Kwok-hung (the relevant declaration form is in **Appendix VIII**); and
- (d) Renewal of medical insurance coverage at a premium of \$4,262.05 for Ms TANG Yuen-ching, an employee of the Office of Hon LEUNG Kwok-hung (the relevant declaration form is in **Appendix IX**).

14. Records show that Hon LEUNG Kwok-hung has all along been aware that Ms TANG Yuen-ching is also an appointed insurance agent of AXA, and has agreed to engage the service of Ms TANG in arranging contracts of the above insurance policies which are funded by OER. Through these contracts, Ms TANG Yuen-ching received commission payments from AXA, ranging from 7% to 10% of the insurance premium received by the company.

15. Records also show that when the above insurance policies were first taken out on 12 October 2004, 6 February 2006, 11 January 2005 and 24 March 2006 respectively, the requirement that three quotations ought to be obtained had not yet been introduced during that period of time. For the two policies taken out in 2006 (i.e. after the requirement for making declarations was implemented) (**Appendix X (a) to (b)**), Ms TANG had declared her financial interest in Part III of the declaration form and signed as "decision-maker", while Mr LEUNG had declared in Part IV of the same form that he and his relatives had no financial interest or control in AXA. Since then, the four policies had been renewed annually and the same declarations had been made by Mr TANG and Mr LEUNG.

16. When the declaration forms for the latest renewals were received, no question was raised by the Accounts Office of the Secretariat as it was considered that since both the Member and the staff concerned had no "financial interest in or control of the business" of AXA, it was entirely up to the Member to decide whether to declare or to obtain three quotations for price and performance comparison if such was practicable. According to the Accounts Office, Mr LEUNG himself had no conflict of interest in the use of public funds and he had agreed to his staff Ms TANG's earning of a commission.

17. Following the report by the media of Mr LEUNG's failure to obtain three quotations for the insurance policies, the Accounts Office approached Mr LEUNG's office and Mr LEUNG provided additional justifications on the original declaration forms, as shown in **Appendix XI (a) to (d)**. Mr LEUNG explained that the premium rates for the renewal of these policies were set according to his past claim records. Based on his good record with AXA and market information, he was convinced that the premium for a new policy with another insurance company would not be lower than that for a renewal with AXA. Separately, Ms TANG Yuen-ching also explained in a letter dated 30 December 2009 (**Appendix XII**) that the commission rates were set by AXA and she had no special financial interest arising from these insurance policies.

Findings and observations

18. The avoidance of conflict of interest is the most important principle underlying the reimbursement system. Detailed guidelines have been provided in the Reimbursement Guide to ensure that a Member or his/her relatives do not have any direct or indirect financial interest in a contractor or supplier of goods or services, and are not able to derive any financial benefits from a transaction in respect of the reimbursement claims. The declaration procedure is to enable any conflict of interest which cannot be avoided or has arisen to be disclosed for public inspection.

19. There is no information which indicates that Mr LEUNG Kwok-hung had any financial interest in or control of the business of AXA, or that he had derived any financial benefit from the transactions concerned. In claiming the related expenses, Mr LEUNG made declarations in accordance with the relevant provisions in the Reimbursement Guide and provided information about the justification for his decision and the financial benefit that his staff, Ms TANG Yuen-ching, had gained from the transactions.

20. As regards Ms TANG, the Accounts Office considered that Ms TANG also had no financial interest in or control of the business of AXA, hence the requirement that at least three quotations ought to have been obtained was not triggered. The Accounts Office also considered that Paragraph 61 did not apply as the premium paid and claimed each time did not exceed \$20,000.

21. The Secretary General has referred to the ICAC's report in February 2005 and noticed that ICAC's specific recommendations in dealing with conflict of interest in the procurement of goods and services were that:

- (a) Members and their staff should not engage a contractor or supplier in which they have a financial interest; or companies owned/run by their relatives or close acquaintances; and
- (b) where the situation in (a) above cannot be avoided, their interests should be declared and the justifications for doing so documented (e.g. sole supplier/contractor for the goods/services required, enjoying lower prices from using bulk contracts of affiliated associations).

The recommendation in (a) above was reflected in the original version of Paragraph 60 of the Reimbursement Guide published in 2005-2006 but was revised in the January 2006 version. The "financial interest" referred to in ICAC's report is broader than what is provided in the current Paragraph 60 which only refers to "the financial interest in or control of the business of the contractor or supplier". The Secretary General opines that the revision in the January 2006 version has precluded the "financial interest in a transaction" which is an obvious conflict of interest since the Member or his/her staff can derive a financial benefit from the transaction. The fact that Mr LEUNG and Ms TANG completed Declaration Form IV despite the specific provision in the present Paragraph 60 suggested that they too believed that a conflict of interest did arise and a declaration was required.

