

立法會
Legislative Council

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(The minutes have been
seen by the Administration)

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

**Minutes of meeting
held on Friday, 7 June 2013 at 11:00 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Emily LAU Wai-hing, JP (Chairman)
Hon LEE Cheuk-yan
Hon WONG Ting-kwong, SBS, JP
Hon IP Kwok-him, GBS, JP

Members absent : Hon WONG Yuk-man
Hon Claudia MO

**Public Officers
attending** : **Agenda item I**

Ms Kitty CHOI, JP
Director of Administration

Mrs DO PANG Wai-yee
Deputy Director of Administration

Clerk in attendance: Mr Matthew LOO
Principal Council Secretary (Administration) ("PCS(A)")

Staff in attendance : Mr Kenneth CHEN, SBS
Secretary General ("SG")

Mrs Justina LAM
Deputy Secretary General ("DSG")

Mr Joseph KWONG
Accountant ("ACCT")

Ms Debbie YAU
Chief Council Secretary (Administration) ("CCS(A)")

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I. Outcome of the survey of Members' views on pursuing the outstanding proposals set out in the "Review of the Operating Expenses Reimbursement for Legislative Council Members"

LC Paper No. AS 227/12-13

At the invitation of the Chairman, PCS(A) highlighted the outcome of the survey of Members' views on whether the nine outstanding proposals set out in the "Review of the Operating Expenses Reimbursement for Legislative Council Members" ("the Review Report") should be pursued. In gist, PCS(A) informed members that a total of 64 Members completed and returned the questionnaire, and the majority of them supported the nine outstanding proposals in the Review Report. A copy of the outcome of the survey had been passed to the Administration.

2. The Chairman said that the Subcommittee had requested the Administration to advise how the legal obligations of Members, as employers running Members' Offices, in respect of disbursing long service payments or severance payments to eligible staff upon their departure could be met by Government provisions if the Members concerned were still in office.

3. The Director of Administration ("D of Adm") said that the nine outstanding proposals contained in the Review Report had already been reviewed 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 Independent Commission") during the last term of the Legislative Council ("LegCo") and their views included in its "Report on the Review of Remuneration Package for Members of the Fifth Term Legislative Council" ("the Independent Commission's Report") issued in February 2012. She highlighted the following basic principles upheld by the Independent Commission in conducting the review:

- (a) given the uniqueness of the civil service pay mechanism, it was inappropriate to use civil service pay as the basis to work out the amount required to cover salary expenses to be incurred by Members for employment of their staff;
- (b) Members should have full discretion to decide on the exact number of staff to employ and the salary level and benefits of their staff for greater flexibility; and

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- (c) notwithstanding the emergence of the new District Council (second) functional constituency, Members returned from geographical constituencies and functional constituencies should be entitled to the same remuneration package on grounds that they were exercising the same constitutional powers and functions under the Basic Law.

4. D of Adm further said that in conducting the review, the Independent Commission had examined a basket of factors including the level of Office Operating Expenses Reimbursement ("OOER") currently available to Members and their utilization, market rates of salaries and rentals, the increase in Members' workload, etc. Taking into account the above factors, the Independent Commission drew up recommendations to enhance Members' remuneration package in the Fifth LegCo, including an increase of OOER by 20%. D of Adm added that the new provision of OOER should be adequate to support three offices and seven assistants, including a more experienced assistant in the Member's head office. As regards the proposed new and separate allowance for research, the Independent Commission considered that it should be critically examined as the proposal might allow a Member to engage his/her own political party to conduct research and hence could give rise to real or potential conflict of interest.

5. D of Adm stressed that the outcome of the comprehensive review conducted by the Independent Commission as outlined in its Report issued in February 2012 remained valid. The Independent Commission might conduct another review should Members provide fresh justifications and statistics, for example, information on the usage of the increased provision of OOER since October 2012.

