

Legislative Council Panel on Home Affairs

Second Progress Report on the Review of Advisory and Statutory Bodies

Purpose

The purpose of this paper is to report progress on the review of advisory and statutory bodies in the public sector.

Background

2. In our first progress report, we provided interim reports on the following topics:

- (a) policy responsibility for advisory and statutory bodies under the accountability system (Interim Report No. 1);
- (b) classification of advisory and statutory bodies (Interim Report No. 2);
- (c) policy responsibility of Home Affairs Bureau in respect of advisory and statutory bodies (Interim Report No. 3); and
- (d) gender balance in advisory and statutory bodies (Interim Report No. 4).

Progress

3. In this progress report, we submit the following interim reports for Members' reference:

- (a) "Remuneration of Non-official Members of Advisory and Statutory Bodies" (Interim Report No. 5);
- (b) "The 6-year Rule" (Interim Report No. 6)

- (c) "The 6-board Rule" (Interim Report No. 7); and
- (d) "Handling Conflicts of Interest"(Interim Report No. 8).

Home Affairs Bureau
April 2004

Legislative Council Panel on Home Affairs

Review of Advisory and Statutory Bodies

Interim Report No. 5 – Remuneration of Non-official Members of Advisory and Statutory Bodies

Purpose

This paper sets out the basic principle on remuneration for voluntary public service and the administrative guidelines for determining the remuneration of non-official members of advisory and statutory bodies in the public sector.

Background

2. Most non-official members of advisory and statutory bodies are part-time and unpaid. Some receive a small allowance to cover travel and/or subsistence expenses. Where non-official members do receive remuneration, this can vary from a few hundred dollars per attendance to an annual fee of over a hundred thousand dollars (although such high rates of payment are very rare). For example, non-official members of the Amusement Game Centres Appeal Board are paid an allowance of \$700 per member per attendance, whereas non-official members of the Airport Authority are paid \$110,000 per year.

3. The rates of remuneration of non-official members of public sector advisory and statutory bodies are a matter of public record. Details of the rates of remuneration payable to non-official members of all advisory and statutory bodies are set out in a publicly-accessible document entitled "List of Government Advisory and Statutory Bodies with Remuneration for Non-official Members" (available at <http://www.info.gov.hk/fstb/tb/honoraria/epaper6.pdf>). For easy reference, a copy of the document is at the Annex.

4. The four most common forms of payment to non-official members are:

- (a) annual fee (annual retainer);
- (b) daily rate (either a full-day or half-day rate);
- (c) attendance fee; and
- (d) travelling allowance.

Non-official chairmen of advisory and statutory bodies generally receive a higher level of remuneration than ordinary members.

5. Non-official chairmen and members of advisory and statutory bodies do not normally receive any non-pay benefits (such as cars).

Civil servants

6. Civil servants who are ex-officio members of advisory and statutory bodies are not (and should not be) remunerated. Service as members of advisory and statutory bodies is regarded as part of their official duties.

7. It would be unusual for civil servants to be members of advisory and statutory bodies in a private capacity as it could potentially give rise to conflicts of interest and/or role conflicts. Civil servants are also restricted by their terms and conditions of service in taking up outside work.

Procedural arrangements for determining rates of remuneration

8. The Secretary for Financial Services and the Treasury has been delegated the authority to approve remuneration for non-official members of advisory and statutory bodies by the Finance Committee of the Legislative Council, subject to a certain ceiling. The current ceiling (with effect from 1 August 2003) is \$700 per member per attendance.

This ceiling is regularly revised with reference to the movement of the Consumer Price Index (C).

9. There may be cases where rates of remuneration higher than the ceiling are more appropriate. Such higher rates are often justified on the grounds that the business of the board or committee is very time-consuming and that a substantial sacrifice is made on the part of non-official members in terms of earnings foregone. In other cases, professional experience and expertise are required and ought to be appropriately recognized. Such higher rates of remuneration require the approval of the Finance Committee on a case-by-case basis.

10. On the other hand, the procedures for approving remuneration for non-official members of some statutory bodies are set out in the relevant legislation. These bodies include:

- (a) financially autonomous non-government funded public bodies such as the boards of the Kowloon-Canton Railway Corporation and the Urban Renewal Authority; and
- (b) statutory bodies such as the Electoral Affairs Commission and the Copyright Tribunal for which there are specific provisions in their respective Ordinances for governing the remuneration of their members.

Guidelines

11. There is now a set of guidelines on the payment of an annual fee/attendance allowance to part-time chairmen/members of advisory and statutory bodies. The basic principle is that the service of part-time non-official members is voluntary and, as a general rule, unpaid (the voluntary service principle). However, no person should suffer a pecuniary embarrassment through voluntary public service. Furthermore, the Government should not be obtaining the services of highly-qualified, professional persons "on the cheap".

