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

**Level of Members' operating expenses reimbursement
and annual adjustment mechanism**

Purpose

This paper provides information on issues relating to Members' Operating Expenses Reimbursement ("OER") raised by members of the Subcommittee on Members' Remuneration and OER ("the Subcommittee") at its meeting in June 2017.

Background

2. At the Subcommittee meeting held on 20 June 2017, members discussed issues relating to the level of Members' OER and the mechanism for annual adjustment mechanism of OER. To facilitate the Subcommittee's discussion, members requested the Secretariat to: (a) provide statistics on office rental expenses incurred by Members; (b) work out a weighted index for annual adjustment of OER; and (c) provide information on the proposals on OER submitted by the Subcommittees set up in the previous terms of Legislative Council ("LegCo") to the Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment System of HKSAR ("Independent Commission").

Office rental expenses

3. At the Subcommittee meetings held in January and June 2017, some members expressed concern about the problem of high rental expenses faced by Members. These members were concerned that the rate of increase in Members' rental expenses far exceeded that of Consumer Price Index (C) ("CPI(C)") and considered that a more appropriate annual adjustment mechanism should be adopted for Members' rental expenses. Concern was also

raised about the difficulty encountered by new Members in renting offices in public rental housing estates, the charges for which were lower than those in private properties. The Secretariat was requested to provide statistics on office rental expenses incurred by Members to facilitate the Subcommittee's review of the adequacy of the resources provided to Members for covering such expenses.

Statistics on office rental expenses

4. Based on the rental reimbursement claims submitted by Members, the total number of district offices operated by Members of the Fifth LegCo and Sixth LegCo by landlords is as follows:

	District offices operated by Members *			
	Fifth LegCo (based on district offices rented in June 2016)		Sixth LegCo (based on claims submitted by Members up to October 2017 for district offices rented in June 2017)	
	Number	%	Number	%
Hong Kong Housing Authority	67.24	61.9	51.38	61.3
Link REIT	2.00	1.8	1.00	1.2
Private landlords	39.47	36.3	31.48	37.5
Total	108.71	100	83.86	100

(*The central office in the LegCo Complex provided for each Member is excluded.)

5. The rentals charged by the respective landlords are shown in the following table:

	Fifth LegCo		Sixth LegCo (based on tenancy agreements submitted by Members up to October 2017)	
	Lowest rental	Highest rental	Lowest rental	Highest rental
	\$	\$	\$	\$
Hong Kong Housing Authority	2,200	11,000	3,000	9,800
Link REIT	5,800	22,000	7,500	7,500
Private landlords	3,100	30,000	3,500	40,000

(The figures in the above table show the full rental charges of the office premises leased by Members, although in some cases only part of the rental charges were claimed by Members.)

6. For the district offices leased from the Hong Kong Housing Authority, most of the leases cover a whole LegCo term with rentals normally revised at the beginning of the following LegCo term. In cases where the same district offices have been leased to Members of the Fifth LegCo and Sixth LegCo (either by re-elected Members or by new Members), the rentals have been increased by up to 24% upon renewal of the tenancy agreements.

7. As regards the district offices leased from Link REIT and private landlords, the leases are normally granted for two to four years. Rentals have been increased by up to 67.44%, with an average annual increase of 8.76%, when the tenancy agreements were renewed during the Fifth LegCo and Sixth LegCo.

8. The average monthly office rental expenses incurred by Members of the Fifth LegCo and the Sixth LegCo for which reimbursements have been claimed are as follows:

Number of district offices	Average monthly office rental expenses			
	Fifth LegCo (based on district offices rented in June 2016)		Sixth LegCo (based on claims submitted by Members up to October 2017 for district offices rented in June 2017)	
	\$	% of Members*	\$	% of Members*
Over 0 and up to 1	10,146	37.0	11,712	29.2
Over 1 and up to 2	14,810	25.9	19,322	31.7
Over 2 and up to 3	25,449	16.7	23,647	22.0
Over 3	25,697	20.4	25,887	17.1
Average	17,074		19,165	

(*The figures indicate the number of Members expressed as a percentage of the total number of Members who had submitted claims for district office rental.)

