

立法會

Legislative Council

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Report of the Panel on Public Service for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Public Service from October 2001 to June 2002. It will be tabled at the meeting of the Legislative Council (LegCo) on 3 July 2002 in accordance with Rule 77(14) of the Rules of Procedure of the Council.

The Panel

2. The Panel was formed by a resolution passed by LegCo on 8 July 1998 and as amended on 20 December 2000 for the purpose of monitoring and examining Government policies and issues of public concern relating to civil service and Government-funded public bodies, and public service matters. The terms of reference of the Panel are in **Appendix I**.

3. For the 2001-02 session, the Panel comprises 12 members. Hon TAM Yiu-chung and Hon LI Fung-ying were elected Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Civil service pay and allowances

4. Civil service pay and allowances were high on the agenda for the Panel in the 2001-02 session. While members had no objection to the Administration's initiative to review civil service pay and allowances to examine whether the current arrangements continued to meet present day circumstances, they were concerned about the impact of the various reviews on the morale and stability of the civil service. Noting that civil servants were facing various challenges, the Administration also saw the need to assess whether it would be too much for them to bear. The Panel was assured by the Administration that it would adhere

to the principles of lawfulness, fairness and reasonableness in considering any issues which might affect civil service pay and allowances.

Review of civil service pay policy and system

5. The Panel noted that the upward adjustment in civil service pay in mid 2001 had aroused public concern about the possible erosion of broad comparability of civil service pay with the private sector. The views expressed by various sectors of the community sparked a public debate on whether civil service pay levels were reasonable. The debate was intensified by the Government's announcement on 4 December 2001 that about 70% of the Government operating expenditure in 2000-01 was spent on public service. The Panel however pointed out that the 70% included 27.05% on personal emoluments of civil servants, 7.77% on personal related expenses (e.g. pension) as well as 34.71% on subventions (staff related). To avoid public misunderstanding, members urged the Administration to make it clear to the public that personal emoluments of civil servants represented only about 27% of the Government operating expenditure in 2000-01.

6. In response to calls for a review on the civil service pay adjustment mechanism and in view of the fact that the last overall review of the civil service pay policy and system had been conducted over a decade ago, the Government decided on 18 December 2001 to invite the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission), the Standing Committee on Disciplined Services Salaries and Conditions of Service (Standing Committee) and the Standing Committee on Directorate Salaries and Conditions of Service to conduct a comprehensive review of the civil service pay policy and system. The three advisory bodies set up a Task Force to take forward the review. Highlighting the implications of the review on the civil service, private sector and the economy, the Panel urged for an independent and impartial review.

7. When the Panel was briefed on the Task Force's interim report on the first phase of the review on 2 May 2002, members noted the findings of the analytical study on recent developments in civil service pay administration in the governments of Australia, Canada, New Zealand, Singapore and the United Kingdom, and that based on the findings, the Task Force had drawn up 28 questions for public consultation on the broad directions of the review. Some members cautioned that public consultation on broad directions and principles of reform without going into the details and practicability of any proposed measures would not be meaningful. Instead of simply making reference to the reform experience of overseas governments, practical issues involved in local civil service pay reform should be considered. Members were assured by the Administration that due regard would be paid to the history of development of the current system as well as the particular needs and requirements of Hong Kong.

8. The Panel stressed the importance of staff consultation for such an important review. At the Panel meeting on 17 June 2002, members exchanged views with the major civil service unions on the Task Force's interim report. Members also supported the extension of the consultation period to 30 June 2002 to allow more time for discussion on the subject.

2002 civil service pay adjustment

9. The Panel was concerned that in the 2002-03 Budget Speech delivered on 6 March 2002, the Financial Secretary (FS) had made the assumption that civil service pay would be cut by 4.75% and the salary-related portions of subventions to the various organizations would also be reduced by the same rate with effect from 1 October 2002. FS had also stated that any decision on a civil service pay cut needed to go through the legislative process before it could be implemented. Members considered it inappropriate for FS to have made the assumption on civil service pay reduction before the findings of the 2001-02 Pay Trend Survey (PTS) were available. Despite the Administration's advice that the Government would continue to adopt the existing mechanism in deciding the 2002 civil service pay adjustment and that the 4.75% pay cut was only an assumption made for financial planning purposes, some members still queried whether the Government had a predetermined stance on the pay adjustment exercise.