12. An annual fee/attendance allowance may be paid where necessary and appropriate. The following guidelines are used for setting

rates of remuneration for non-official members:

- (a) the payment should cover travel, out-of-pocket and related expenses incurred by non-official members in connection with their work on the board or committee. The frequency and location of meetings, as well as the amount of secretarial support required for committee work, should be taken into account;
- (b) the remuneration should be considered as compensation for earnings forgone arising from -
 - (i) resignation from substantive employment in order to serve on a public sector board or committee; or
 - (ii) membership of a committee which requires substantial and regular work by the member to the extent that it occupies a significant part of the member's working day; and
- (c) while advice tendered by non-officials which is of an expert or professional nature per se should not constitute a claim for remuneration, recognition should be given to professional expertise and experience required for the non-officials in performing the function of the board or committee, for example, in chairing appeal boards.

13. The above guidelines are set out in Financial Circular No. 7/2000 "Remuneration of Non-official Members of Boards and Committees" dated 24 July 2000 (available at <http://www.info.gov.hk/fstb/tb/honoraria/paper7.pdf>). The circular has been updated by Financial Services and the Treasury Bureau circular memorandum FSTBCM No. 5/2003 dated 11 June 2003 (available at <http://www.info.gov.hk/fstb/tb/honoraria/m200305e.pdf>).

Voluntary service principle

14. It is generally accepted by the community and by

non-official members of advisory and statutory bodies that public service on such bodies is voluntary and therefore normally unpaid. Payment to non-official members is an exception and any such payment has to be justified by the relevant bureau/department.

15. We propose that the long-established voluntary service principle should be maintained. Remuneration of non-official members of advisory and statutory bodies should be justified on a case-by-case basis. Any remuneration should reflect the time commitment and regularity of work, as well as the professional experience and expertise required.

Way forward

16. We propose that, as part of the second-stage review, bureaux should:

- (a) examine whether there are justifications for paying an honorarium/attendance allowance to non-official members of advisory and statutory bodies under their purview in accordance with the voluntary service principle and the guidelines set out in Financial Circular No. 7/2000; and
- (b) review whether the current rates of annual fee/attendance allowance payable to non-official members of the bodies under their purview are justifiable and appropriate.

Home Affairs Bureau
April 2004

List of Government Advisory and Statutory Bodies
with Remuneration for Non-official Members
(As at 31.12.2003)

A. Statutory

No.	Bureau/ Department	Name of Board/Committee	No. of non-officials	Average no. of meetings per year	Remuneration for non-officials	
					Rate	Approving Authority/ Relevant Legislation, if applicable
1.	Buildings Department (BD)	Authorized Persons' and Registered Structural Engineers' Disciplinary Board	5 (total of 20 non-official members in the Panel)	As and when required	Full day: \$2,500 Half day: \$1,250 (w.e.f. 25.5.1988)	The Chief Executive/ Buildings Ordinance (Section 5, Cap. 123)
2.	BD	Authorized Persons Registration Committee	18	24	\$700 per member per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
3.	BD	Contractors Registration Committee	91	128	\$700 per member per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
4.	BD	Structural Engineers Registration Committee	6	12	\$700 per member per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury

5.	BD	Registered Contractors' Disciplinary Board	<p>8 (for Registered General Building Contractors)</p> <p>7 (for Registered Specialist Contractors)</p> <p>(total of 19 non-official members in the Panel)</p>	As and when required	<p>Full day: \$2,500 Half day: \$1,250 (w.e.f. 25.5.1988)</p>	The Chief Executive/Buildings Ordinance (Section 11, Cap. 123)
6.	Commerce, Industry and Technology Bureau (CITB)	Copyright Tribunal	9	As and when there is appeal case	<p><u>Chairman/Deputy Chairman</u> Full day : \$6,870 Half day : \$3,435 (w.e.f. 1.4.2000)</p> <p><u>Members</u> \$700 per meeting (w.e.f. 1.8.2003)</p>	Secretary for Commerce, Industry and Technology/Copyright Tribunal (Section 171(1), Cap. 528)

7.	CITB	Telecommunications (Competition Provisions) Appeal Board	1 Chairman 1 Deputy Chairman, 10 panel members	4	<u>Chairman</u> \$400,000 annual retainer; \$4,000 per hour (service payment) <u>Deputy Chairman</u> \$300,000 annual retainer; \$4,000 per hour (service payment) <u>Panel Members</u> \$700 per attendance (w.e.f. 1.8.2003)	Financial Secretary/ Telecommunications Ordinance (section 32M(9), Cap. 106)
8.	Constitutional Affairs Bureau	Electoral Affairs Commission	2	28	\$20,000/month	The Chief Executive/ Electoral Affairs Commission Ordinance (Section 3, Cap. 541)
9.	Economic Development and Labour Bureau (EDLB)	Airport Authority*	9	12	<u>Chairman</u> \$220,000 per year <u>Member</u> \$110,000 per year	The Chief Executive/ Airport Authority Ordinance (Section 11(4), Cap. 483)

10.	EDLB	Appeal Board Panel (Consumer Goods Safety)	17	As and when required	<u>Chairman/Deputy Chairman</u> Full day hearing: \$5,430 Half day hearing: \$2,710 (w.e.f. 4.7.2003) <u>Members</u> Full day hearing: \$1,400 Half day hearing: \$700 (w.e.f. 1.8.2003)	Financial Secretary/ Consumer Goods Safety Ordinance (Section 15(3), Cap. 456)
11.	EDLB	Appeal Board Panel (Toys and Children's Products Safety)	17	As and when required	<u>Chairman/Deputy Chairman</u> Full day hearing: \$5,430 Half day hearing: \$2,710 (w.e.f. 4.7.2003) <u>Members</u> Full day hearing: \$1,400 Half day hearing: \$700 (w.e.f. 1.8.2003)	Financial Secretary/ Toys and Children's Products Safety Ordinance (Section 16(3), Cap. 424)
12.	EDLB	Consumer Council	22	46	\$150 per meeting (w.e.f. 1.4.2003)	Approved by the Staff and Finance Committee of the Council. Expenses covered by its annual subvention.