22. The Secretary General also noticed that there was an understanding among the Accounts staff that the stipulation in Paragraph 60 could be applied with certain flexibility if the Members' own financial interest is not involved. In other words, if a staff has notified the Member of her financial interest in a particular transaction, the Member could decide whether he should insist that three quotations should be sought. This flexibility would not be applied in the

case where the Member has a personal interest in the transaction. The Secretary General's view is that all transactions involving a Member or his staff's personal financial interest should be dealt with, and seen to be dealt with, in an open and fair manner. In other words, where a financial interest cannot be avoided or has arisen, the Member is required to declare the interest and to obtain at least three quotations. The stipulation in Paragraph 61 which requires at least three quotations to be obtained for a procurement exceeding \$20,000 has no relevance to the declaration of interest under Paragraph 60. Members should be advised to comply with Paragraph 60 irrespective of the value of the procurement. The two paragraphs are dealing with different situations.

23. The Secretary General is of the opinion that the most fundamental question is whether the conflict of interest in the procurement can be avoided. The purpose of the declaration form should aim to provide the reasons why the procurement is not avoidable, and not to facilitate the procurement to take place. When the four insurance policies were first taken out/ renewed after implementation of the declaration requirement, Mr LEUNG explained that the supplier was chosen on the basis of quality/functions, service/support and convenience. When clarification was sought as to why other quotations were not obtained in the latest renewals, he further explained that the rates quoted by AXA for the renewal of the policies for which no claims had been made were likely to be lower than new policies.

24. The Secretary General opines that it is for the Member to justify, and for the public to judge, whether there are good reasons for the Member to incur an expenditure item under a conflict of interest situation. However, in a case where public money is involved, Members should be advised to make conscious efforts to avoid the slightest conflict of interest. It is only under very special circumstances, such as no other service provider is available in the market, that such procurement may take place. In these circumstances, the Member should be advised to involve a third party to handle the transaction and to ensure that the requirement under Paragraph 60 is complied with. In the present case, there is no information on the declaration form that a third party had been involved in the procurement process. In fact, the claims were handled and submitted to the LegCo Secretariat by Ms TANG herself. In this respect, the Secretary General finds that the design of Declaration Form IV does not facilitate the Member to provide all relevant information for public scrutiny.

25. As far as the two allegations in respect of the renewal of the four insurance policies are concerned, the Secretary General finds that:

- (a) Mr LEUNG did explain why he needed to take out the insurance policies from AXA and both Ms TANG and himself had made the declaration in accordance with the Reimbursement Guide, but whether the reasons are good enough will be for the public to judge;

- (b) Mr LEUNG had no obligation to obtain three quotations if "financial interest" in Paragraph 60 is taken to mean financial interest in the business of AXA, which could be the case if a literal approach is adopted, but he would be obliged to do so if "financial interest" also covers the "financial benefit from a transaction";
- (c) in view of the financial interest in the transaction and the conflict of interest arising therefrom, Paragraph 15 of the Code of Conduct which provides that a staff in her situation "should abstain from dealing with the matter in question and report the situation to the Member, who may reassign the task to another staff" should have applied to Ms TANG's situation.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Recommendations

28. The Secretary General considers that there is room to set out more clearly in Paragraph 60 the extent of actual or perceived conflict of interest arising from their relationship with a contractor or supplier that Members ought to avoid and, if such is not avoidable, to declare for public scrutiny. What this incident has revealed is that the changes made in the January 2006 version had modified the scope of financial interest which ought to be avoided and, if such is not avoidable, to be declared. The obligations of the Member and the staff to follow the Code of Conduct are not set out in the procurement procedures. There is a need to rewrite Paragraph 60 so as to reflect the broader meaning of "financial benefits" for declaration by Members and to incorporate the measures to avoid conflict of interest as suggested in the Code of Conduct.

29. The Secretary General considers that apart from re-writing Paragraph 60, there is also a need to provide different declaration forms for Paragraph 60 and Paragraph 61 which deal with two different situations. The Secretary General recommends that Declaration Form IV should be modified as follows:

- (a) "Declaration Form IV(a)" should be a declaration form aiming to provide information on why conflict of interests cannot be avoided, details of the interests, quotations obtained, any third party who has handled the transaction, and a certification from the Member that the transaction, though with the interests involved, is in order (**Appendix XIV**);
- (b) "Declaration Form IV(b)" should be a document in support of claims of an expenditure item exceeding \$20,000, to provide information on the three quotations obtained for price and performance comparison (**Appendix XV**).

30. The Secretary General believes that all Members are aware of the need to comply with the Reimbursement Guide and have made every effort to do so. However, it may not be easy for Members and their staff to be aware of changes made to the Reimbursement Guide unless such changes are easily identifiable in the Reimbursement Guide or separately listed when new versions of the Reimbursement Guide are published. In the present case, as the requirement of obtaining three quotations whenever practicable in Paragraph 60 was subsumed under a package of changes to the Reimbursement Guide introduced in October 2008 when the new term began, it might not be easy for existing Members and their staff to be aware of such changes. The Secretary General recommends that in future revision exercises, all changes should be listed on a separate sheet for easy reading and the last date of amendment to any paragraph in the Reimbursement Guide should be included.

*Prepared by Ms Pauline NG, Secretary General
Legislative Council Secretariat
1 February 2010*

Extract from the Rules of Procedure of the Legislative Council

* * * * *

73. Committee on Members' Interests

(1) There shall be a standing committee to be called the Committee on Members' Interests –

(ca) to consider any complaint made in relation to the conduct of Members referred to in Rule 83AA (Claims for Reimbursement of Operating Expenses or Applications for Advance of Operating Funds) and, if it thinks fit after consideration, investigate such complaint;

(1A) In considering or investigating a complaint referred to in subrule (1)(ca), the committee shall, in addition to any other matter that the committee may consider relevant, have regard to the provisions of A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council.