6. On the issue of disbursing long service payments or severance payments, D of Adm reiterated that the original intent of the Winding Up Expenses Reimbursement ("WUER") was to help Members wind up their business by covering severance payment and other expenses arising from the cessation of office when Members chose not to stand for election or for reasons over which they had no control. As such, any severance payment or long service payment which Members paid out under circumstances other than those described above would be outside the ambit of WUER. D of Adm added that whether such payments would be reimbursed would need to be examined closely by the Financial Services and the Treasury Bureau vis-à-vis other relevant policies. Furthermore, even if the Independent Commission recommended providing separate provision for settling severance payment or long service payment for Members' staff who

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departed in the middle of a term, the recommendation would need to be first endorsed by the Chief Executive-in-Council and then approved by the Finance Committee.

OOER

7. Mr LEE Cheuk-yan reiterated that the Administration had been unwilling to make available more resources to Members so that they would not be able to monitor the Administration effectively. He queried why the salary of Members' assistants could not be pegged to the civil service pay. Mr LEE considered that the Independent Commission should review the current situation as the 20% increase in OOER was mainly used for salary increments and rental in running Members' offices, and it was not enough for Members to employ more staff.

8. D of Adm explained that the Independent Commission considered that the salaries of Members' assistants should not be pegged to those of the civil service given the different job nature and the unique mechanism of the civil service pay structure. In recommending a 20% increase in OOER, the Independent Commission had drawn reference from the salary levels in the private sector. She reckoned that part of the increase in OOER had been used to increase the salaries of Members' assistants. She hoped that the adjustment had helped Members retain experienced staff and reduce the overall staff turnover rate which stood at 34% according to last survey. In this connection, the Chairman said that since October 2012, at least six staff in the offices of Members belonging to the Democratic Party had resigned.

9. The Chairman drew members' attention to the following new appointments to the Independent Commission:

- (a) Mr Nicky LO Kar-chun as Chairman; and
- (b) Mr Andrew FUNG Hau-chung as member.

10. Upon the Chairman's enquiry, D of Adm advised that Mr LO, first appointed as member to the Independent Commission in 2006, was formerly chairman of the Standing Commission on Civil Service Salaries and Conditions of Service, alternate chairman of the Pay Trend Survey Committee and a member of both the Standing Committee on Directorate Salaries and Conditions of Service and the Standing Committee on Disciplined Services Salaries and Conditions of Service. She added that Mr LO was engaged in information and communication technology-related

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business.

11. Mr IP Kwok-him hoped that the new members of the Independent Commission could have a thorough understanding of the operation of a Member's office before they considered the nine outstanding proposals in the Review Report. He said that the 20% increase in OOER might have helped Members maintain their existing offices but was not enough to enhance the services provided by their offices. While he had used most of the 20% increase to raise his assistants' salaries, he considered that the present salary levels of a Member's assistants were still not attractive enough and Members might not be able to retain a pool of talented staff.

12. Mr IP Kwok-him considered that if the Independent Commission did not support the Subcommittee's view to peg the salaries of Members' assistants to the civil service pay scale, it at least made reference to the pay of Executive Officers I and II when adjusting OOER because Members' assistants were drawn from the same manpower market of these two categories of staff. Mr IP pointed out that although OOER would be adjusted annually in accordance with the movement of Consumer Price Index (C) ("CPI(C)"), the small annual revision would not be enough to meet Members' actual needs and OOER needed to be adjusted upward.

13. D of Adm advised that the Independent Commission, when drawing reference from market rates of private sector salaries, had studied the graduate employment surveys conducted by various universities and similar reports prepared by the Census and Statistics Department.

14. Mr LEE Cheuk-yan said that the Home Affairs Department would recruit Liaison Officers for District Offices and the remuneration package for this grade would be a useful reference for determining that for Members' assistants working in Members' district offices.

15. D of Adm responded that the Independent Commission had used the basic assumptions adopted by the Subcommittee with regard to the salaries of staff. Specifically, it was estimated that a monthly salary of about \$40,000 should be able to help Members recruit or retain a more experienced assistant to help handle LegCo business with policy content and to supervise the operations of the offices. There might be more flexibility regarding the qualifications of the other assistants, who mainly dealt with frontline work such as handling complaints and providing miscellaneous services. These tasks could be taken up by university graduates at a monthly salary of about \$15,000 or general office assistants or customer service staff at a monthly salary of about \$10,000. She believed that the increase in

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OOER and the flexibility of allowing the surplus of a Member's OOER entitlement each year to roll over to the following year until the end of a term for salary increments and/or payment of gratuity would help Members retain experienced staff.