13.	EDLB/Electrical and Mechanical Services Department	Appeal Board Panel under the Electricity Ordinance	35	As and when required	\$700 per meeting (w.e.f. 1.8.2003)	Financial Secretary/ Electricity Ordinance (Section 45(5), Cap. 406)
14.	Education and Manpower Bureau (EMB)	Hong Kong Examinations and Assessment Authority* <ul style="list-style-type: none"> • Council • 14 Standing Committees • 4 ad hoc Committees 	23 126 29	5 42 16	Travelling allowance of \$90 per meeting for all categories of committees	Travelling allowance approved by the Finance & General Purposes Committee of the Hong Kong Examinations and Assessment Authority
15.	EMB	Hong Kong Council for Academic Accreditation (HKCAA)*	19	Twice per year for Council meeting	Non-local member: \$26,000/year	Although HKCAA is a self-financing body, Secretary for Education and Manpower's approval is required for the remuneration/Hong Kong Council for Academic Accreditation Ordinance (Section 5 & 9, Cap.1150).
16.	EMB	Appeals Board (Education)	9	5-10	\$700 per meeting per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury

17.	Environment, Transport and Works Bureau (ETWB)	Air Pollution Control Appeal Board	11	As and when required	<u>Chairman</u> Annual Retainer: \$86,520 Per sitting: \$4,440 For writing a Decision: \$8,870 <u>Members</u> \$700 per sitting day (w.e.f. 1.8.2003)	<u>Chairman</u> Finance Committee/ (FCR(91-92)169 of 6.3.92; FCR(94-95)45 of 8.7.94; FCR(95-96)63 of 27.10.95) <u>Members</u> Secretary for Financial Services and the Treasury
18.	ETWB	Noise Control Appeal Board	14	As and when required		
19.	ETWB	Water Pollution Control Appeal Board	12	As and when required		
20.	ETWB	Waste Disposal Appeal Board	12	As and when required		
21.	ETWB	Dumping at Sea Appeal Board	10	As and when required		
22.	ETWB	Environmental Impact Assessment Appeal Board	18	As and when required		

23.	ETWB	Board of the Kowloon-Canton Railway Corporation*	8	11	<u>Chairman</u> \$220,000 per year <u>Members</u> \$110,000 per year	The Chief Executive/ Kowloon Canton Railway Corporation Ordinance (Section 3(2)) Financial Secretary/ Kowloon Canton Railway Corporation Ordinance (Paragraph 7 of the First Schedule, Cap. 372)
24.	Financial Services and the Treasury Bureau(FSTB)	Board of Review (Inland Revenue Ordinance)	1 Chairman 9 Deputy Chairmen 141 members (2 members for each sitting)	298	<u>Chairman/Deputy Chairmen</u> Annual Retainer: \$86,510/\$57,680 Per sitting: \$4,440 For writing a Decision/Stated Case: \$8,880 <u>Members</u> Per sitting: \$220 (w.e.f. 1.4.2003)	Finance Committee (B3 of 14.11.1973) Secretary for Financial Services and the Treasury

25.	FSTB	MPF Schemes Appeal Board	10	As and when required	<u>Chairman/Vice-chairman</u> Annual Retainer: \$50,000/\$30,000 For hearing a case: \$3,500 For writing a Decision: \$3,500 For writing a Stated Case: \$3,500 <u>Members</u> For hearing a case: \$2,500	The Financial Secretary/ Mandatory Provident Fund Schemes Ordinance (Section 35, Cap. 485)
26.	FSTB	Occupational Retirement Schemes Appeal Board	8	As and when required	<u>Chairman/Vice-chairman</u> For hearing a case: \$3,500 For writing a Decision: \$3,500 For writing a Stated Case: \$3,500 (w.e.f. 1.10.2002) <u>Members</u> For hearing a case: \$2,500	The Financial Secretary/ Occupational Retirement Schemes Ordinance (Section 61, Cap. 426)
27.	FSTB	Securities and Futures Appeals Panel	14 (A Chairman, a Deputy Chairman and 12 members)	As and when required	<u>Chairman/Vice-chairman</u> Annual Retainer: \$50,000/\$30,000 For hearing a case: \$3,500 For writing a Decision: \$3,500 For writing a Stated Case: \$3,500 <u>Members</u> For hearing a case: \$2,500	The Financial Secretary / Securities and Futures Appeals Panel Proceeding Rules Sub. Leg. E under s.20, Securities and Futures Commission Ordinance (Cap. 24).