83AA. Claims for Reimbursement of Operating Expenses or Applications for Advance of Operating Funds

When making a claim for reimbursement of operating expenses or applying for advance of operating funds in accordance with A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council, or acting for purposes related thereto, a Member shall –

- (a) ensure that any information provided or any declaration or certification made is true, accurate and complete; and
- (b) act according to any undertaking that he has given.

85. Sanctions relating to Interests, Operating Expenses or Operating Funds

Any Member who fails to comply with Rule 83 (Registration of Interests), 83A (Personal Pecuniary Interest to be Disclosed), 83AA (Claims for Reimbursement of Operating Expenses or Applications for Advance of Operating Funds) or 84(1) or (1A) (Voting or Withdrawal in case of Direct Pecuniary Interest) may be admonished, reprimanded or suspended by the Council on a motion to that effect.

* * * * *

Extract from A Guide for Reimbursement of Operating Expenses for Members of the Legislative Council

* * * * *

Guiding Principles

7. A Member or his/her relatives (see Appendix IV) must not have any direct or indirect financial interest in, or be able to derive any financial benefits from, any transaction in respect of which reimbursement is claimed.

8. A Member should refrain from claiming reimbursement for any transaction from which he himself/she herself, his/her relatives or business associates may be perceived to have benefited.

9. A Member should use public funds in an open, fair and accountable manner.

10. If a conflict of interest cannot be avoided or has arisen, a Member, when applying for reimbursement, should make a declaration of his/her interest which will be made available for public inspection.

11. Should there be a transaction in respect of which reimbursement is claimed or may be claimed, and there is a perceived conflict of interest, or the transaction has become a matter of public concern, the Member should take steps to resolve the conflict in favour of the public interest.

12. A Member should separate his/her private and LegCo operations/interests as far as possible, and be seen to be doing so to avoid any perception of conflict of interest or wrongful personal benefit.

Procurement

60. A Member or his/her staff should not engage a contractor or supplier whose business he/she or any of his/her relatives has a financial interest in or control of. If this cannot be avoided, they should obtain at least three quotations for price and performance comparison (whenever practicable), declare interest and document the justifications for doing so (e.g. sole supplier, more competitive price from bulk purchase), using **Declaration Form IV**.

61. For procurement of goods or services above \$20,000, including a contract commitment or renewal of insurance policy costing more than \$20,000, Members should obtain at least three quotations for price and performance comparison. These quotations should be in written form whenever practicable. **Declaration Form IV** should be submitted when reimbursement is claimed.

* * * * *

**Extract from CODE OF CONDUCT FOR STAFF EMPLOYED
BY LEGISLATIVE COUNCIL MEMBERS
(Appendix III to A Guide for Reimbursement of Operating Expenses
for Members of the Legislative Council)**

* * * * *

Conflict of Interest

10. Situations which give rise to Members or their staff being perceived to have benefited a closely related party or personally should be avoided.

11. Staff should not, in their capacity as assistants of LegCo Members, use their official position or any information made available to them in the course of performing their duties, to seek to influence another person in furtherance of their private interest.

12. For the purposes of this Code, a conflict of interest situation arises where the “private interests” of a staff member compete or conflict with the interests of the public at large or the staff member’s official duties. “Private interests” include the financial and other interests of the staff member himself; his family or other relatives; his personal friends; the clubs and associations to which he belongs; any other groups of people with whom he has personal or social ties; or any person to whom he owes a favour or is obligated in any way. There are circumstances in which a tie of kinship or friendship, or some other association or loyalty which does not give rise to a financial interest, can influence the judgement of the staff member in discharging his official duties, or may reasonably be perceived as having such an influence. A staff member’s duty to declare a conflict of interest therefore goes beyond the disclosure of interests that are definable in pecuniary terms.

Handling of conflict of interest situations

13. Staff should ensure the business conducted by the MO is done in an open, impartial, reasonable and acceptable manner. Conflict of interest situations should be avoided, but when they do happen, they should be declared and resolved in favour of the public interest.

14. Declarations of interest should be in writing, where appropriate, using the declaration forms in the “Guide for Reimbursement of Operating Expenses for Members of the Legislative Council”.

15. Special attention should be given to procurement of goods and services, staff recruitment as well as delivery of the MO’s services. For example, a conflict of interest situation may arise if a staff member takes part in the selection of suppliers, where one of the bidders under consideration is his family member, relative or personal friend. When there is perceived or actual conflict of interest, the staff member should abstain from dealing with the matter in question and report the situation to the Member, who may reassign the task to another staff.

