

**Legislative Council Panel on Public Service
Meeting on 18 December 2000**

Government Employees on Contract Terms

Purpose

This paper briefs Members on the policy and arrangements governing the appointment of government employees serving on contract terms.

Background

2. At present, the Government employs primarily two main categories of staff on contract terms, namely civil service agreement officers and non-civil service contract staff. They are employed for different purposes and are subject to different arrangements for appointment, pay and fringe benefits. Breakdown of the number of civil service agreement officers and non-civil service contract staff employed are shown in the attached *Tables A and B* respectively.

3. There are other occasions where government departments may employ staff on contract terms under specially approved packages (e.g. Curriculum Officers in Curriculum Development Institute of Education Department, Staff Tutors in Civil Service Development and Training Institute, and Head, Full-Time Members and Researcher of Central Policy Unit) or on an ad hoc basis (e.g. legal consultants in Department of Justice). The employment terms for these contracts are subject to the provisions of the specific packages approved.

Civil Service Agreement Terms

Policy

4. Civil service agreement terms are offered to recruits in various circumstances to fill posts on the civil service establishment. Under the new civil service entry system implemented with effect from 1 June 2000, recruits are normally appointed on a period of observation on three-year probationary terms to be followed by three-year agreement terms before being considered for appointment on the prevailing permanent terms. Direct appointees to supervisory ranks are also normally appointed on agreement terms in the first instance. Departments and grades may also offer agreement terms to cater for their service needs or operational requirements as

necessary, subject to agreement by the Civil Service Bureau and/or advice of the Public Service Commission where applicable.

5. Other circumstances of offering civil service agreement terms may include: recruitment of non-local candidates (i.e. candidates who are not permanent residents of HKSAR) to fill professional or technical posts when qualified and suitable local candidates are not available, in accordance with the localisation policy of the civil service; filling of time-limited, supernumerary or other civil service posts which could not be filled on a long-term basis; or recruitment of persons with special experience or expertise with a view to transferring their experience and expertise.

Terms and Conditions

6. Civil service recruits irrespective of terms, including those recruited on civil service agreement terms, are subject to the same incremental pay scale and pay adjustment mechanism as applied to civil servants across-the-board. Civil servants on agreement terms are also provided the same range of civil service fringe benefits as applicable to civil servants in general (e.g. leave, housing, medical, dental and leave passage), **except retirement benefits under the pension schemes** and other associated arrangements (e.g. downpayment loan secured against commuted pension and death gratuity) which are available only to recruits appointed on pensionable terms.

End-of-Contract Gratuity

7. Civil service agreement officers are normally offered an end-of-contract gratuity, i.e. a lump-sum apart from salary payable upon satisfactory completion of the contract. The end-of-contract gratuity serves the purpose of attracting and retaining candidates for appointment on agreement terms, and its level is determined having regard to the need for attracting candidates of the right calibre, taking into account factors including market situation, the competitiveness of the employment terms, and the lack of retirement benefits in the package. The end-of-contract gratuity thus reflects an element of retirement benefits and takes into account the fact that hitherto agreement terms do not provide for retirement benefits until the implementation of the Mandatory Provident Fund (MPF) system.

8. So far, civil service agreements attract gratuity plus MPF contributions at 25% or 15% of the basic salary drawn during the agreement period. The higher rate of 25% used to be offered in cases where there were recruitment difficulties and agreement terms plus a higher gratuity are offered to attract candidates with the right experience and qualifications. In other cases where agreement terms are offered and it is considered not necessary to offer the maximum rate to attract candidates, a lower rate of gratuity plus MPF contributions at 15% is offered.

Non-Civil Service Contract Terms

Policy

9. Apart from recruiting civil servants to fill posts on the permanent establishment, government departments may also employ from time to time non-civil service contract staff who do not come within the civil service establishment. The purpose of the non-civil service contract scheme is to allow heads of department greater flexibility to deploy their resources and to better enable them to meet their changing service needs and operational needs.

10. Individual heads of department are delegated the authority to employ non-civil service contract staff on contracts up to three years each, to meet service needs which are short-term, part-time or do not require keeping staff on a long-term or permanent basis, or which are under review or likely to be changed, e.g. pending contracting out, etc. For examples, the scheme is used in the employment of short-term staff by the Post Office to meet seasonal surge in workload, by the Registration and Electoral Office to conduct voters registration and other election-related tasks, and by the District Offices for community building and other organising work for local community activities or projects.

11. There are established mechanism and procedures within the Administration to ensure that the employment of NCSC staff will not result in displacement or redundancy of serving civil servants. The decision to engage non-civil service contract staff, as well as the employment package to be offered including pay, must also be approved at directorate level of the department concerned to ensure a degree of check and balance in the system.