28.	FSTB	Securities and Futures Commission*	7 (Non-Executive Director)	12 regular meetings + variable number of special meetings	\$19,500 per month	The Chief Executive/ Securities and Futures Ordinance (Section 1 of Part 1 of Schedule 2, Cap. 571). The expenses are funded by the Securities and Futures Commission*.
29.	FSTB	Insider Dealing Tribunal	2 lay members whenever a case arises	As and when required	Full day: \$4,500 Half day: \$2,250	The Financial Secretary / Securities (Insider Dealing) Ordinance (Section 15(4), Cap. 395)
30.	FSTB	Securities and Futures Appeals Tribunal	21	As and when required	Full day: \$4,500 Half day: \$2,250 (w.e.f. 1.4.2003)	The Financial Secretary under section 216(6) of the Securities and Futures Ordinance (Cap. 571)
31.	Food and Environmental Hygiene Department	Liquor Licensing Board	11	48 (4 per month)	<u>Chairman</u> \$1,075 per attendance (w.e.f. August 2002) <u>Vice Chairman and Members</u> \$700 per attendance (w.e.f. 1.8.2003)	Finance Committee (FCR(1999-2000)54 of 17.12.99 Secretary for Financial Services and the Treasury

32.	Health, Welfare and Food Bureau (HWFB)	Guardianship Board	56 including the Chairperson	400	<p><u>For members who are barristers / solicitors / registered medical practitioners</u> Full day: \$3,000 Half Day: \$1,500</p> <p><u>For members who are social workers/psychologists</u> Full day: \$2,000 Half day: \$1,000</p> <p><u>For other members</u> Full day: \$800 Half day: \$400</p> <p><u>For professional or expert witness</u> Full day: \$200 Half-day: \$100</p> <p><u>For ordinary witness</u> Full day: \$90 Half day: \$45</p> <p>[The Chairman is remunerated at D1 of the Directorate Pay Scales w.e.f. 1.2.2001]</p>	<p>Finance Committee (FCR(97-98)117 of 30.3.98)</p> <p>The Chief Executive/ Mental Health Ordinance (Schedule to Sect 59J(4), Cap 136)</p>
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33.	Home Affairs Bureau (HAB)	Equal Opportunities Commission (EOC)	1 EOC Chairperson and 15 EOC Members	22 (covering both EOC and its committee meetings)	Members : Not remunerated [The Chairperson is remunerated at D8 of the Directorate Pay Scale.]	The Chief Executive/Sex Discrimination Ordinance (Para 1(1) of Schedule 6, Cap. 480)
34.	HAB	Amusement Game Centres Appeal Board	1 Chairman and 14 members	As and when required	\$700 per member per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
35.	Housing, Planning & Lands Bureau (HPLB)/ Lands Department (LD)	Disciplinary Board Panel (Land Survey)	3 (total of 9 non-official members in the panel)	As and when required	<u>Chairman</u> : \$820/half day <u>Members</u> : \$745/half day (w.e.f. 10.2.2001)	Secretary for Housing, Planning & Lands/Land Survey Ordinance (Section 22(3), Cap. 473)

36.	HPLB	Appeal Tribunal Panel (Buildings)	196	85	<u>Chairman</u> : \$ 755/hour <u>Members</u> : \$ 685/hour (w.e.f. 1.12.2003)	The Chief Executive/ Buildings Ordinance (Section 48, Cap. 123)
37.	HPLB	Town Planning Appeal Board	36	As and when required	<u>Chairman/Deputy Chairman</u> Annual Retainer : \$86,520/\$57,650 Per sitting : \$4,440 For Writing a Decision : \$8,870 (w.e.f. 1.4.1999) <u>Members</u> : \$700 per meeting (w.e.f. 1.8.2003)	Finance Committee (FCR(91-92)113 of 13.12.91) Secretary for Financial Services and the Treasury

38.	HPLB	Board of the Urban Renewal Authority (URA)*	14 (non-executive directors)	8 (the Chairman and members also attend other sub-committee meetings)	<u>Chairman</u> \$100,000 per annum (w.e.f. 1.5.2001) <u>Members</u> \$65,000 per annum (w.e.f. 1.5.2001)	The Chief Executive/ Paragraph 1(1) of the Schedule, Urban Renewal Authority Ordinance (Schedule, Cap. 563) The Financial Secretary/Paragraph 2(1) of the Schedule, Urban Renewal Authority Ordinance (Schedule, Cap. 563) Remuneration will be funded by the URA*
39.	Judiciary	Panel of Adjudicators (Control of Obscene and Indecent Articles)	125	240	Full day: \$800 Half day: \$400	Control of Obscene and Indecent Articles Ordinance (section 5, Cap. 390)

40.	Judiciary & HWFB	Mental Health Review Tribunal	36	35	<u>“Medical” members</u> Full day : \$3,000 Half day : \$1,500 <u>“Social Work” members</u> Full day : \$2,000 Half day : \$1,000 <u>Other members</u> Full day : \$800 Half day : \$400	Financial Secretary/ Mental Health Ordinance (Section 59A, Cap. 136)
41.	Office of the CS for Adm and FS	Administrative Appeals Board	1 Chairman 3 Deputy Chairmen 46 members	29	<u>Chairman</u> Annual retainer : \$86,510 Honorarium per full day sitting : \$4,440 Honorarium per written decision : \$8,880 (w.e.f. 24.10.2001)	The Chief Executive/ Administrative Appeals Board Ordinance (Section 6, Cap. 442)
42.	Planning Department	Town Planning Board and Committees	31	80	\$700 per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury

43.	Public Service Commission	Public Service Commission	1 Chairman and 8 Members	3	Members: not remunerated [The Chairman is remunerated at D8 of the Directorate Pay Scale.]	Legislative Council / Public Service Commission Ordinance (Section 7, Cap. 93)
44.	Security Bureau (SB)	Immigration Tribunal	63	80	<u>Chief Adjudicator</u> : \$5,670/day <u>Adjudicator</u> : \$3,780/day	The Chief Executive / Immigration Ordinance (Section 53F, Cap. 115)
45.	SB	Registration of Persons Tribunal	85	40	<u>Chief Adjudicator</u> \$5,670/day <u>Adjudicator</u> \$3,780/day	The Chief Executive / Registration of Person Ordinance (Section 3C, Cap. 177)
46.	SB	HKSAR Passports Appeal Board	24	10	<u>Chairman</u> \$5,670/day <u>Members</u> \$3,780/day	Secretary for Security / HKSAR Passports (Appeal Board) Regulation (Section 4, Cap. 539)

47.	SB	Refugee Status Review Board	5	5	<u>Chairman/Deputy Chairman</u> - for attendance exceeding 4 hours per day:\$4,640 - for attendance of 4 hours or less per day :\$2,320 <u>Members</u> - for attendance exceeding 4 hours per day:\$3,130 - for attendance of 4 hours or less per day :\$1,565	Financial Secretary/ Immigration Ordinance (Section 13G, Cap. 115)
48.	SB	Security and Guarding Services Industry Authority	6	27	<u>Chairman/Members</u> Full day: \$3,970/\$2,670 Half day: \$1,985/\$1,335 (w.e.f. 1.8.2003)	Finance Committee/ FCR(95-96)37 of 7.7.1995
49.	Television and Entertainment Licensing Authority (TELA)	Broadcasting Authority	9	12	\$288 per attendance per member who opts to receive remuneration (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
50.	TELA	Broadcasting Authority Complaints Committee	13	12	\$288 per attendance per member who opts to receive remuneration (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
51.	TELA	Broadcasting Authority Codes of Practice Committee	7	2	\$288 per attendance per member who opts to receive remuneration (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury

B. Non-Statutory

52.	EMB	Curriculum Development Council (CDC)	22	3	\$87 per meeting (w.e.f. 1.10.2002)	Secretary for Financial Services and the Treasury/Secretary for Education and Manpower
		3 Standing Committees	22	9	\$87 per meeting (w.e.f. 1.10.2002)	Secretary for Financial Services and the Treasury/Secretary for Education and Manpower
		11 Curriculum Development Council Committees	186	44	\$87 per meeting (w.e.f. 1.10.2002)	Secretary for Financial Services and the Treasury/Secretary for Education and Manpower
		59 Ad Hoc Committees and CDC-HKEAA Committees on Public Examination Subject (Senior Secondary)	670	354	\$87 per meeting (w.e.f. 1.10.2002)	Secretary for Financial Services and the Treasury/Secretary for Education and Manpower
		[As these ad hoc committees are set up on a task basis and will be dissolved once the special task is completed, the number varies from time to time.]				

53.	EMB	Assessment Sub-committee of the Quality Education Fund*	22	15	\$6,000/year	Secretary for Financial Services and the Treasury
54.	EMB	Promotion and Monitoring Sub-committee of the Quality Education Fund*	35	10	\$6,000/year	Secretary for Financial Services and the Treasury
55.	EMB	<p>Council on Professional Conduct in Education</p> <ul style="list-style-type: none"> • Council • Executive committee • 3 Standing Sub-committees • 3 Inquiry Panels <p>[As these Inquiry Panels are set up on a need basis and will be dissolved once the special task is completed, the number varies from time to time.]</p>	25	6	Attendance allowance of \$87 per meeting for all categories of committees (w.e.f. 1.9.2003)	Secretary for Financial Services and the Treasury/Secretary for Education and Manpower
			7	6		
			23	14		
			5	5		
56.	ETWB	Railway Objections Hearing Panel	17	As and when required	\$700 per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
57.	HAB	Stamp Advisory Committee	5	4	\$700 per member per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury

58.	HPLB	Home Purchase Allowance Appeals Committee	3 (a total of 10 non-official members in the Panel)	As and when required	\$700 per member per attendance (w.e.f. 14.7.2003)	Secretary for Financial Services and the Treasury
59.	HWFB	<u>HCPFC - Health Care and Promotion Fund* Committee</u>	2	1	<u>Overseas research reviewers</u> honorarium of \$900/research (w.e.f. 1.9.2000) <u>Local members</u> travelling allowance on reimbursement basis	Approved by HCPFC. Expenses are covered by the Health Care and Promotion Fund which is financially independent.