* * * * *

第III部 —— 申報(由作出採購的決定人填寫)

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

因本人是AAA保險公司的Agent,佣金10%

決定人(A)

唐婉清

姓名

王法會計

職位/身分

唐婉清

簽署

08-11-10

日期

決定人(B)

~~姓名~~

~~姓名~~

PAID 25

~~職位/身分~~

~~簽署~~

~~日期~~

第IV部 —— 申報(由議員填寫)

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權;以及
- (ii) *供應商/服務提供者並非本人的商業夥伴,亦非本人所附屬的機構。
- (iii) *所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構。然而,本人以公眾利益作出採購決定。

(請述明與供應商/服務提供者的關係,並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯—供應商;使用附屬機構的大額採購合約可享較低價錢等。))

議員簽署

議員簽署

2008年11月10日

日期

* 請刪去不適用者

第四部 申報(由作出採購的決定人填寫)

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

因為本人是AXA的 Agent,佣金7%

決定人(A)

唐婉清

姓名

立法會會計

職位/身份

唐婉清

簽署

13.2.09

日期

PAID 27 APR 2009

決定人(B)

姓名 職位/身份 簽署 日期

第五部 申報(由議員填寫)

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權; 以及
- (ii) *供應商/服務提供者並非本人的商業夥伴,亦非本人所附屬的機構。
- (iii) *所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構。然而本人以公眾利益作出採購決定。

(請述明與供應商/服務提供者的關係,並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯—供應商;使用附屬機構的大額採購合約可享較低價錢等。))

議員簽署

議員簽署

13.2.09

日期

* 請刪去不適用者

超過20,000元的採購
或向議員、其職員或議員／職員的任何親屬存有財務利益或控制權的人士／
團體進行的採購

議員姓名	梁國雄		
第一部 採購詳情			
採購物品或服務	8个职员勞工保險		
索取報價	報價1	報價2	報價3
日期	09-1-10		
供應商	AXA		
索取報價的方式(例如 致電、逛商店詢價或指 標)及聯絡詳情			
報價項目的詳情 (例如牌子／型號)			PAID - 1 JUN 2009
價格	8001.36		
決定	接納/ 不接納*	接納/ 不接納*	接納/ 不接納*
第四部 作出決定的理由	<p>根據以下考慮因素作出決定：</p> <p><input checked="" type="checkbox"/> 價格 <input checked="" type="checkbox"/> 服務／支援</p> <p><input type="checkbox"/> 品質／性能 <input checked="" type="checkbox"/> 方便</p> <p><input type="checkbox"/> 供應日期 <input type="checkbox"/> 其他原因： _____</p> <p>* (詳細的評估資料(如有的話)夾附於後，可以／不應* 公開讓公眾查閱。)</p>		

- 在適當空格內加上✓號 * 請刪去不適用者
- (註1) 採購項目如超過20,000元，應索取3個報價。為符合審計監察的目的，在採購工作完成後，應保存有關文件最少兩年。
- (註2) 若透過電話查詢，請述明聯絡人及電話號碼。若透過逛商店取得價格，應述明商店地址。

第III部 申報(由作出採購的決定人填寫)

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

本人唐婉清是AXA保險公司 Agent, 有10%佣金

決定人(A)

唐婉清 立法會會計 唐婉清 8.3.09

姓名 職位/身份 簽署 日期

決定人(B)

姓名 職位/身份 簽署 日期

PAID - 1 JUN 2009

第IV部 申報(由議員填寫)

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權; 以及
- (ii) *~~供應商/服務提供者並非本人的商業夥伴, 亦非本人所附屬的機構。~~
- (iii) *~~所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構。然而, 本人以公眾利益作出採購決定。~~

(請述明與供應商/服務提供者的關係, 並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯一供應商; 使用附屬機構的大額採購合約可享較低價錢等)。)

議員簽署

8.3.09

議員簽署

日期

* 請刪去不適用者

超過20,000元的採購
或向議員、其職員或議員／職員的任何親屬存有財務利益或控制權的人士／
團體進行的採購

議員姓名	梁國雄		
第I部 —— 採購詳情 (註1)			
採購物品或服務	醫療保險(續保)		
索取報價	報價1	報價2	報價3
日期	16-3-09		
供應商	AXA		
索取報價的方式(例如致電、逛商店詢價或招標)及聯絡詳情(註2)			
報價項目的詳情(例如牌子／型號)			
價格	4262.05		
決定	接納/ 不接納*	接納/ 不接納*	接納/ 不接納*
第II部 —— 作出決定的理由			
根據以下考慮因素作出決定：			
<input checked="" type="checkbox"/> 價格		<input checked="" type="checkbox"/> 服務／支援	
<input type="checkbox"/> 品質／性能		<input checked="" type="checkbox"/> 方便	
<input type="checkbox"/> 供應日期		<input type="checkbox"/> 其他原因：_____	
* (詳細的評估資料(如有的話)夾附於後，可以／不應* 公開讓公眾查閱。)			

PAID - 9 JUN 2009

- 在適當空格內加上✓號 * 請刪去不適用者
- (註1) 採購項目如超過20,000元，應索取3個報價。為符合審計監察的目的，在採購工作完成後，應保存有關文件最少兩年。
- (註2) 若透過電話查詢，請述明聯絡人及電話號碼。若透過逛商店取得價格，應述明商店地址。

第III部 —— 申報(由作出採購的決定人填寫)

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

✓ 同印

因本人是 AXA Agent
佣金 7%

決定人(A)

唐婉清

姓名

立法會議員

職位/身分

唐婉清

簽署

日期

16-3-09

決定人(B)

姓名

職位/身分

簽署

日期

第IV部 —— 申報(由議員填寫)

