

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1521/04-05  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/PS/1

**Panel on Public Service**

**Minutes of meeting**  
**held on Monday, 18 April 2005 at 10:00 am**  
**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 LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon Bernard CHAN, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon Howard YOUNG, SBS, JP  
Hon WONG Kwok-hing, MH  
Hon KWONG Chi-kin

**Members attending** : Hon CHAN Yuen-han, JP  
Hon LEUNG Kwok-hung

**Public officers attending** : **Agenda Items III & IV**  
  
Mr Joseph W P WONG, GBS, JP  
Secretary for the Civil Service  
  
Mrs Rebecca LAI, JP  
Permanent Secretary for the Civil Service

**Agenda Item III**

Miss Jennifer MAK, JP  
Deputy Secretary for the Civil Service (1)

**Agenda Item IV**

Mr Christopher WONG  
Deputy Secretary for the Civil Service (3)

**Attendance by  
invitation**

**: Agenda Item III**

**Hong Kong Federation of Civil Service Unions**

Mr LAM Pun-wing  
General Secretary

Mr CHAN Wai-keung  
Executive Committee member

**Government Employees Association**

Mr TANG Fuk-ki  
Vice-Chairman

Miss LI Wai-yee  
Committee member

**Government Employees Solidarity Union**

Mr KWOK Kam-lam  
General Secretary

Mr CHAN Pok-yin  
President

**Union of Leisure and Cultural Services Department  
Contract Staff**

Miss YIM Ho-yan  
Chairman

Hong Kong Civil Servants General Union

Mr MAK Chi-chai  
Vice-Chairman

Mr CHUNG Tak-cheung  
General Secretary

Hong Kong Chinese Civil Servants' Association

Mr WONG Hyo  
President

Ms Cecilia SO Chui-kuen  
Vice-President

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

**Staff in attendance :** Ms Rosalind MA  
Senior Council Secretary (1)8

Ms May LEUNG  
Legislative Assistant

---

Action

- I. Confirmation of minutes of meeting**  
(LC Paper No. CB(1)1247/04-05 — Minutes of meeting on  
21 March 2005)

The minutes of the meeting held on 21 March 2005 were confirmed.

**II. Date of next meeting and items for discussion**

(LC Paper No. CB(1)1248/04-05(01) — List of outstanding items for discussion

LC Paper No. CB(1)1248/04-05(02) — List of follow-up actions)

2. Members noted that the following items were proposed by the Administration for discussion at the next regular meeting scheduled for 20 May 2005:

(a) Staff consultation mechanism in the civil service; and

(b) Managing cases of misconduct and under-performance in the civil service.

3. On paragraph 2(a) above, members noted that the Administration proposed to brief the Panel on the staff consultation mechanism at various levels within the civil service and the Administration's response to the related issues raised by Mr LEE Cheuk-yan. On paragraph 2(b), members noted that the Administration proposed to update the Panel on the improvement measures to the civil service performance management and disciplinary mechanism and procedures.

**III. Employment of non-civil service contract staff**

(LC Paper No. CB(1)1248/04-05(03) — Paper provided by the Administration

LC Paper No. CB(1)1278/04-05(01) — Written submission from Government Employees Association

LC Paper No. CB(1)1278/04-05(02) — Written submission from Government Employees Solidarity Union

LC Paper No. CB(1)1278/04-05(03) — Written submission from the Union of Leisure and Cultural Services Department Contract Staff

LC Paper No. CB(1)1278/04-05(04) — Written submission from Hong Kong Chinese Civil Servants' Association

LC Paper No. CB(1)1278/04-05(05) — Written submission from the Federation of Hong Kong & Kowloon Labour Unions)

4. The Chairman welcomed representatives of the Administration and staff unions to the meeting.

Briefing by the Administration

5. At the invitation of the Chairman, the Deputy Secretary for the Civil Service (1) (DSCS1) briefed members on the current position on the employment of non-civil service contract (NCSC) staff. DSCS1 explained that the NCSC Staff Scheme was introduced in 1999 to enable Heads of Department (HoDs) to employ staff on fixed term contracts outside the civil service establishment to meet service needs in the following circumstances -

- (a) To meet service needs that was short-term or did not require keeping staff on a long-term basis;
- (b) To meet service need that required staff on a part-time basis; and
- (c) To meet service need where the mode of delivery of the service was under review or likely to be changed.