60.	HWFB	<u>Grant Review Board*</u>	42	3	<u>Overseas research reviewers</u> honorarium of \$900/research <u>(w.e.f. 17.10.2003)</u> <u>Local members</u> travelling allowance on reimbursement basis	Approved by the Research Council and the Health Care and Promotion Fund Committee. Expenses are covered by 4 individual Funds: the Health Services Research Fund, the Health and Health Services Research Fund, the Research Fund for the Control of Infectious Diseases and the Health Care and Promotion Fund which are financially independent.
61.	Independent Commission Against Corruption (ICAC)	Citizens Advisory Committee on Community Relations (CACCR)	17	4	\$50 per meeting	Approved by the Unofficial Members of the Executive and Legislative Councils in 1975. No revision since then.
62.	ICAC	Community Research Subcommittee under CACCR	9	4	\$50 per meeting	“

63.	ICAC	Mass Media and Education Subcommittee under CACCR	11	4	\$50 per meeting	“
64.	Labour Department	Labour Advisory Board	12	4	\$700 per member per attendance (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
65.	Lands Department (LD)	Fishermen Claims Appeal Board	4 including chairman	20	\$700 per member (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
66.	Office of the CS for Adm and FS	Central Policy Unit - Part-time Member	54	20	\$2,000 per month	Finance Committee (FCR(89-90)10 of 12.4.89)
67.	Secretariat for Independent Police Complaints Council (IPCC)	Independent Police Complaints Council#	18	18	<u>Chairman</u> : \$3,240 per month <u>Vice-Chairman</u> : \$2,010 per month <u>Member</u> : \$1,750 per month (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury
68.	IPCC	Expanded IPCC Observers Scheme	65	Not fixed	\$175 per attendance of interviews/site visits (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury

69.	Trade and Industry Department	Review Body on Bid Challenges (under the World Trade Organisation Agreement on Government Procurement)	12	As and when required	<u>Chairman/Acting Chairman</u> A rate between \$3,748 - \$4,685 per hour (w.e.f. 4.8.2003) <u>Members</u> \$700 per attendance of the meeting (w.e.f. 1.8.2003)	Secretary for Financial Services and the Treasury Secretary for Financial Services and the Treasury
70.	University Grants Committee Secretariat (UGCS)	University Grants Committee (UGC) (and Sub-Committees)	UGC : 20 (9 are overseas) S/C : 10 (2 are overseas)	3 rounds of meeting lasting for about one week each; circulation of papers to members in between meetings	<u>Overseas Member</u> : \$111,650 (w.e.f. 1.1.2003) Sub-committees and panels \$54,300 (w.e.f. 1.1.2003)	Secretary for Financial Services and the Treasury

71.	UGCS	Research Grants Council (RGC) (and Sub-Committees and subject panels)	RGC : 18 (5 are overseas) S/C and panels : 104 (17 are overseas)	2 rounds of meetings lasting for an average of one week each; circulation of papers to members in between meetings	<u>Overseas Member :</u> \$70,400 (w.e.f. 1.1.2003) Sub-committees and panels \$54,300 (w.e.f. 1.1.2003)	Secretary for Financial Services and the Treasury
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* Public bodies with their own source of financing

The board/council/organisation/committee will become a statutory body once the relevant ordinance for its establishment is in place.

Note: This list does not include the Executive Council, the Legislative Council and the District Councils

Legislative Council Panel on Home Affairs

Review of Advisory and Statutory Bodies

Interim Report No. 6 – The 6-year Rule

Purpose

This paper gives an account of our review of the "6-year rule" which has long been used as a guiding principle in making reappointments of non-official members to advisory and statutory bodies in the public sector.

Background

2. Changes in the membership of advisory and statutory bodies take place regularly for various reasons, including:
 - (a) performance of individual members during their term of office;
 - (b) availability of members;
 - (c) changes in the Government's/community's expectations of the role and functions of the board or committee;
 - (d) infusion of new blood to ensure a healthy turnover of members;
 - (e) provision of opportunities to more people to serve the community through membership of a board or committee; and
 - (f) positive action to achieve a more gender-balanced composition.

3. As a general rule, a non-official member of an advisory or statutory body should not serve more than 6 years in any one capacity (the 6-year rule). Where a member has been appointed as Chairman or Vice-chairman from among the membership of an advisory or statutory body, it is regarded as a "new" appointment and the 6-year count starts again. Only in special circumstances should a member be reappointed beyond the 6-year limit.

Overseas practices

4. In the United Kingdom, a person may not serve more than 10 years on the same board or committee (the 10-year rule). Only in exceptional circumstances will an extension of service beyond the 10-year limit be allowed.

5. In Ontario, Canada, a term of appointment to the boards of government agencies must not exceed 3 years, with a reappointment allowable up to a further 3 years (i.e., a total of 6 years), unless the enabling legislation for the agency dictates otherwise.

Present situation

6. As at 31 March 2004, 1,695 non-official members of advisory and statutory bodies (counting the number of posts and not the number of individuals) were serving in the same post for over 6 years. There are about 8,800 posts in public sector advisory and statutory bodies.