本人謹此證明：

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權；以及
- (ii) *供應商/服務提供者並非本人的商業夥伴，亦非本人所附屬的機構。
- (iii) *所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構。然而，本人以公眾利益作出採購決定。

(請述明與供應商/服務提供者的關係，並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯—供應商；使用附屬機構的大額採購合約可享較低價錢等)。)

PAID - 9 JUN 2009

同印

議員簽署

16-3-09

日期

* 請刪去不適用者

超過20,000元的採購
或向議員、其職員或議員／職員的任何親屬存有財務利益或控制權的人士／
團體進行的採購

議員姓名	梁國雄議員		
第I部 —— 採購詳情 (註1)			
採購物品或服務	職員醫療保險(易愉生)		
索取報價	報價1	報價2	報價3
日期	7/2/06	← 投保日為	2006年2月6日
供應商	AXA國衛		
索取報價的方式(例如致電、逛商店詢價或招標)及聯絡詳情(註2)	經驗		
報價項目的詳情(例如牌子/型號)	國洋 醫療保險		
價格	1750		
決定	接納/ 不接納*	接納/ 不接納*	接納/ 不接納*
第II部 —— 作出決定的理由			
根據以下考慮因素作出決定：			
<input type="checkbox"/> 價格	<input checked="" type="checkbox"/> 服務/支援		
<input checked="" type="checkbox"/> 品質/性能	<input checked="" type="checkbox"/> 方便		
<input type="checkbox"/> 供應日期	<input type="checkbox"/> 其他原因：_____		
* (詳細的評估資料(如有的話)夾附於後，可以/不應公開讓公眾查閱。)			

RECEIVED 30 MAY 2006

- 在適當空格內加上✓號 * 請刪去不適用者
- (註1) 採購項目如超過20,000元，應索取3個報價。為符合審計監察的目的，在採購工作完成後，應保存有關文件最少兩年。
- (註2) 若透過電話查詢，請述明聯絡人及電話號碼。若透過逛商店取得價格，應述明商店地址。

第III部 —— 申報(由作出採購的決定人填寫)

唐婉清

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

財務利益只是21%佣金
Vivian

決定人(A)	唐婉清	主任會計	唐婉清	1/4/06
	姓名	職位/身分	簽署	日期

決定人(B)				
	姓名	職位/身分	簽署	日期

PAID 30 MAY 2006

第IV部 —— 申報(由議員填寫)

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權;以及
- (ii) *供應商/服務提供者並非本人的商業夥伴,亦非本人所附屬的機構。
- (iii) *所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構。然而本人以公眾利益作出採購決定。

(請述明與供應商/服務提供者的關係,並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯—供應商;使用附屬機構的大額採購合約可享較低價錢等。))

1/4/06

議員簽署

日期

* 請刪去不適用者

超過20,000元的採購
或向議員、其職員或議員／職員的任何親屬存有財務利益或控制權的人士／
團體進行的採購

議員姓名				梁國雄			
第I部 —— 採購詳情 (註1)							
採購物品或服務				醫療保險(唐婉清)			
索取報價		報價1		報價2		報價3	
日期		06-3A240					
供應商		AXA國際保險					
索取報價的方式(例如致電、逛商店詢價或招標)及聯絡詳情(註2)		經驗					
報價項目的詳情(例如牌子／型號)		潤洋 醫療保險					
價格		4162					
決定		接納/ 不接納*		接納/ 不接納*		接納/ 不接納*	
第II部 —— 作出決定的理由							
根據以下考慮因素作出決定：				PAID 30 MAY 2006			
<input type="checkbox"/> 價格		<input checked="" type="checkbox"/> 服務／支援					
<input checked="" type="checkbox"/> 品質／性能		<input checked="" type="checkbox"/> 方便					
<input type="checkbox"/> 供應日期		<input type="checkbox"/> 其他原因： _____					
(詳細的評估資料(如有的話)夾附於後，可以/不應 公開讓公眾查閱。)							

- 在適當空格內加上✓號 * 請刪去不適用者
- (註1) 採購項目如超過20,000元，應索取3個報價。為符合審計監察的目的，在採購工作完成後，應保存有關文件最少兩年。
- (註2) 若透過電話查詢，請述明聯絡人及電話號碼。若透過逛商店取得價格，應述明商店地址。

第III部 —— 申報(由作出採購的決定人填寫)

康婉清

本人/我們及本夫/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

7%佣金收入

✓ 已申報

決定人(A)

康婉清

姓名

主任會計

職位/身分

康婉清

簽署

7/4/06

日期

決定人(B)

姓名

職位/身分

簽署

日期

第IV部 —— 申報(由議員填寫)

PAID 30 MAY 2006

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權;以及
- (ii) *供應商/服務提供者並非本人的商業夥伴,亦非本人所附屬的機構。
- (iii) *所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構。然而,本人以公眾利益作出採購決定。

(請述明與供應商/服務提供者的關係,並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯一供應商;使用附屬機構的大額採購合約可享較低價錢等)。)

康婉清

議員簽署

7/4/06

日期

* 請刪去不適用者

附錄 XII(a)
Appendix XII(a)