Terms and Conditions

12. It is our policy that the employment terms of government employees should be no less favourable than the provisions under the Employment Ordinance. For non-civil service contract staff, their employment terms are formulated with reference to the provisions of the Employment Ordinance and are incorporated in their employment contracts, which are legally binding on the Government.

13. Non-civil service contract staff are provided benefits including rest days, statutory holidays, annual leave, maternity leave, sickness allowance, severance payment, long-service payment, etc. as may be payable in line with the provisions of the Employment Ordinance. They are not eligible for civil service fringe benefits or civil service job-related allowances, overtime allowance and acting allowances. Overtime work done in excess of normal hours of work is compensated by time off in lieu.

14. Apart from the above, heads of department are responsible for determining the appropriate level of pay to be offered, having regard to the employment market and recruitment situation, subject to not more than the minimum salary of comparable civil service ranks. They may also decide to offer, if considered necessary for staff retention, an end-of-contract gratuity, which together with MPF contributions should be not more than 15% and 10% for skilled and non-skilled jobs respectively. Pay increase is not envisaged for non-civil service contract staff during the contract. However, heads of department may adjust their pay according to cost of living, subject to not exceeding the rate of any applicable civil service pay adjustment.

Complaints on Employment Terms

15. The Government has existing channels for government employees to lodge complaints about their employment terms. We also encourage departments to resolve any disputes over employment terms through effective communication and direct dialogue. All government employees, whether civil servants or non-civil service contract staff, may lodge complaints on employment and related matters through the existing complaint channels. Government employees may address their complaints to their heads of department, or to the Secretary for the Civil Service or even higher authorities.

16. Government employees' complaints, be they in written or verbal form, are dealt with in accordance with established staff complaints procedures set out in the relevant Civil Service Bureau circular. Complaints would be kept in confidence and handled by a designated officer responsible for investigating, reporting and replying, to ensure that complaints are handled in an impartial, equitable and proper manner. If the complainant is not satisfied with the outcome, they may appeal to the Civil Service Bureau. The Civil Service Bureau would follow up on the complaint, discuss with the departments concerned, and assist in conciliation as necessary and appropriate.

17. When handling complaints from government employees regarding their employment terms, government departments are advised to consult the Labour Department and seek legal advice on issues relating to the provisions under the Employment Ordinance or other employment legislation or contractual terms. This ensures that the employment terms and treatment for the employees are no less favourable than the provisions under the Employment Ordinance and that the Government fulfils its obligations under the relevant employment contract.

18. According to departments' records, the Administration received a total of 31 complaints on employment matters lodged by non-civil service contract staff during the period from December 1999 to November 2000, among which 28 have been dealt with satisfactorily through conciliation and continued dialogue. The existing complaint channels are operating effectively.

Way Forward

19. In the light of experience in the past two years on the use and application of the non-civil service contract scheme, we are considering to relax the employment arrangements for non-civil service contract staff so that heads of department will have greater flexibility to offer better terms and conditions based on market conditions where justified –

- (a) offer higher pay than the minimum salary point of comparable civil service ranks, subject to a ceiling not exceeding the salary mid-point of these ranks;
- (b) provide annual leave up to 14 days per year, which is better than the provisions of the Employment Ordinance;
- (c) allow the taking of general holidays other than statutory holidays with pay, which is better than the provisions of the Employment Ordinance; and
- (d) allow the taking of entitled paid sickness days with full pay instead of sickness allowance at $\frac{4}{5}$ normal wages, which is better than the provisions of the Employment Ordinance.

20. We are closely monitoring the use of the non-civil service contract scheme and employment of non-civil service contract staff by government departments. We shall continue to see to that the non-civil service contract scheme is being used for its intended purposes.

Table A

**Number of Civil Service Agreement Officers
by Pay Band and Rate of Gratuity plus MPF Contributions
(as at 1 November 2000)**

Pay Point	Rate of Gratuity plus MPF		Total
	15%	25%	
at or below MPS 25 (at or below \$32,190)	533	1 325	1 858
MPS 26-44 (\$33,705-\$73,817)	90	729	819
at or above MPS 45 (at or above \$76,485)	-	316	316
Total	623	2 370	2 993

Table B

**Number of Non-Civil Service Contract Staff
by Monthly Salary and Rate of Gratuity plus MPF Contributions
(as at 1 July 2000)**

Monthly Salary	Rate of Gratuity plus MPF			Total
	No gratuity*	Below 10%	10% – 15%	
Below \$12,000	4 932	19	1 253	5 505
\$12,000 - \$30,000	404	-	628	1 032
Above \$30,000	201	-	127	328
Total	5 537	19	2 008	7 564

* - The Government will make statutory employer's MPF contributions for these staff.