10. The Panel considered the legal grounds for the Administration to reduce civil servants' pay unilaterally and the need to implement the pay reduction by legislation. The Administration explained that while the standard Memorandum on Conditions of Service (MOCS) applicable to civil servants provided a variation clause that the Government reserved the right to alter any of the officer's terms of appointment and conditions of service should the Government at any time consider this to be necessary, the employment contracts of most serving civil servants did not contain any express provision authorizing pay reduction by the Government. The legal advice obtained by the Administration was that on the basis of decided cases, the courts were unlikely to accept that this general power of variation could apply to a fundamental term such as salary. It was possible that the Government would face legal challenges if it relied solely on this provision to implement the decision on a civil service pay reduction. In the Government's view, legislation was the only way to implement the decision with certainty. Some members however had reservations on this view.

11. On the Chief Executive in Council's decision on 28 May 2002 that civil service pay should be adjusted downward in line with the net Pay Trend Indicators of the 2001-02 PTS and that the Public Officers Pay Adjustment Bill should be introduced into LegCo, the Panel held two meetings with the participation of the Administration, the staff sides, and the Legal Adviser of the LegCo Secretariat. While Members had no objection to a civil service pay reduction in accordance with the findings of PTS, they were concerned whether

the pay reduction would contravene Article 100 of the Basic Law, which provided that public servants serving in all Hong Kong government departments before the establishment of the Hong Kong Special Administrative Region might all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before. Members noted the Administration's advice that since the nominal civil service salaries would not be lower than the level on 30 June 1997 after the pay reduction, there would be no question of breaching Article 100.

12. On the need to implement the Chief Executive in Council's decision to reduce civil service pay by legislation, the Panel noted the Legal Adviser's view that this method of implementing the decision was not legally imperative; because civil service pay was not regulated by legislation, there was no legal requirement for the Administration to effect the pay reduction by way of legislation. As far as general legal policy was concerned, if a matter was purely one of contractual dispute, it should be for the courts instead of the legislature to deal with. The Legal Adviser also pointed out that the proposal to legislate on the proposed civil service pay adjustment involved not only legal considerations, but also the considerations of public interest. As regards the question of whether the proposed legislation would deprive civil servants of the right to claim for compensation, damages or other remedies, the Legal Adviser was of the view that if the pay reduction could not be done lawfully without the proposed legislation, implementation of the legislation would appear to have the effect of depriving civil servants' rights that they would otherwise be able to exercise under their contract.

13. The Panel also noted the strong objection raised by the four central consultative councils and seven major civil service unions to the Administration's legislative approach. The staff sides were concerned that the proposed legislation would set a precedent for the Government to further cut back the conditions of service of civil servants in future. They suggested that an independent Committee of Inquiry should be set up under the 1968 Agreement between the Hong Kong Government and the Main Staff Associations (the 1968 Agreement) to deal with the issue of 2002 civil service pay adjustment. Members urged the Administration to consider whether this was a feasible alternative to the legislative approach. On the Administration's advice that the recommendations of a Committee of Inquiry would not bind staff associations who were not parties to the 1968 Agreement, nor would they bind individual civil servants even if they were members of the relevant staff associations, members noted the staff sides' grave concern that such an interpretation would cast doubt on the validity and legality of the 1968 Agreement. Some members urged the Administration to reconsider the issue.

14. The Panel's views on the issue were referred to the Bills Committee formed to study the Public Officers Pay Adjustment Bill.

Review of job-related allowances

15. The Panel were briefed on the major recommendations of the Standing Commission and the Standing Committee arising from their independent reviews on the job-related allowances (JRAs) payable to civilian and disciplined services staff respectively. Some members queried whether the Standing Commission's proposals to introduce changes to JRAs would contravene Article 100 of the Basic Law. The Administration pointed out that "allowances" in Article 100 referred to fringe benefits type of allowances, such as education allowances and Air-conditioning Allowance, which were offered to eligible officers as part of their conditions of service. JRAs were not fringe benefits and were subject to change in the light of operational needs. Such changes in JRA payments would not be in contravention of Article 100.

16. Members noted that the departmental management and staff sides had expressed reservations on or objection to some of the review recommendations, e.g. the Standing Commission's recommendation to raise the eligibility cut-off ceiling for JRAs payable to civilian staff. Members were assured by the Administration that it would consider how best to address the issues raised by the two advisory bodies while taking account of the concerns of the departmental managements and staff sides. It might revert to the two advisory bodies if necessary.

Containing the size of the civil service

17. The Panel noted that following FS's announcement in March 2000 of an initiative to reduce the civil service establishment, the Administration had been pursuing various measures to contain the size of the civil service, including the implementation of the Voluntary Retirement (VR) Scheme and outsourcing of government services. As at 1 January 2002, the civil service establishment was 184 280, a reduction of 7% (13 720) from that in March 2000. The Administration aimed to further reduce the establishment to 181 000 by 31 March 2003.