申報表格 IV

超過20,000元的採購
或向議員、其職員或議員／職員的任何親屬存有財務利益或控制權的人士／
團體進行的採購

議員姓名	梁國雄		
採購詳情	4個辦公室保險全保套裝		
採購物品或服務	4個辦公室保險全保套裝		
索取報價	報價1	報價2	報價3
日期	2008-09-13	因為續保的費用是根據	
供應商	AXA	以往索償記錄, 因為過程	
索取報價的方式(例如 致電、到店查詢或招 標)或聯絡詳情	經驗 續保	有良好的記錄, 以及所得 市場資訊, 保費肯定較新 僱用保險公司為低	
報價項目的詳情 (例如牌號/型號)	A年都同一銀碼, 今年第5年同	所以沒有提供之 PAID 份報價	
價格	2520	✓ 抽起	
決定	接納/ 不接納*	接納/ 不接納*	接納/ 不接納*
第II部 作出決定的理由	根據以下考慮因素作出決定: <input checked="" type="checkbox"/> 價格 <input checked="" type="checkbox"/> 品質/性能 <input type="checkbox"/> 供應日期 <input checked="" type="checkbox"/> 服務/支援 <input checked="" type="checkbox"/> 方便 <input type="checkbox"/> 其他原因: _____		
(詳細的評估資料(如有的話)夾附於後, 可以/不應* 公開讓公眾查閱)			

□ 在適當空格內加上✓號 * 請刪去不適用者

(註1) 採購項目如超過20,000元, 應索取3個報價。為符合審計監察的目的, 在採購工作完成後, 應保存有關文件最少兩年。

(註2) 若透過電話查詢, 請述明聯絡人及電話號碼。若透過逛商店取得價格, 應述明商店地址。

第III部 —— 申報(由作出採購的決定人填寫)

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

因本人是AAA保險公司的Agent,佣金10%

決定人(A)

唐婉清

姓名

主任會計

職位/身分

唐婉清

簽署

08-11-10

日期

決定人(B)

~~PAID 25 NOV 2008~~
姓名 職位/身分 簽署 日期

第IV部 —— 申報(由議員填寫)

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權;以及
- (ii) *供應商/服務提供者並非本人的商業夥伴,亦非本人所附屬的機構。
- (iii) *所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構,然而本人以公眾利益作出採購決定。

(請述明與供應商/服務提供者的關係,並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯一供應商;使用附屬機構的大額採購合約可享較低價錢等。))

議員簽署

議員簽署

2008年11月10日

日期

* 請刪去不適用者

附錄 XII(b) 409 claim
Appendix XII(b)
申報表格 IV

超過 20,000 元的採購
或向職員、其職員或職員／職員的任何親屬存有財務利益或控制權的人士／團體進行的採購

梁國雄			
第 1 部	採購詳情		
採購物品或服務	醫療保險 (續保)		
索取報價	報價 1	報價 2	報價 3
日期	18-2-01		
供應商	AXA	因為續保的費用是根據以往	
索取報價的方式 (例如 電郵、傳真、傳真或招標) 及聯絡詳情	索償記錄, 因為以往有良好 的記錄, 以及所得市場資訊 保費肯定較新僱用保險公 司為低, 所以沒有提供三份 報價。		
報價單的詳情 (例如 牌子、型號)	AID 27 APR 2008		
價格	1890.75		
決定	<input checked="" type="checkbox"/> 接納 <input type="checkbox"/> 不接納*	<input checked="" type="checkbox"/> 接納 <input type="checkbox"/> 不接納*	<input checked="" type="checkbox"/> 接納 <input type="checkbox"/> 不接納*
第 2 部	作出決定的理由		
根據以下考慮因素作出決定:			
<input checked="" type="checkbox"/> 價格	<input checked="" type="checkbox"/> 服務 / 支援		
<input type="checkbox"/> 品質 / 性能	<input checked="" type="checkbox"/> 方便		
<input type="checkbox"/> 供應日期	<input type="checkbox"/> 其他原因: _____		
* (詳細的評估資料(如有的話)夾附於後, 可以 / 不應* 公開讓公眾查閱)			

因為續保的費用是根據以往
索償記錄, 因為以往有良好
的記錄, 以及所得市場資訊
保費肯定較新僱用保險公
司為低, 所以沒有提供三份
報價。
梁國雄

- 在適當空格內加上✓號
- * 請刪去不適用者
- (註1) 採購項目如超過 20,000 元, 應索取 3 個報價。為符合審計監察的目的, 在採購工作完成後, 應保存有關文件最少兩年。
- (註2) 若透過電話查詢, 請述明聯絡人及電話號碼。若透過遞商店取得價格, 應述明商店地址。

第四部 申報(由作出採購的法定人填寫)

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存在有財務利益或控制權。(如有,請提供詳情。)

因為本人是AXA的 Agent, 佣金7%

決定人(A)

唐婉清

姓名

立法會會計

職位/身份

唐婉清

簽署

日期

13.2.01

PAID 27 APR 2009

決定人(B)

姓名

職位/身份

簽署

日期

第五部 申報(由議員填寫)

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存在有財務利益或控制權; 以及
- (ii) *~~供應商/服務提供者並非本人的商業夥伴, 亦非本人所附屬的機構。~~
- (iii) *~~所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構, 然而本人以公眾利益作出採購決定。~~

(請述明與供應商/服務提供者的關係, 並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯一供應商; 使用附屬機構的大額採購合約可享較低價錢等).)

