

立法會
Legislative Council

LC Paper No. CB(1) 1912/00-01

(These minutes have been seen
by the Administration)

Ref : CB1/PL/PS/1

Legislative Council
Panel on Public Service

Minutes of meeting
held on Thursday, 26 April 2001 at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon TAM Yiu-chung, GBS, JP (Chairman)
Hon LI Fung-ying, JP (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP

Member absent : Hon LEE Cheuk-yan

Public officers : **Items III & IV**
attending

Mr D W PESCOD, JP
Secretary for the Civil Service (Atg)

Miss Jennifer MAK, JP
Deputy Secretary for the Civil Service (3)

Attendance by invitation : Disciplined Services Consultative Council (Staff Side)

Mr LAU Kon-ching
Chairman

Mr CHIU See-wai
Representative

Police Force Council (Staff Side)

Mr Mark FORD-McNICOL
Chairman, Overseas Inspectors' Association

Mr LAU Kam-wah
Chairman, Junior Police Officers' Association

Model Scale I Staff Consultative Council (Staff Side)

Mr LUNG Wing-fat
Chairman

Mr LEUNG Tat-wah
Member

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mr S C TSANG
Senior Assistant Secretary (1)7

Action

I. Confirmation of minutes of meeting
(LC Paper No. CB(1)1045/00-01)

The minutes of the meeting held on 15 January 2001 were confirmed.

II. Date of next meeting and items for discussion

(LC Paper No. CB(1)1044/00-01(01) — List of outstanding items for discussion

LC Paper No. CB(1)1044/00-01(02) — List of follow-up actions)

Regular meeting on 21 May 2001

2. Members noted the list of outstanding items for discussion and agreed to discuss the following items at the next regular meeting to be held on Monday, 21 May 2001:

- (a) Creation of directorate posts (raised by Mr CHEUNG Man-kwong);
- (b) Civil Service Management-initiated Retirement Scheme (raised by Mr CHEUNG Man-kwong); and
- (c) Joint Secretariat for the Standing Commission on Civil Service Salaries and Conditions of Service, Standing Committee on Disciplined Services Salaries and Conditions of Service, Standing Committee on Directorate Salaries and Conditions of Service, and Standing Committee on Judicial Salaries and Conditions of Service (proposed by the Administration).

3. Mr LEUNG Fu-wah expressed concern that the Civil Service Overseas Education Allowance could be claimed by eligible officers on local terms to send their children for schooling only in the United Kingdom but not other countries. The Chairman directed the Clerk to obtain relevant information from the Administration.

(Post-meeting note: The subject of “Civil Service Overseas Education Allowance” was discussed at the Panel meeting on 18 June 2001.)

Joint meetings in May 2001

4. The Chairman reminded members that the Panel would have two joint meetings with other panels in May 2001, as follows:

<u>Date/Time</u>	<u>Joint Meeting with</u>	<u>Agenda Item</u>
8 May 2001 3:15 pm	Panel on Home Affairs	Proposed merger of the Amenities Officer and Recreation and Sport Officer Grades
24 May 2001	Panel on Planning, Lands	Corporatization of the Survey

2:30 pm and Works and Mapping Office of the Lands Department and the draft Bill for the proposed corporatization

III. Review of system of declaration of investments by civil servants

(LC Paper No. CB(1)816/00-01(04) — Paper provided by the Administration)

Background information

5. The Chairman briefed members on the background of Agenda Item III. He pointed out that the Panel had discussed on a number of occasions in the last session the system of declaration of investments by civil servants and had requested the Administration to consider the following:

- (a) To expand the scope of the existing system of declaration of investments by civil servants to cover declaration of liabilities. Reference could be made to the requirements in the United States where senior civil servants were required to declare liabilities over US\$ 10,000 owed to any one creditor at any time by themselves, their spouses or dependent children; and
- (b) To conduct random checking among civil servants to identify any cases of non-compliance with the declaration requirements.

6. The Chairman further pointed out that during the Panel meeting held on 30 October 2000 where members were briefed on the “Management of the Civil Service”, the Administration had indicated that a comprehensive review on the system of declaration of investments by civil servants was under way and that members’ views expressed at previous meetings of the Panel, in particular those in paragraphs 5(a) and (b) above, would be taken into consideration. The Administration then completed the review and would brief members on its outcome at this meeting.