Mechanism of annual adjustment to the level of Members' Operating Expenses Reimbursement

Existing annual adjustment mechanism

9. In 1994, the Commission on Remuneration for Members of LegCo recommended that there should be a system of automatic annual adjustment to the level of Members' remuneration and their monthly expenses allowances to ensure that these payments would not be eroded by inflation. It was recommended that the adjustment should be made by reference to movements of the Hang Seng Consumer Price Index (renamed CPI(C) in 1999). It was also

recommended that the Secretary for the Treasury¹ be delegated the authority to make such annual adjustments each year. The recommendations were endorsed by the Finance Committee in July 1995. Since then, Members' remuneration and the ceilings for Office Operation Expenses Reimbursement ("OOER") and Entertainment and Travelling Expenses Reimbursement are automatically adjusted annually in October in accordance with the movement of CPI(C).²

Proposed weighted adjustment index

10. During the discussions at the last two Subcommittee meetings, some members expressed the view that it was inappropriate to use CPI(C), which reflected the price level of consumer commodities and services, as the basis for annual adjustment of Members' expense reimbursements, given that staff expenses accounted for over 70% of Members' OOER but the components of CPI(C) did not include wages and salaries. These members considered that different adjustment mechanisms should be adopted for the different components of OOER, i.e. staff expenses, office accommodation expenses and other operating expenses, having regard to the different nature of these expenses. Mr IP Kin-yuen was of the view that the staff portion of OOER should be adjusted with reference to civil service pay adjustment.

11. Ir Dr LO Wai-kwok suggested using a weighted index of the three main components of OOER as the basis for annual adjustment of OOER. Relevant reference indicators such as civil service pay adjustment, rental indices compiled by the Rating and Valuation Department and CPI(C) could be used as the basis for calculating the weighted index, with relative weightings to be accorded to the three main components based on Members' expenditure patterns.

12. To facilitate the Subcommittee's consideration, the Secretariat has worked out the proposed weighted adjustment index using Members' expenditure patterns in the last three LegCo terms. Based on Members' average utilization rates of OOER in the last three LegCo terms, the relative weightings to be accorded to the three major components of OOER are as follows:

¹ Currently known as Secretary for Financial Services and the Treasury.

² For past discussions on the annual adjustment mechanism of OER by former Subcommittees set up in previous LegCo terms, see paragraphs 22 to 25 of LC Paper No. CRM 744/16-17 issued for the Subcommittee meeting held on 20 June 2017.

Components	Average utilization rates of OOER							
	Third LegCo		Fourth LegCo		Fifth LegCo		Average of three LegCo terms	
(a) Staff expenses	70.18%		74.04%		73.5%		72.57%	
(b) Office accommodation expenses	7.68%		6.84%		6.3%		6.94%	
(c) Other operating expenses								
(i) Equipment and furniture	0.67%		0.91%		0.6%		0.73%	
(ii) Other expenses	12.09%		10.61%		11.6%		11.43%	
(iii) Unused portion	9.38%	22.14%	7.6%	19.12%	8%	20.2%	8.33%	20.49%
Total	100%		100%		100%		100%	

13. For illustrative purposes, two weighted adjustment indices have been worked out, one using civil service pay adjustment as the basis for adjusting the staff expenses component, and the other using the base pay adjustment issued by the Hong Kong Institute of Human Resources Management ("HKIHRM").³ The Rental Index for Grade C Offices published by the Rating and Valuation Department and CPI(C) are used for adjusting the components on office accommodation expenses and other operating expenses respectively. The actual rates of the aforementioned adjustment indicators during the Fifth LegCo are set out in the table below:

Adjustment indicator Legislative Session	Civil service pay adjustment for middle and lower salary band (%)	Base pay adjustment issued by HKIHRM (%)	Rental index for Grade C Offices (%)	CPI(C) (%)
Major expenditure components	Staff expenses		Office accommodation expenses	Other operating expenses
2012-2013	5.80	4.20	10.97	5.00
2013-2014	3.92	4.50	10.70	3.50
2014-2015	4.71	4.40	11.44	3.80
2015-2016	4.62	4.30	7.46	2.50

14. The two weighted adjustment indices calculated for the 2012-2013 to 2015-2016 legislative sessions using the above adjustment rates and the average weightings based on Members' utilization of OOER in the past three LegCo terms shown in paragraph 12 above, as compared with CPI(C), are set out in the following table:

³ As the Independent Commission was of the view that it was inappropriate to use civil service pay as a basis for determining and adjusting the level of OOER, base pay adjustment issued by the HKIHRM is used as the basis for calculating an alternative weighted adjustment index for members' reference.