議員簽署

議員簽署

13.2.01

日期

* 請刪去不適用者

附錄 XII(c)
Appendix XII(c)
申報表格IV

超過20,000元的採購
或向議員、其職員或議員/職員的任何親屬存有財務利益或控制權的人士/
團體進行的採購

3

議員姓名	梁國雄		
第I部 採購詳情			
採購物品或服務	8个职员劳工保險		
索取報價	報價1	報價2	報價3
日期	09-1-10		
供應商	AXA		
索取報價的款式(例如商標/規格)及聯絡詳情	經驗 續保	因為續保的費用是根據以往 索償記錄,因為過往有良好的 記錄,以及所得市場資訊 保費肯定較新僱用保險公	
報價項目的詳情(例如牌子/型號)	可為低,所以沒有 提供三份報價。 10 - 1 JUN 2009		
價格	8001.36		
決定	接納/ 不接納*	接納/ 不接納*	接納/ 不接納*

梁國雄

第II部 釐定決定的理由

根據以下考慮因素作出決定：

<input checked="" type="checkbox"/> 價格	<input checked="" type="checkbox"/> 服務/支援
<input type="checkbox"/> 品質/性能	<input checked="" type="checkbox"/> 方便
<input type="checkbox"/> 供應日期	<input type="checkbox"/> 其他原因：_____

* (詳細的評估資料(如有的話)夾附於後 ~~可以/不應~~ 公開讓公眾查閱。)

在適當空格內加上✓號 * 請刪去不適用者

(註1) 採購項目如超過20,000元,應索取3個報價。為符合審計監察的目的,在採購工作完成後,應保存有關文件最少兩年。

(註2) 若透過電話查詢,請述明聯絡人及電話號碼。若透過商店取得價格,應述明商店地址。

第三部 申報(由作出採購的決定人填寫)

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

本人唐婉清是AXA
保險公司 Agent,
有10%佣金

決定人(A)	唐婉清	立法會會計	唐婉清	8.3.09
	姓名	職位/身份	簽署	日期

決定人(B)	/			
	姓名	職位/身份	簽署	日期


PAID - 1 JUN 2009

第四部 申報(由議員填寫)

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權; 以及
- (ii) *~~供應商~~/服務提供者並非本人的商業夥伴, 亦非本人所附屬的機構。
- (iii) *~~所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構。然而, 本人以公眾利益作出採購決定。~~

(請述明與供應商/服務提供者的關係, 並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯一供應商; 使用附屬機構的大額採購合約可享較低價錢等)。)

	8.3.09
議員簽署	日期

* 請刪去不適用者

附錄 XII(d) Appendix XII(d)

claim

申報表格IV

超過20,000元的採購
或向議員、其職員或議員/職員的任何親屬存有財務利益或控制權的人士/
團體進行的採購

5

議員姓名	梁國雄		
第I部 —— 採購詳情 (註1)			
採購物品或服務	醫療保險(續保)		
索取報價	報價1	報價2	報價3
日期	16-3-09		
供應商	AXA	因為續保時費用是根據	
索取報價的方式(例如致電、逛商店詢價或招標)及聯絡詳情(註2)		以往索價記錄,因為往	
報價項目的詳情(例如牌子/型號)		往有良好時記錄,以及	
價格	4262.00	所得市場資訊,保費肯定	
決定	接納/ 不接納*	接納/ 不接納*	接納/ 不接納*
第II部 —— 作出決定的理由			
根據以下考慮因素作出決定:			
<input checked="" type="checkbox"/> 價格	<input checked="" type="checkbox"/> 服務/支援		
<input type="checkbox"/> 品質/性能	<input checked="" type="checkbox"/> 方便		
<input type="checkbox"/> 供應日期	<input type="checkbox"/> 其他原因: _____		
* (詳細的評估資料(如有的話)夾附於後,可以/不應* 公開讓公眾查閱。)			

PAID - 9 JUN 2009

梁國雄

在適當空格內加上✓號 * 請刪去不適用者

(註1) 採購項目如超過20,000元,應索取3個報價。為符合審計監察的目的,在採購工作完成後,應保存有關文件最少兩年。

(註2) 若透過電話查詢,請述明聯絡人及電話號碼。若透過逛商店取得價格,應述明商店地址。

第III部 —— 申報(由作出採購的決定人填寫)

本人/我們及本人/我們的親屬對供應商/服務提供者的業務並不存有財務利益或控制權。(如有,請提供詳情。)

✓ 同印

因本人是 AXA Agent
佣金 7%

決定人(A)

唐婉清

姓名

立法會議員

職位/身分

唐婉清

簽署

日期

16-3-09

決定人(B)

姓名

職位/身分

簽署

日期

第IV部 —— 申報(由議員填寫)

本人謹此證明:

- (i) 本人及本人的親屬對供應商/服務提供者的業務並不存有財務利益或控制權; 以及
- (ii) *供應商/服務提供者並非本人的商業夥伴, 亦非本人所附屬的機構。
- (iii) *所選定的供應商/服務提供者是本人的商業夥伴或本人所附屬的機構。然而, 本人以公眾利益作出採購決定。