Briefing by the Administration

7. At the invitation of the Chairman, Deputy Secretary for the Civil Service (3) (DSCS3) briefed members that the government was firmly committed to upholding a high standard of integrity and conduct within the civil service and that such commitment was reflected in relevant civil service rules, regulations and system of declaration of investments which prescribed clear guidelines on conduct and the sanctions against breaches. Under the existing system of declaration of investments by civil servants, the Administration strived to ensure a proper balance between civil servants’ rights to private investments and privacy on the one hand, and upholding

civil service impartiality and accountability on the other. Although it was revealed from the latest review that the system had been operating well, the Administration had identified a number of areas as shown in paragraph 11 of its paper for further enhancements.

8. In response to the Chairman's remarks in paragraph 5(a) above, DSCS3 said that the Administration had taken into account members' views but considered it not necessary to require civil servants to declare their liabilities if such liabilities had been incurred under authorized channels and had not affected their job performance. DSCS3 also pointed out that according to the legal advice sought by the Administration, a general requirement for civil servants to declare their liabilities might infringe upon their right to privacy. Individual bureaux or departments might however draw up supplementary guidelines based on specific operational needs whenever necessary to strengthen the management of staff with liabilities.

9. As regards paragraph 5(b) above, DSCS3 pointed out that in maintaining the existing system of declaration of investments by civil servants, the Administration had to strike a balance between public interests and civil servants' right to privacy. Furthermore, in the absence of a legal basis, it was difficult for the Administration to conduct the proposed random checking among civil servants as it had no power to compel the disclosure of information. DSCS3 added that the Administration had made reference to practices in other countries such as those in the United States, United Kingdom, Singapore and Australia and noted that none of their governments had conducted random checking among their civil servants.

Discussion

Declaration of liabilities

10. Ms LI Fung-ying and Mr CHEUNG Man-kwong were disappointed to note that the Administration considered it not necessary for civil servants to declare their liabilities. They were concerned that liabilities incurred under authorized channels might also cause problems if the civil servants concerned were unable to repay the loans. For example, the civil servants concerned might abuse their official positions to further their personal interests. Responding to Ms LI, DSCS3 advised that those registered banks and financial institutions recognized by the Hong Kong Monetary Authority (HKMA) were considered as authorized channels for making loans. Loans from financial institutions other than those recognized by HKMA could only be accepted by civil servants if prior written permission of the Head of Department concerned had been obtained. Otherwise they would be liable to disciplinary action.

11. Ms LI Fung-ying further asked whether the Administration would prescribe a limit on the amount of loan that a civil servant could be made with the registered banks and financial institutions. DSCS3 replied that the Administration did not see the need to do so as it would be up to individual banks and financial institutions to assess the

financial position of the civil servants concerned and their ability to repay the loans. Nevertheless, if a civil servant was found to have financial difficulties and indebtedness problem, the bureau/department concerned would monitor the case and provide counselling to him as far as practicable to assist him to overcome the problem. Arrangements for transfer of post might also be made for him if considered necessary. If a civil servant went bankrupt, he was required to report the case to the bureau/department concerned, failing to do so would make him liable to disciplinary actions. DSCS3 added that all civil servants were from time to time reminded of the importance of prudent management of personal finance. For example, a major theme under the healthy living campaign organized by the Hong Kong Police Force is financial prudence.

12. Mr CHEUNG Man-kwong reiterated his concern about the indebtedness problem of civil servants. To address the problem, he stressed the need for the Administration to monitor the liabilities incurred by civil servants. If it was considered that requiring civil servants to declare their liabilities would infringe upon their human rights, the Administration should consider other measures such as requiring a civil servant to report to his immediate superior if his liabilities had exceeded a stipulated amount, say, an amount which was equivalent to his 6-month or 12-month salaries. Mr CHEUNG considered this measure reasonable, having regard to the need to strike a balance between public interests and civil servants' right to privacy. He also pointed out that this measure had already been implemented in the Hong Kong Police Force.