Legislative session (Fifth LegCo)	CPI (C) (%)	Weighted adjustment index using civil service pay adjustment (%)	Weighted adjustment index using base pay adjustment issued by HKIHRM (%)
2012-2013	5.00	6.00	4.84
2013-2014	3.50	4.30	4.73
2014-2015	3.80	4.99	4.76
2015-2016	2.50	4.39	4.16

15. A comparison of the total amount of adjustments made to OOER in the Fifth LegCo using the different adjustment indices is summarized below:

		Reimbursement ceiling of OOER		
		CPI (C) (%)	Weighted adjustment index using civil service pay adjustment (%)	Weighted adjustment index using base pay adjustment issued by HKIHRM (%)
		(\$)	(\$)	(\$)
(i)	At the start of Fifth LegCo (Oct 2012)	2,063,150		
(ii)	At the end of Fifth LegCo (Sept 2016)	2,385,510	2,499,930	2,471,870
Total adjustment: (ii) – (i)		+322,360	+436,780	+408,720

Proposals on Members' Operating Expenses Reimbursement submitted by former Subcommittees set up in the previous terms

16. At the request of the Subcommittee, the Secretariat has prepared a summary of the proposals on Members' OER submitted by the former Subcommittees set up in the previous terms of LegCo to the Independent Commission, which is given in the **Appendix**.

Advice sought

17. Members are invited to note the information set out in this paper.

**Summary of proposals on Members' Operating Expenses Reimbursement ("OER") submitted to the Independent Commission¹
by former Subcommittees on Members' Remuneration and OER set up in previous terms**

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
<i>First Legislative Council (1998-2000)</i>		
<p>(a) Existing level of expenses reimbursement was inadequate in supporting Members' service to the community. It had not been revised in line with enlarged constituencies, especially geographical ones.</p>	<p>The following changes took effect from July 1999:</p> <p>(a) Greater flexibility was provided to Members in using their reimbursements by (i) merging the district office expenses reimbursement with the staff and office expenses under the monthly general expenses reimbursement; and (ii) merging the setting up expenses reimbursement for district offices with that for the central office provided by the Legislative Council ("LegCo") Secretariat; and</p> <p>(b) A new Information Technology and Communication Equipment Expenses Reimbursement ("ITER") of \$100,000 for every Member in each term was introduced to help LegCo Members improve communication with the public through wider use of IT.</p>	<p align="center">N/A</p>

¹ "The Independent Commission" refers to the Independent Commission on Remuneration for Members of the Executive Council and the Legislature, and Officials under the Political Appointment System of the HKSAR.

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
(b) Members should be allowed to use the entertainment and travelling expenses reimbursement to meet staff expenses.	Up to 50% of the Entertainment and Travelling Expenses Reimbursement ("ETER") could be used for staff expenses on an accountable basis and the Administration would bear the severance payments to staff so employed.	
<i>Second Legislative Council (2000-2004)</i>		
(a) Existing level of OER was inadequate. A review should be conducted as a matter of urgency in view of the downward movement of Consumer Price Index (C) ("CPI(C)") in 1999 and 2000 and the substantial increase in the size of the constituencies served by Members since 1994.	The following changes took effect from October 2001: (a) The ceiling of the accountable Office Operation Expenses Reimbursement ("OOER") ² was increased by 26%; and (b) Monthly provisions of OOER were merged and made available as one annual provision to enable LegCo Members to have more flexibility in deploying their resources. The same arrangement also applied to the monthly provisions for ETER.	N/A
(b) Additional funding should be provided for long service payments to Members' staff as in case of severance payments.	No	The ambit of OOER had already covered such payments to staff as required under the relevant labour legislation including long service payments. Arrangements were in place for LegCo Members to set aside funds under their monthly reimbursement claims to cater for such payments.

² Office Operation Expenses Reimbursement ("OOER") is a major component of Operating Expenses Reimbursement ("OER") and is intended to reimburse Members' staffing and other operating expenses (such as office rent, activities relating to LegCo business and expenses on publicity items, etc.).