18. In view of the expansion of the directorate level since 1997, members were concerned whether the reduction in civil service establishment had been achieved by the deletion of non-directorate posts. Referring to the agreement reached by the LegCo's Cross Party Coalition that proposals for the creation of directorate posts would unlikely be supported if such proposals involved any net increase in the overall directorate establishment, members highlighted the need to contain the directorate establishment. Members were assured by the Administration that the creation and deletion of posts, irrespective of grades or ranks, were proposed on the basis of operational needs, and that proposals for creation of posts would continue to be examined critically.

19. Regarding how the Administration could achieve the target of containing the size of the civil service while meeting the increased demand for Government services, members were advised by the Administration that bureaux/departments might have to re-prioritize their work, and streamline procedures through the application of information technology. Moreover, the review of civil service pay policy and system being conducted by the Task Force would cover the rationalization of the grading structure and salary structure of some 400 grades and 1 000 ranks in the civil service.

20. On streamlining of structure, the Panel supported the proposal to integrate the Efficiency Unit and the Management Services Agency into a single unit to provide a one-stop shop for bureaux and departments seeking to implement Government's reform agenda in enhanced productivity and improved service quality. The proposed integration would result in a net deletion of one directorate post and 13 non-directorate posts.

Civil Service Reform

Voluntary Retirement Scheme

21. The Panel was briefed on the outcome of the review of the VR Scheme introduced in 2000. Members noted that as at mid-June 2002, 9 774 applications for voluntary retirement had been approved and 90% of the VR takers had been released from duties. Assuming that all VR posts would eventually be deleted and allowing for the costs of alternative modes of service delivery, it was estimated that a net savings of about \$751 million could be achieved per annum. Members also noted the comments of the departmental/grade management and the staff sides on the VR Scheme. In view of the fact that a great majority of the respondents supported the Scheme, some members suggested the Administration to consider introducing a second-round of the Scheme. The Administration confirmed that it had no such plan at the present stage.

Management-initiated Retirement Scheme

22. The Panel noted that the Administration had taken forward the Management-initiated Retirement (MIR) Scheme to provide for the early retirement of directorate officers where necessary and justified to facilitate improvement in the Government organization. As at 1 March 2002, 10 directorate officers had retired under the MIR Scheme, involving a total amount of ex-gratia payment of \$7.9 million and enhanced lump-sum pension gratuity of \$11.4 million.

23. Noting that an officer who was required to retire under the MIR Scheme was entitled to more retirement benefits than upon normal retirement, some

members considered this arrangement unreasonable and urged the Administration to review the retirement package offered under the Scheme. In the Administration's view, as the officer concerned had not committed any misconduct and his full pensionable career in the civil service was unilaterally curtailed, it was reasonable for the Government to provide immediate and enhanced pensions to him in recognition of his loss in earning capacity in respect of both salaries and pensions which he otherwise would have received up to and upon normal retirement. As regards ex-gratia payment under the MIR Scheme, the arrangement was in line with the Government policy that an ex-gratia payment at the rate of six months of an officer's final substantive salary was granted to the officer affected by abolition of office to compensate for his loss of fringe benefits.

Civil Service Provident Fund Scheme

24. The Panel was updated on the progress of the arrangements for setting up the Civil Service Provident Fund (CSPF) Scheme, which would be launched by mid 2003 to replace the existing civil service pension schemes for new recruits. On Government's contribution rates, members supported the adoption of the proposed schedule with progressive contribution rates from 5% to 25%, corresponding to the number of years of completed service on civil service terms of the officers concerned. Members also noted that the introduction of the CSPF Scheme would not incur any additional financial commitment on the Government in the provision of retirement benefits to its staff. There would be savings in the long run, since the financial commitment under the Scheme would be 4% lower than that under the New Pension Scheme.

25. On the Administration's proposal to extend one supernumerary Administrative Officer Staff Grade C (D2) post in the Civil Service Bureau (CSB) for another 24 months from 1 April 2002 to take forward the implementation work of the CSPF Scheme, members queried the need to extend the post to 31 March 2004, as the CSPF Scheme would be in operation in June 2003. They urged the Administration to examine whether the duties of the post could be absorbed by other staff of CSB upon the implementation of the Scheme in June 2003, and whether the proposed duration of the post could be shortened. Having regard to the estimated operational requirements and the concerns of the Panel, the Administration agreed to shorten the proposed extension period to 31 December 2003.