(請述明與供應商/服務提供者的關係, 並說明作出採購決定的特別原因(例如該供應商是所需物品/服務的唯一供應商; 使用附屬機構的大額採購合約可享較低價錢等)。)

PAID - 9 JUN 2009

✓ 同印

議員簽署

16-3-09

日期

* 請刪去不適用者

致立法會秘書處：

有關唐婉清收取保險佣金事宜，本人唐婉清為AXA保險公司之代理，現申報我所收取的保險佣金必須按照AXA保險公司所規定的百分比收取，即是由08年10月至今有關的醫療保險佣金為7%，帶工保險及辦公室保險佣金為10%，本人並無權力去增加或減低所收取佣金的百分比，一切均按照AXA保險公司之規定行事。

另外有關索取帶工保險及辦公室保險的三個報價用作與當時申領的保險費用作價格比較，現已進行中，並等候有關保險公司回覆後，即可交給秘書處。
立法會會計 唐婉清

DECLARATION OF PROCUREMENT FROM A PARTY WHOSE BUSINESS THE
MEMBER, HIS/HER STAFF OR ANY OF THEIR RELATIVES HAS A
FINANCIAL INTEREST IN OR CONTROL OF

Name of Member		
<i>PROCUREMENT PARTICULARS</i>		
Product or Service procured		
Date of Procurement		
Supplier		
<i>SECTION I: DECLARATION (to be completed by the person who or whose relative has financial interest in or control of the business of the supplier)</i>		
Nature of relationship with the supplier:		
<input type="checkbox"/> The Member is a relative/shareholder/partner/business associate* _____ _____ of the supplier.		
<input type="checkbox"/> The Member's relative (relationship: _____) is _____ of the supplier.		
<input type="checkbox"/> The staff is _____ of the supplier.		
<input type="checkbox"/> The staff's relative (relationship: _____) is _____ of the supplier.		
Nature of financial interest/benefit accrued to the Member/staff/Member's or staff's relative* and the total amount involved: _____		

Name	Signature	Date
<i>SECTION II: DECLARATION (to be completed by person(s) making the procurement decision, such person(s) should, as far as possible, not be the one(s) completing Section I)</i>		
Are you aware of the financial interest above before making the procurement decision?		Yes / No*
Did you obtain three quotations before making the procurement decision?		Yes / No*

✓ as appropriate

* delete where inappropriate

SECTION III - DECLARATION (to be completed by Member)

I hereby certify that:

- (i) I confirm the above procurement is in order.
- (ii) *I and my relatives have no financial interest in, nor control of, the business of the supplier/service provider; and
- (iii) *The supplier/service provider is not a business associate of mine nor an organization to which I am affiliated.
- (iv) *The supplier/service provider selected is a business associate of mine or an organization to which I am affiliated. Nonetheless, my procurement decision is made in the public interest.

* In spite of the financial interest/benefit involved as stated in Section I, the procurement decision is unavoidable for the following reasons (e.g. sole supplier for the goods/services required; lower prices from using bulk contracts of an affiliated association):

Signature of Member

Date

PROCUREMENT EXCEEDING \$20,000

Appendix XV

(In any procurement situations where the Member, his/her staff or any of their relatives has a financial interest or is in control of the supplier, Declaration Form IV(a) should be used.)

Name of Member			
SECTION I – PROCUREMENT PARTICULARS <i>(Note 1)</i>			
Product or Service procured			
Quotations obtained	Quotation 1	Quotation 2	Quotation 3
Date			
Supplier			
Means of obtaining quotations (e.g. by telephone, shopping, tender) and contact details <i>(Note 2)</i>			
Description of items offered (e.g. make/model)			
Price			
Decision	<i>Accepted/ Rejected*</i>	<i>Accepted/ Rejected*</i>	<i>Accepted/ Rejected*</i>
SECTION II - JUSTIFICATION FOR DECISION			
The decision is based on consideration of the following:			
<input type="checkbox"/> price		<input type="checkbox"/> service/support	
<input type="checkbox"/> quality/functions		<input type="checkbox"/> convenience	
<input type="checkbox"/> availability		<input type="checkbox"/> other reasons: _____	
* <i>(Detailed assessment, if any, is shown in the attached, which can be/should not be* open for public inspection.)</i>			

as appropriate * delete where inappropriate
(Note 1) Three quotations should be obtained in respect of any procurement exceeding \$20,000. For compliance audit purposes, relevant documents should be kept for at least two years after completion of the procurement exercise.
(Note 2) If by telephone enquiry, state contact person and telephone number. If by shopping, the shop address should be stated.

SECTION III - DECLARATION (by person(s) making the procurement decision)

I/We* hereby certify that the above information is correct.

Decision-maker (A)	_____	_____	_____	_____
	Name	Position/ Capacity	Signature	Date

Decision-maker (B)	_____	_____	_____	_____
	Name	Position/ Capacity	Signature	Date

SECTION IV - DECLARATION (by Member; leave blank if the Member, being the decision-maker or one of the decision-makers, has already signed in SECTION III)

I hereby certify that the above information is correct.

_____	_____
Signature of Member	Date