13. DSCS3 advised that under the existing policy, if the liabilities of a civil servant had been accumulated to an extent that was beyond his ability to repay, he should report his case to the bureau or department concerned for advice. Mr CHEUNG Man-kwong queried the effectiveness of this measure as the civil servant concerned might not be in a position to make an objective judgement on whether he was able to repay the loan. He suggested the Administration to seriously consider requiring civil servants to report their liabilities over a stipulated amount to their immediate superiors. In response, DSCS3 said that rather than tackle the issue under the declaration of investments system, the Administration would consider further improvement measures in the context of its review on strengthening the management of staff with indebtedness problem. The Chairman requested the Administration to advise the Panel of the outcome of its consideration in due course.

Admin

(Post-meeting note: The Administration's interim reply was circulated to members vide LC Paper No. CB(1)1237/00-01(02) on 18 May 2001.)

Reporting on employment of spouses/relatives

14. Referring to paragraph 9 of the Administration's paper, Mr CHEUNG Man-kwong noted that civil servants were required to report the employment of their spouses/relatives who were working in companies with official dealings with their bureaux/departments. He asked whether this requirement also applied to cases where

civil servants' spouses/relatives or their companies were expected to have official dealings with the bureau/department concerned in future. DSCS3 replied that in any event of conflict of interests, civil servants had an obligation to report the employment of their spouses/relatives to the authorities concerned. Referring to the Inland Revenue Department where officers were required to avoid dealing with files where their spouse had been connected with the preparation of tax returns in a professional or representative capacity, Mr CHEUNG further asked whether the same requirement also applied to civil servants in other departments. DSCS3 replied in the affirmative and said that in practice, the department concerned would make appropriate arrangements for the case to be handled by another officer, if a conflict of interest was identified.

15. Responding to Mr Howard YOUNG's enquiry about the definition of the term "relatives", DSCS3 advised that detailed provisions were set out in the guidelines.

16. Mr Albert CHAN was concerned that in some cases, the civil servants concerned might have no knowledge of the fact that their spouses/relatives were working in companies which had official dealings with their bureaux/departments. He asked how these cases would be handled. DSCS3 replied that the Administration would handle them on a case by case basis, having regard to the explanation given by the civil servant concerned. Mr CHAN commented that this case-by-case approach would create uncertainty and put undue pressure on the civil servants concerned, in particular when their explanations were not accepted by the Administration. Whilst recognizing the importance of ensuring that civil servants would not abuse their official positions to further their private interests, Mr CHAN considered it equally important for the Administration to ensure that civil servants would not be unfairly treated. Acting Secretary for the Civil Service (SCS (Atg)) said that the Administration was facing a dilemma over the issue. While the community expected the civil service to pitch its service at its highest standard, the Administration needed to strike a balance between public interests and civil servants' right to privacy. The Administration's position was that the onus for declaration would rest with the civil servants concerned once they became aware that their spouses/relatives were working in companies which had official dealings with their bureaux/departments.

Civil servants covered by the system of declaration of investments

17. Mr Albert CHAN asked whether the requirements on declaration of investments by civil servants also applied to the Chief Executive, Financial Secretary and other senior government officials on agreement terms. SCS (Atg) replied that all staff working in the civil service regardless of their terms of employment were subject to the same set of rules and requirements on declaration of investments.

18. Responding to Mr CHEUNG Man-kwong, DSCS3 advised that the 27 strategic posts requiring regular declaration of investments included the Chief Secretary for Administration, Financial Secretary and Secretary for Justice.

IV. Policy on earth burial at Gallant Garden

- (LC Paper No. CB(1)1044/00-01(06) — Paper provided by the Administration
- LC Paper No. CB(1)1044/00-01(03) — Submission provided by the Disciplined Services Consultative Council (Staff Side)
- LC Paper No. CB(1)1044/00-01(04) — Submission provided by the Police Force Council (Staff Side)
- LC Paper No. CB(1)1044/00-01(05) — Submission provided by the Senior Civil Service Council (Staff Side)

19. The Chairman welcomed the staff side representatives of the three Staff Consultative Councils, namely, Disciplined Services Consultative Council (DSCC), Police Force Council (PFC) and Model Scale I Staff Consultative Council (MSISCC) to the meeting. He drew members' attention that two of these Councils had already submitted their submissions to the Panel for consideration. Although the Senior Civil Service Council (Staff Side) was unable to attend the meeting, it had also provided a submission for members' reference.