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
(c) Expenses on staff salaries and office rental should more appropriately be subject to new annual adjustment mechanism(s) to avoid Members being given a reduced amount of OOER for such expenses at times of deflation, while other expenses should continue to be subject to movements in CPI(C).	No.	The Independent Commission recommended that Members be given an option of an alternative mechanism for annual adjustments to OOER. Under the proposed alternative mechanism, OOER was divided into two components: a fixed part for expenses relating to staff salaries and office rental which would remain unchanged throughout the entire term of office, and a variable part for other operating expenses which would continue to be adjusted annually in accordance with CPI(C). The majority of LegCo Members had indicated preference to continue with the existing adjustment mechanism, rather than adopting the alternative mechanism proposed by the Independent Commission.
(d) The requisite condition for claiming ITER, i.e. Members were required to first exhaust the Setting Up Expenses Reimbursement ("SUER") before using ITER, should be removed.	The requisite condition for claiming ITER to be removed with effect from the Third LegCo.	N/A
<i>Third Legislative Council (2004-2008)</i>		
(a) The existing level of OER did not allow Members to recruit adequate or quality staff to operate local offices and to conduct policy research. The level of OOER should be increased, subject to a ceiling of 20%, as soon as possible.	OOER was increased by 10% with effect from October 2006.	Having considered a basket of factors including the utilization rates of OOER, statistics on the number of offices operated and staff employed by LegCo Members, changes in population and the number of registered electors for geographical constituency elections, as well as the nature of work and

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
		demands placed on Members, the Independent Commission came to a view that OOER should be increased by 10%.
(b) The OER ceiling should be set at a level with adequate provisions for the establishment of up to four district offices, on top of the central office (as in most cases there were four District Council constituencies in a geographical constituency).	No	The Independent Commission considered it difficult, if not impossible, to devise an objective yardstick to determine the optimum number of assistants and district offices for LegCo Members, having regard to their different background and modes of operation. The Independent Commission therefore did not accept that operating four district offices should be taken as the benchmark for determining the level of OOER.
(c) The restriction against shared employment of staff by LegCo Members should be reviewed to facilitate more efficient use of resources.	The restriction was relaxed with effect from November 2006.	N/A
<i>Fourth Legislative Council (2008-2012)</i>		
(a) The level of OOER should be enhanced to enable Members to recruit and retain a team of good quality staff to support their performance of LegCo duties. The proposed increase (about 38%) was worked out on the basis of the following package of proposals: (i) There should be at least one Personal Assistant ("PA") pitched at Executive Officer ("EO") I level to	(a) The annual OOER to be increased by 20% with effect from the Fifth LegCo. (b) Any surplus from Member's OOER entitlement each year to roll over to the following year until the end of a LegCo term, so as to allow Members more flexibility in using OOER for payment of salary increments and/or gratuity for their staff for retention of experienced staff.	While agreeing that the level of OOER should be enhanced (having regard to such factors as the high utilization rates of OOER, significant increase in rental expenses for private offices in recent years and the increase in the workload of LegCo Members), the Independent Commission had reservation about the Subcommittee's proposal to use civil service pay as the basis to work out the amount required to cover salary expenses to be

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
<p>co-ordinate the core support services provided to the Member in the central office. The PA should be assisted by two staff at Assistant Clerical Officers ("ACO") level to provide secretarial and clerical support.</p> <p>(ii) There should be two staff working in each of the two district offices. The two posts in each district office should be pitched at EO II level and ACO.</p> <p>(iii) The financial provision for the proposed staffing complement should be calculated on the average of the first four salary points of the comparable ranks in the civil service. The surplus from the funding of a Member's annual OOER entitlement each year should be rolled over to the next year, so that Members could retain part of the funding for the payment of increments in subsequent years of a four-year term.</p> <p>(iv) A further review of the salary provision in OOER should be conducted in two to three years' time to evaluate the effectiveness of the proposals in retaining quality staff.</p>		<p>incurred by Members for employment of staff on the following grounds: (a) the job nature and responsibilities of the civil service were different from those of Members' assistants; and (b) the civil service pay mechanism was derived based on very unique considerations.</p>

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
(v) An end-of-service gratuity should be provided to full-time staff engaged by Members.		
(b) Based on past expenditure pattern that about 70% of the OOER is spent on staff salary, the salary portion of OOER (i.e. 70% of OOER) should be adjusted annually in accordance with the civil service pay adjustment, whereas the remaining 30% should continue to be adjusted in accordance with the movement of CPI(C).	No	The Independent Commission considered that, since Members had full discretion to apportion their OOER between staffing and other office expenses, it would be inappropriate to rigidly set 70% of the OOER as the portion for staffing expenses and subject this portion to a different annual adjustment mechanism.
(c) There should be a new and separate accountable allowance (\$204,000 per annum) to enable Members to engage outside parties to undertake research work. Flexibility should also be given to Members for engaging their own political parties to conduct research.	No	The Independent Commission did not support the proposal taking into considerations that research expenses were claimable under OOER under the existing mechanism and the Secretariat had been providing research services to the Council and its committees. The related proposal that a LegCo Member could engage his/her own political party to conduct research was not supported given the real or potential conflict of interest.
(d) The Setting-up Expenses Reimbursement ("SUER") and ITER should be merged into one single allowance to enhance flexibility and the total amount should be increased from \$250,000 to \$482,500 per term to enable Members to operate two district offices if there is a need to do so.	No increase in SUER and ITER but the two allowances would be combined into one provision as Setting Up and Information Technology Expenses Reimbursement ("SUITER") with effect from the Fifth LegCo.	The Independent Commission did not support the proposed increase in the level of SUER and ITER taking into account the utilization rates of these two allowances in the Third LegCo and the Fourth LegCo.