6. DSCS1 said that in deciding the appropriate employment package for NCSC staff, HoDs had to observe the guiding principles that the terms and conditions of service for NCSC staff should be no less favourable than those provided for under the Employment Ordinance (Cap. 57) and no more favourable than those applicable to civil servants in comparable civil service ranks or comparable levels of responsibilities. It was the policy of the Civil Service Bureau (CSB) not to micro-manage departments in the employment of NCSC staff but CSB had issued detailed guidelines on the scope, terms of employment, remuneration package, recruitment procedures etc. for HoDs to follow in the employment of NCSC staff. CSB had also reminded bureaux/departments to take proactive steps to ensure proper usage of the NCSC Staff Scheme. With effect from June 2004, CSB operated a central clearing house mechanism in which HoDs were required to seek the assistance of the General Grades Office for the deployment of suitable civil servants from other departments to undertake the clerical and secretarial duties. HoDs would only be allowed to recruit new NCSC staff for clerical and secretarial duties if the need could not be met in part or in full by such deployment.

7. On the current position on employment of NCSC staff, DSCS1 advised that CSB conducted half-yearly surveys to collect snapshot statistics from departments on the general information of NCSC staff as at 30 June and 31 December each year. As at 31 December 2004, there were 14 807 full-time NCSC staff employed in the

Government, of which 2 154 were employed under various job creation initiatives. Compared with the position on 30 June 2004, the number of full-time NCSC staff had dropped by 1 750 (10.6%).

Presentation of views by staff unions

8. The Chairman reminded the representatives of staff unions that when addressing the Panel, they would not be covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382). The Chairman then invited the key representatives of each staff union to present their views in turn.

*Hong Kong Federation of Civil Service Unions (HKFCSU)*

9. Mr LAM Pun-wing, General Secretary of HKFCSU, pointed out that the employment of NCSC staff in large numbers had affected the quality of public service, and yet various bureaux and departments continued to recruit NCSC staff. While it was often claimed that there were surplus staff in the clerical and secretarial grades, a total of 2 822 NCSC staff performing duties comparable to these two grades were employed as at 31 December 2004. This had not only affected staff morale but also resulted in a situation where civil servants and NCSC staff performing comparable duties were remunerated at different levels. Mr LAM therefore requested LegCo Members to urge the Administration to maintain a reasonable level of civil service establishment, and to uphold service quality and staff morale.

10. Mr CHAN Wai-keung, Executive Committee member of HKFCSU, added that as revealed by the findings of a recent survey carried out by a human resources consultant, employees' performance would be adversely affected if they had no idea of their companies' policies and future development. In this connection, Mr CHAN expressed his concern that the performance of civil servants and NCSC staff might have been affected as they had no idea of the Administration's plan for the NCSC Staff Scheme which covered some 14 000 NCSC staff, i.e. nearly 10% of the total civil service establishment. On the other hand, Mr CHAN noted from Annex B to the paper provided by the Administration that the monthly salary of 12 348 NCSC staff (i.e. 83.4%) was below \$16,000. Given that the monthly salary of the majority of NSCS staff was only several thousand dollars, he requested the Panel to urge the Administration to provide a more detailed breakdown of the salary range of NCSC staff.

*Government Employees Association (GEA)*  
(LC Paper No. CB(1)1278/04-05(01))

11. Mr TANG Fuk-ki, Vice-Chairman of GEA, said that while GEA did not object to the employment of NCSC staff under special circumstances to meet service needs, it objected to the abuse of the scheme by employing NCSC staff to replace civil servants for achieving the target of reducing the size of the civil service. In

recent years, the Administration introduced a number of measures to reduce civil service establishment on the one hand, and employed NCSC staff to perform the duties of the deleted civil service posts on the other. Referring to GEA's written submission, Mr TANG added that the continued reduction in civil service establishment had affected the promotion prospect and morale of civil servants, and the employment of NCSC staff in large numbers had created difficulties in staff management. He urged the Administration to review the NCSC Staff Scheme and put in place a proper mechanism for monitoring the employment of NCSC staff in all bureaux/departments.