Presentation by Staff Consultative Councils

Disciplined Services Consultative Council (Staff Side)

20. At the invitation of the Chairman, Mr CHIU See-wai, representative of DSCC (Staff Side), briefed members on DSCC (Staff Side)'s view. He pointed out that DSCC (Staff Side) had all along requested the Administration to grant permanent earth burial at Gallant Garden to civil servants died on duty to commemorate their contribution. DSCC (Staff Side) considered that Gallant Garden, which was set up for civil servants died on duty, should not be regarded as a public cemetery and therefore, should not be subject to the six-year exhumation policy applicable to public cemeteries. DSCC (Staff Side) noted that following the death of the late Mr LEUNG Kam-kwong, Senior Immigration Officer, the Administration had reviewed its policy and decided that upon request of family members of the deceased, civil servants who died whilst performing an "exceptional act of bravery" should be granted permanent earth burial at Gallant Garden. DSCC (Staff Side) considered this policy unfair to other civil servants died on duty and the definition of "exceptional act of bravery" unclear. It urged the Administration to further review the policy.

Police Force Council (Staff Side)

21. Mr Mark FORD-McNICOL, representative of PFC (Staff Side) referred members to PFC (Staff Side)'s submission. PFC (Staff Side) requested the Administration to consider granting permanent earth burial at Gallant Garden to police officers died on duty. Mr FORD-McNICOL highlighted that police officers were

required to perform duties of different kinds and levels of risks depending on the nature and location of jobs. While some police officers performed risky duties on a daily basis, any police officers might be called upon at any time as stipulated in the Police Force Ordinance (Cap. 232) to act during an incident to protect life and property. These selfless acts deserved the recognition of the community of Hong Kong. Under the existing policy, however, the family of a police officer died on duty had to be engaged in lengthy discussions with the Administration on this issue. In the absence of a clear definition of “exceptional act of bravery”, it took time for the Administration to decide whether the police officer concerned should be granted permanent earth burial. This had caused anguish to the deceased’s family. PFC (Staff Side) therefore suggested the Administration to consider using “job risk” as a key criterion for determining permanent earth burial at Gallant Garden.

Model Scale I Staff Consultative Council (Staff Side)

22. Mr LUNG Wing-fat, Chairman of MSISCC (Staff Side) said that MSISCC (Staff Side) requested the Administration to grant permanent earth burial at Gallant Garden to civil servants died on duty to commemorate their contribution.

Presentation by the Administration

23. At the invitation of the Chairman, SCS (Atg) briefed members that the purpose of setting up Gallant Garden was to commemorate the contribution of civil servants died on duty. The Administration was not hard-hearted and had no intention to undervalue their contribution. However, the question was how to determine permanent earth burial of civil servants in the context of Hong Kong where the land supply was limited.

24. DSCS3 added that as the Gallant Garden formed part of the Wo Hop Shek Public Cemetery, it was subject to the six-year exhumation policy. Following the death of the late Mr LEUNG Kam-kwong, Senior Immigration Officer, the policy had been revised in September 2000 whereby civil servants who died while performing an exceptional act of bravery in their final duties should, on request of the deceased’s family, be granted permanent earth burial at Gallant Garden, and non-civil servants be granted permanent earth burial at public cemeteries in accordance with the same criterion.

25. As regards the staff sides’ request of granting permanent earth burial to civil servants died on duty, DSCS3 pointed out that according to the legal advice given by the Department of Justice, to allow permanent earth burial of the remains of these civil servants but not the remains of non-civil servants might likely constitute discrimination within the meaning of Article 22 of the Hong Kong Bill of Rights Ordinance (HKBOR) and Article 26 of the International Covenant on Civil and Political Rights (ICCPR). In response to PFC (Staff Side)’s suggestion of using “job risk” as the key criterion for determining permanent earth burial at Gallant Garden,

DSCS3 considered it difficult to assess the levels of risks of different jobs. The risk element would be different for officers in the same grade deployed to undertake different duties.