7. The detailed figures on non-compliance with the 6-year rule are as follows:

<u>Duration of service</u>	<u>Number of members</u> (cumulative)
over 10 years	272
over 9 years	764

over 8 years	997
over 7 years	1313
over 6 years	1695

Reasons for breach of the 6-year rule

8. It appears the 6-year rule is quite often breached by the appointing authorities. The main reasons for this are:

- (a) some serving non-officials members have particular skills or experience essential to the effective and efficient functioning of the board or committee;
- (b) serving members could provide continuity during a period of change (e.g., when a significant number of appointments are coming to an end at the same time);
- (c) nominating bodies (i.e., organizations which have a right (either statutory or traditional) to have their interests represented on a particular advisory or statutory body) continue to nominate the same individuals for appointment;
- (d) certain office holders are traditionally appointed to a particular committee (e.g., District Council Members are usually appointed to the Area Committees of their constituency); and
- (e) some non-official members are appointed by the bodies themselves in accordance with the enabling legislation (e.g., university councils appoint some of their own members).

9. Despite the reasons set out above, we are of the view that the 6-year rule could be enforced more rigorously.

Flexibility

10. Given the diverse circumstances of advisory and statutory bodies, bureaux should have the flexibility to adopt measures (including not complying strictly with the 6-year rule) which they consider to be necessary and appropriate for the boards and committees under their purview. However, any exception to the 6-year rule should be reasonable and proportionate to the special circumstances of the case. Bureaux should be prepared to give justifications for not complying fully with the rule.

Review

11. Having reviewed the 6-year rule, we are of the view that the reasons for setting down the rule remain valid. We therefore propose that the rule should remain a guiding principle in making reappointments of non-official members of advisory and statutory bodies. We also propose that the appointing authorities should take active measures to comply with this rule.

Way forward

12. To remind appointing authorities of the need to comply as far as practicable with the 6-year rule, the Home Affairs Bureau will issue a circular memorandum to all bureaux and departments on this matter. The Home Affairs Bureau will also write to the bureau responsible for the advisory and statutory bodies which have a significant number of non-official members who have served more than 6 years on the same post in the same board or committee.

Home Affairs Bureau
April 2004

Legislative Council Panel on Home Affairs

Review of Advisory and Statutory Bodies

Interim Report No. 7 – The 6-board Rule

Purpose

This paper gives an account of our review of the "6-board rule" which has long been used as a guiding principle in making appointments of non-official members to advisory and statutory bodies in the public sector.

Background

2. Service as non-official members of advisory and statutory bodies is part-time and voluntary. Most non-official members have full-time jobs and have to spare time from their daily routines to participate in the work of advisory and statutory bodies. It is important not to overburden non-official members with board/committee work.

3. Another reason for establishing the 6-board rule is to provide opportunities to more people to serve the community through membership of a board or committee.

4. As a general rule, a person should not serve as a member on more than 6 boards/committees (the 6-board rule). This long-established guiding principle is to ensure that a non-official member does not take on more than he or she can practically handle. Only in special circumstances should a person be appointed to more than 6 boards/committees.

5. We have not been able to find a similar rule or guideline in other common law jurisdictions, such as the United Kingdom, Australia and Canada.

Proportionality

6. Appointments to advisory and statutory bodies should, where necessary and appropriate, respect the needs of the body, rather than follow strictly administrative guidelines. Given the diverse needs of such bodies, bureaux should have the flexibility to select members (including the flexibility not to comply fully with the 6-board rule). However, any exception to the 6-board rule should be reasonable and proportionate to the special circumstances of the case. Bureaux should be prepared to give justifications for not complying with the rule.

Present situation

7. As at 31 March 2004, 45 persons were serving on more than 6 boards/committees. There are at present about 5,500 persons serving on public sector advisory and statutory bodies.

8. The detailed figures on non-compliance with the 6-board rule are as follows:

<u>Number of boards/committees served</u>	<u>Number of persons</u>
7	24
8	13
9	4
10	2
11	0
12	2
Total	<hr/> 45

9. Compared with past figures, it appears that the 6-board rule is now not so widely breached.

Reasons for breach of the 6-board rule

10. The main reasons given for not complying with the 6-board

rule are:

- (a) some persons have certain skills or experience essential to the effective and efficient functioning of a particular board or committee; and
- (b) some persons could afford more time for voluntary public service.

Review

11. Having reviewed the 6-board rule, we are of the view that the rationale for setting down the rule remains valid. We therefore propose that the rule should remain a guiding principle in making appointments of non-official members to advisory and statutory bodies. We also propose that the appointing authorities should comply more strictly with this rule.

Way forward

12. To remind appointing authorities of the need to comply more strictly with the 6-board rule, the Home Affairs Bureau will issue a circular memorandum to all bureaux and departments on this matter. We will also monitor the situation more closely.

Home Affairs Bureau

April 2004

Legislative Council Panel on Home Affairs

Review of Advisory and Statutory Bodies

Interim Report No. 8 – Handling Conflicts of Interest

Purpose

This paper reviews the system for handling conflicts of interest and potential conflicts of interest in relation to the work of non-official members of advisory and statutory bodies in the public sector.

Background

2. Advisory and statutory bodies play an important role in the determination and implementation of public policy in Hong Kong. It is crucial that members of these bodies should, and be seen to, deliver objective and impartial advice and make decisions solely in terms of the public interest. A member (whether non-official or ex-officio) should declare a conflict of interest situation at the earliest opportunity.