Policy initiatives for 2002-03

Language proficiency requirements for entry to the civil service

26. On the Administration's proposed initiatives to raise language proficiency requirements for entry to the civil service, members had no objection to the

proposal that applicants to civil service posts at graduate/professional level should be required to pass the two language papers (Use of English and Use of Chinese) in the Common Recruitment Examination Part I. Members however queried the need to require applicants for posts with existing entry requirements below Form Five level to have attained at least Grade E in English and Chinese Languages at the Hong Kong Certificate of Education Examination. They were concerned that the language requirement would further limit the job opportunities of those with low education level. Whilst appreciating members' concern, the Administration considered it appropriate to upgrade the language proficiency requirements of non-graduate grades, having regard to the progressive lift in general education standard in Hong Kong over the years and the rising public expectation towards the quality of the civil service.

Training initiative

27. The Panel noted the latest civil service training initiative in encouraging all Government departments to draw up their departmental annual training and development (T&D) plans starting from 2002-03. Members highlighted the importance of the participation of staff and departmental management in formulating a T&D plan to ensure that the plan would suit the needs of staff and the operational requirements of the department concerned.

Upholding the integrity of the civil service

28. Whilst appreciating the Administration's efforts in upholding the integrity of the civil service, the Panel was concerned about the follow-up actions taken on the Independent Commission Against Corruption (ICAC)'s annual report on corruption and malpractices in the civil service. Members were assured by the Administration that all the cases referred by ICAC were promptly acted upon. Noting that among the cases referred by ICAC, the number of civil servants involved in "acceptance of gifts and free/discounted meals or entertainment" had soared from 6 in 2000 to 39 in 2001, members were concerned that this form of "soft corruption" might develop into more serious forms of direct corruption and erode the integrity of the civil service. Moreover, of the 188 cases referred by ICAC in 2001, 38 cases involved civil servants who had "undesirable associations", i.e. associating with people involved in criminal activities and triad elements. Members were very concerned about these trends and urged the Administration to address the situation seriously.

Promotion of a customer service culture

29. The Panel supported the implementation of the service-wide Customer Service Award Scheme to recognize staff achievements in customer service and further promote this culture in the civil service.

Re-engineering exercise of the Architectural Services Department

30. The Panel, at a joint meeting with the Panel on Planning, Lands and Works, discussed with the Administration and the staff sides on the re-engineering exercise of the Architectural Services Department (ArchSD). Members of the two Panels shared the concern of the staff sides on the justifications and cost-effectiveness of the proposed outsourcing programme, and noted that the Administration had not fully consulted the staff sides before putting forward the programme. The Administration was requested to provide a detailed cost comparison of the delivery of ArchSD's works projects by in-house resources and outsourcing, and to follow up the following motion carried at the joint meeting:

"The Administration should formally consult staff in respect of the initiative to outsource 90% of public works projects and 80% of maintenance works projects of the ArchSD. Pending the outcome of consultation, the initiative should be shelved."

31. The Panel held a total of 12 meetings from October 2001 to June 2002, including one held jointly with Panel on Planning, Lands and Works.

Council Business Division 1
Legislative Council Secretariat
18 June 2002

**Legislative Council
Panel on Public Service**

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to the civil service and Government-funded public bodies, and other public service matters.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

立法會
公務員及資助機構員工事務委員會
Legislative Council
Panel on Public Service

委員名單
Membership List

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|--------------------------------------|--|--|
| 主席 Chairman | 譚耀宗議員, GBS, JP | Hon TAM Yiu-chung, GBS, JP |
| 副主席 Deputy Chairman | 李鳳英議員, JP | Hon LI Fung-ying, JP |
| 委員 Members | 李卓人議員 張文光議員 許長青議員, JP 陳國強議員 陳智思議員 黃宏發議員, JP 楊孝華議員, JP 麥國風議員 陳偉業議員 梁富華議員, MH, JP | Hon LEE Cheuk-yan Hon CHEUNG Man-kwong Hon HUI Cheung-ching, JP Hon CHAN Kwok-keung Hon Bernard CHAN 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 |
| | (合共： 12 位議員) (Total： 12 Members) | |
| 秘書 Clerk | 陳美卿小姐 | Miss Salumi CHAN Mei-hing |
| 法律顧問 Legal Adviser | 鄭潔儀小姐 | Miss Kitty CHENG |
| 日期 Date | 2001 年 10 月 6 日 6 October 2001 | |