16. Mr LEE Cheuk-yan said that lack of job security had made it difficult for Members to compete for better candidates in the manpower market. He also expressed concern that a monthly salary of about \$15,000 could only keep a staff member for one to two years. Mr LEE considered that the baseline assumptions should be reviewed so that the staff establishment as well as starting salaries of assistants in a Member's office could be set at a more reasonable level. He requested that given its new membership, the Independent Commission should be invited to meet with the Subcommittee to discuss the outstanding issues.

Severance payment and long service payment

17. Mr WONG Ting-kwong said that if a Member's staff left in the middle of a term, the Member would have to pay long service payment in accordance with the Employment Ordinance (Cap. 57). As the financial provision under OOER was already insufficient to cover the day-to-day needs of Members' offices, Members usually had to bear such payments out of their own pocket. Mr WONG further said that if the service of the staff was long, the amount of the payment could be quite substantial. He proposed that Members be given flexibility in using WUER in that they be allowed to use the fund in WUER in advance or that the claim be processed retrospectively when they ceased to be a Member.

18. D of Adm said that a Member might claim WUER on a reimbursable basis for expenses made at the time when he/she ceased to be a Member. Her understanding was that cases of severance payments would also arise if one of the Members ceased to be a joint employer of a group of staff (e.g. when one of the joint employers stepped down), in which the outgoing Member(s) could claim full reimbursement for his/her share of severance pay under the uncapped portion of WUER but the Member(s) who continued to serve on LegCo could not do so. D of Adm said that the Administration was looking into the matter.

19. The Deputy Director of Administration ("DD of Adm") explained that an employee would be entitled to long service payment only when he/she was dismissed after serving for five years or more. If the staff resigned of his/her own accord, he/she would not be eligible for long service payment unless the staff concerned was of age 65 or more or in ill health at

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the time of departure. Mr WONG Ting-kwong said that one of his staff would reach the age of 65 and retire during the Fifth LegCo. He requested the Administration to consider reimbursing him the long service payment which he was going to pay the staff concerned upon his departure. DD of Adm agreed to bring up the issue of long service payment for existing Members for the Independent Commission's attention and consideration.

20. Mr LEE Cheuk-yan said that in order to comply with the legal requirement, the Administration should make available a new provision other than WUER for Members to settle long service payment, severance payment or similar payments for Members' staff who were eligible to receive such payment under the law if they departed in the middle of a term when the Members concerned were still in office.

Way forward

21. As regards the collection of OER-related information, SG pointed out that about half of the Fifth LegCo Members were newly elected Members and as the term had just started for less than 10 months, it might not be too meaningful to conduct a survey on the turnover rate of Members' assistants at this stage as most of them were new recruits. Nevertheless, the Subcommittee might consider collecting such information in October 2013 when the new term had already operated for one whole year. SG added that the Independent Commission and the Administration could make reference to the survey data presented just now, i.e. the new Members among the 64 Members who responded to the survey had studied the Subcommittee's Review Report and supported pursuing the nine outstanding proposals. Mr LEE Cheuk-yan said that the Independent Commission should be invited to discuss with the Subcommittee these proposals at an open meeting. D of Adm responded that the Independent Commission would consider fresh justifications and statistics provided by Members.

22. Mr LEE Cheuk-yan reckoned that the turnover rate of assistants of new Members should be low. He suggested collecting information on the salaries of Members' assistants to see if the salary levels were still relatively low when compared to civil service pay.

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23. The Chairman asked the Secretariat to collect information on the salaries, education and experience of Members' assistants and collate them for discussion with the Independent Commission.

II. Any other business

24. There being no other business, the meeting ended at 12:03 pm.

Complaints and Resources Management Division
Legislative Council Secretariat
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