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
(e) The OER level should be revised to suit the actual needs of Members and changes should take effect within the current term.	No	The Independent Commission considered that the proposed increase in OOER should take effect from the Fifth LegCo in order to preserve the integrity of the remuneration regime and to avoid any real or potential conflict of interest.
<i>Fifth Legislative Council (2012-2016)</i>		
<p>(a) The nine outstanding proposals carried forward from the Fourth LegCo should continue to be pursued with the Administration. These proposals were:</p> <p>(i) There should be at least one PA pitched at EO I level to co-ordinate the core support services in the central office. The PA should be assisted by two staff at ACO level.</p> <p>(ii) There should be two staff (pitched at EO II and ACO level respectively) working in each of the two district offices.</p> <p>(iii) The financial provision for the proposed staffing complement should be calculated on the average of the first four salary points of the comparable ranks in the civil service.</p>	The annual OOER to be increased by 7% with effect from the Sixth LegCo.	The Independent Commission reiterated its view that the salaries of Members' assistants should not be pegged to those of the civil service given the different job nature of the two and the unique mechanism of the civil service pay structure. In working out the appropriate level of OOER for Members, the Independent Commission had used the staffing complement (i.e. seven full-time staff) proposed by the Subcommittee but with reference to staff salaries in the private sector.

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
<p>(iv) A further review of the salary provision in the OOER should be conducted in two to three years' time to evaluate the effectiveness of the proposals in retaining quality staff.</p> <p>(v) An end-of-service gratuity should be provided to Members' full-time staff.</p>		
<p>(vi) Annual adjustment of the salary portion of the OOER (i.e. 70% of the OOER) should be based on civil service pay adjustment.</p>	No	The Independent Commission considered that it was beyond its purview to prescribe the number of staff to be employed by Members, or a wage floor, pay scale and level of gratuity for their staff. Hence, it was inappropriate to assume a certain percentage of OOER as the salary portion and for such portion to follow the annual rate of civil service pay adjustment.
<p>(vii) There should be a new and separate accountable allowance to enable Members to engage outside parties (including the political parties to which Members are affiliated) to undertake research work.</p>	No	The Independent Commission considered it more appropriate and cost effective in the longer run for the Secretariat to augment its research capabilities to provide better research support to Members.
<p>(viii) The amount of SUITER should be increased from \$250,000 to \$482,500 per term to enable Members to operate two district offices if there is a need to do so.</p>	SUITER to be increased by 50% to \$375,000 (\$262,500 for those who have claimed setting up expenses in the previous term) with effect from the Sixth LegCo.	Taking into consideration that no adjustment had been made to SUER and ITER since they were first introduced in 1993 and 1999 respectively and to encourage the use of IT by Members to provide more efficient services to

Proposals/views submitted by former Subcommittees	Whether changes had been made to Members' OER package	Reasons for not accepting the former Subcommittees' proposals
		their constituents, the Independent Commission recommended that SUITER be enhanced by 50% with effect from the Sixth LegCo.
(ix) The OER level should be revised to suit the actual needs of Members and changes should take effect within a term.	No	To avoid creating any potential or perceived unfair advantage for incumbent LegCo Members over other aspiring candidates for the impending LegCo election, any proposed enhancement to the remuneration package should not be made within the current LegCo term unless with exceptionally strong justification.
(b) Flexibility should be given in using the Winding Up Expenses Reimbursement ("WUER") for long service payments or severance payments made in the middle of a LegCo term, or a separate provision should be provided for Members to fulfill obligations of this kind as required by the Employment Ordinance (Cap 57).	No	The Independent Commission considered it not appropriate to expand the scope of WUER for reimbursement of expenses not relating to winding up. Given the small amount of long service payments and severance payments actually claimed by Members under OOER in the middle of a LegCo term as compared to the annual OOER, the Independent Commission considered that there should be room in OOER for absorbing such expenses.