3. A conflict of interest situation, in the context of a non-official member of an advisory or statutory body, is a situation where his/her financial or personal interests compete or conflict with the interests of the board or committee on which he/she is serving or conflict with his/her duties and responsibilities as a member of that board or committee.

4. Some statutory bodies have a declaration of interest system which is specified in their enabling legislation. The system usually requires:

- (a) a board member to declare all relevant interests;

- (b) the authority (i.e., the statutory body) to keep a register of all declared interests;
- (c) the authority to make available the register for public inspection;
- (d) a board member to declare any relevant personal or business interests which may conflict with his/her responsibilities as a board member during the discussion or determination of a matter under consideration by the board; and
- (e) a board member to withdraw from the meeting while the board is discussing or determining the matter in which he/she has declared interest unless permitted by the meeting to do otherwise.

5. Such a declaration of interest system is found, for example, in the Airport Authority, the Urban Renewal Authority, the Hong Kong Science and Technology Parks Corporation and the Estate Agents Authority.

6. Where there are no specific statutory provisions for interests to be declared, the common law requires:

- (a) that members of public bodies should not take part in the discussion or determination of matters in which they have a pecuniary interest; and
- (b) that in the case of an interest which is not of a direct pecuniary kind (such as interests arising from membership of clubs and other organizations or family relationships), members should consider whether participation in the discussion or determination of a matter would suggest a real danger of bias.

Civil servants

7. Civil servants who are ex-officio members of advisory and

statutory bodies are under strict rules to avoid any conflict of interest. All civil servants are required to make a conscious effort at all times to avoid or declare, as appropriate, any conflict that may arise or has arisen. A conflict of interest situation arises where the private interests of a civil servant compete or conflict with the interests of the Government or the civil servant's official duties.

8. Failure to take the necessary steps to avoid or declare a conflict of interest situation may constitute misconduct.

Overseas practices

9. We have examined overseas practices regarding conflict of interest (mainly common law jurisdictions such as the United Kingdom; Ontario, Canada; and New South Wales, Australia). All these jurisdictions have a system for declaring interests and keeping a register of declared interests for public record.

Present guidelines

10. At present there are a set of guidelines for declaration of interests by non-official members of advisory and statutory bodies and for handling conflict of interest and potential conflict of interest situations. These guidelines have been promulgated to all bureaux and departments by way of a circular memorandum issued in September 1994.

11. There are two different systems for declaring interests: a one-tier reporting system where relevant interests are declared at the meeting during which a matter is discussed and determined, and a two-tier system where, in addition to the declaration of relevant interests at a meeting, members' interests are disclosed upon appointment and recorded by way of a register. These two systems are outlined below.

One-tier reporting system

12. When a member of a board or committee perceives a potential conflict of interest in a matter placed before the board or committee, he/she should make a full disclosure of his/her interest. It is

the responsibility of each member to judge and decide if the situation warrants a declaration, and to seek a ruling from the chairman in case of doubt. Examples of potential conflict of interest situations include :

- a) pecuniary interests in a matter under consideration by the committee or board, held either by the member or by any close relative of his/her;
- (b) a directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organization which is connected with, or the subject of, a matter under consideration by the committee or board;
- (c) some friendships which might be so close as to warrant declaration in order to avoid situations where an objective observer might believe a member's advice to have been influenced by the closeness of the association;
- (d) a member who, as a barrister, solicitor, accountant or other professional adviser, has advised or represented or had frequent dealings with any person or body connected with a matter under consideration by the committee or board; and
- (e) any interest likely to lead an objective observer to believe that the member's advice might have been motivated by personal interest rather than a duty to give impartial advice.

Two-tier reporting system

13. Some boards and committees have extensive powers over policy or financial matters. To maintain public confidence in the integrity of the members, as well as in the impartiality of their advice tendered to the board or committee, it is important that they should disclose their general pecuniary interests on appointment to those boards and committees, in addition to the report of conflicts of interest as and when they arise. To achieve greater transparency, such declarations should be recorded and made available for public inspection.

14. Boards and committees which have the following functions and characteristics should adopt the two-tier reporting system :

- (a) a high degree of management and financial autonomy;
- (b) extensive executive powers in matters of public interest;
- (c) being instrumental in shaping major Government policies;
- (d) the power to award major Government contracts;
- (e) access to market sensitive information; and
- (f) control and disbursement of substantial public funds.

15. Under this system, the chairman and members should register in writing their personal interests when they first join the board or committee. The information should be updated regularly. Examples of the types of interests to be recorded include proprietorships, partnerships or directorships of companies; remunerated employments and shareholdings in a company. A register of members' interests should be kept by the secretary of the board or committee and should be made available for inspection on request by any member of the public.

Review

16. On the whole, compliance with the guidelines on the declaration of interests has been satisfactory – nearly all advisory and statutory bodies have adopted a system of declaration of interests for their members. We are of the view that the present guidelines remain valid and that they should continue to be followed in handling conflicts of interest.

Way forward

17. The Home Affairs Bureau will update the relevant circular memorandum. The updated version will be issued to all bureaux and

departments to remind them that a declaration of interest system should be introduced when a new board or committee is formed and that the existing system for declaration of interests for an existing board or committee under their purview should be reviewed from time to time.

Home Affairs Bureau
April 2004