26. Mr CHAN Kwok-keung considered the revised policy unfair to civil servants and queried how the term “exceptional act of bravery” should be defined. In view of the low occupancy rate where only 14 out of a total of 110 earth burial spaces at Gallant Garden had so far been taken up, Mr CHAN requested the Administration to consider relaxing the existing six-year exhumation policy to allow civil servants permanent earth burial at Gallant Garden. DSCS3 reiterated that according to the legal advice obtained by the Administration, the permanent earth burial policy, if adopted, should apply to both civil servants and non-civil servants. If the number of employees’ compensation cases which was over 200 cases per annum was used as the basis for estimating the demand for earth burial spaces from non-civil servants, the demand could be quite substantial and the adoption of the permanent earth burial policy would put pressure on land supply for that purpose. The Administration considered it appropriate to use “exceptional act of bravery” as a criterion to determine whether permanent earth burial should be granted.

27. Mr CHAN Kwok-keung asked whether the Administration would consider relocating the Gallant Garden to the Tseung Kwan O Chinese Permanent Cemetery to allow permanent earth burial of civil servants died on duty. DSCS3 replied that as the Tseung Kwan O Chinese Permanent Cemetery was a private cemetery, the proposed relocation would involve additional public monies for the purchase of earth burial spaces in a private cemetery. It would involve even more public monies if the same arrangement had to be made for non-civil servants.

28. Miss LI Fung-ying considered the Administration’s advice self-contradictory. While the Administration stressed that civil servants and non-civil servants should be subject to the same treatment, it had set up Gallant Garden to commemorate the contribution of civil servants died on duty, but not non-civil servants. DSCS3 clarified that both civil servants and non-civil servants buried in public cemeteries were subject to the same six-year exhumation policy. Responding to Miss LI’s query on the definition of the term “exceptional act of bravery”, DSCS3 appreciated the difficulties in defining the term. She assured members that the Administration would decide each case on its own merits.

29. Mr Andrew WONG considered that Gallant Garden, though located at Wo Hop Shek, should not be regarded as a public cemetery because it was reserved for civil servants died on duty. He asked for a copy of the legal advice sought by the Administration. DSCS3 replied that the main points of the legal advice had already been incorporated into paragraph 7 of the Administration’s paper.

(Post-meeting note: As the Chairman had to leave for another important engagement, the Deputy Chairman took the chair at this juncture.)

30. Mr Albert CHAN considered that the fundamental question to be addressed was whether a higher standard should be set for permanent earth burial at Gallant Garden, i.e. only civil servants died on duty whilst performing an exceptional act of bravery should be granted permanent earth burial. He sought the views of the representatives of the staff sides on this issue.

31. Mr CHIU See-wai, representative of DSCC (Staff Side) said that any civil servant died on duty should deserve recognition from the government and the community regardless of whether he had been engaged in an exceptional act of bravery or not. Mr LAU Kam-wah, representative of PFC (Staff Side), reiterated PFC (Staff Side)'s view that in the absence of a clear definition of "exceptional act of bravery", it would take time for the Administration to decide whether the deceased civil servant should be granted permanent earth burial. The lengthy process and discussions would cause anguish to the deceased's family. Mr LUNG Wing-fat, Chairman of MSISCC (Staff Side) pointed out that MSI staff were normally required to perform manual labour duties. If "exceptional act of bravery" was adopted as the criterion for determining permanent earth burial at Gallant Garden, it was not clear under what circumstances a MSI staff died on duty would be regarded as performing an "exceptional act of bravery".

32. SCS (Atg) said the Administration was of the view that permanent earth burial at Gallant Garden should be granted to civil servants died on duty whilst performing an exceptional act of bravery. He however shared the view of Mr LAU Kam-wah, representative of PFC (Staff Side) that the procedures and time involved for a decision on the matter should be minimized to avoid causing anguish to the deceased's family.

Conclusion

33. The Deputy Chairman thanked both the Administration and the representatives of the Staff Consultative Councils for attending the meeting. In the light of the views of the Staff Consultative Councils, the Administration was requested to reconsider the following:

- (a) granting permanent earth burial at Gallant Garden to civil servants died on duty to commemorate their contribution; and
- (b) providing a clear definition on "exceptional act of bravery" and using job risk as a key criterion for determining permanent earth burial at Gallant Garden.

(Post-meeting note: The Administration's response was circulated to members for reference vide LC Paper No. CB(1) 1248/00-01 on 18 May 2001.)

V. Any other business

34. There being no other business, the meeting ended at 4:30 pm.

Legislative Council Secretariat
23 August 2001