*Government Employees Solidarity Union (GESU)*  
*(LC Paper No. CB(1)1278/04-05(02))*

12. Mr KWOK Kam-lam, General Secretary of GESU, pointed out that the NCSC Staff Scheme had been implemented in a manner which was contrary to the Government's principle of setting the example of a good employer. The gist of Mr KWOK's presentation was summarized as follows:

- (a) The pay levels of NCSC staff were much lower than those of civil servants performing comparable duties. NCSC staff were not offered any fringe benefits and were deprived of the opportunity for promotion.
- (b) Contrary to the Administration's claim that NCSC staff were employed to meet service needs that were short-term or seasonal, a number of NCSC staff, such as those employed as Workmen in the Food and Environmental Hygiene Department (FEHD) and Assistant Curators in the Leisure and Cultural Services Department (LCSD), had been working in their posts for five to ten years with contracts renewed annually. Being employed on short-term contracts with the normal duration of one year, NCSC staff had no job security and had no idea whether their contracts would be renewed.
- (c) To achieve the target of reducing the size of the civil service, the Administration had implemented two rounds of the Voluntary Retirement (VR) Scheme. While around 15 000 civil servants had retired under the two VR Schemes, almost the same number of NCSC staff was recruited by various bureaux and departments to perform the duties of the VR-takers.
- (d) The Administration should review the NCSC Staff Scheme, and consider converting NCSC posts with long-term operational needs to permanent posts and improving the remuneration package of NCSC staff by offering annual increments and medical benefits to these staff.

*Union of Leisure and Cultural Services Department Contract Staff (ULCSDCS)  
(LC Paper No. CB(1)1278/04-05(03))*

13. Miss YIM Ho-yan, Chairman of ULCSDCS, said that she had been working as a NCSC staff in LCSD for four years. During the four-year period, she was offered short-term contracts and a total of seven contracts were signed. Based on her own experience, she highlighted the pressure and problems faced by NCSC staff. The gist of Miss YIM's presentation was summarized as follows:

- (a) Given the short duration of employment contracts, NCSC staff suffered from immense pressure of job insecurity. Renewal of their contracts was subject to the availability of resources in the bureaux/departments concerned instead of their performance.
- (b) The pay levels of NCSC staff, which were determined by the bureaux/departments concerned at the time of contract renewal, had been reduced in the past few years. The years of service of NCSC staff and their relevant working experience were not taken into account in determining their pay levels.
- (c) While NCSC staff were not civil servants and did not enjoy the same pay levels and fringe benefits package offered to their civil servants counterparts, they were subject to the same Government rules and regulations on conduct applied to civil servants and expected to uphold the same high standards of probity. This was unfair to NCSC staff.
- (d) The Administration was urged to cater for the needs of NCSC staff and to provide them with the basic fringe benefits such as medical benefits.

*Hong Kong Civil Servants General Union (HKCSGU)*

14. Mr CHUNG Tak-cheung, General Secretary of HKCSGU, pointed out that the NCSC Staff Scheme had created management problems because in some cases, civil servants were supervised by NCSC staff who were not familiar with civil service policies and practices and were remunerated at lower pay levels. Moreover, given the short duration of their employment contracts, NCSC staff were unable to develop a sense of belonging and had high turnover. The resources used for training NCSC staff would be wasted if these staff chose to leave the service soon after they had attained the work skills. Mr CHUNG urged the Administration to rectify the problem by converting the NCSC posts with long-term operational needs to permanent civil service posts.

*Hong Kong Chinese Civil Servants' Association (HKCCSA)*  
*(LC Paper No. CB(1)1278/04-05(05))*

15. Mr WONG Hyo, President of HKCCSA, said that HKCCSA did not object to the employment of NCSC staff for flexible deployment of resources in meeting short-term or seasonal service needs. HKCCSA however objected to the abuse of the NCSC Staff Scheme to employ short-term contract staff to meet the shortage of manpower in the civil service. The gist of Mr WONG's presentation was summarized as follows:

- (a) The abuse of the NCSC Staff Scheme by bureaux/departments had become increasingly serious in recent years. The number of NCSC staff rose to such a high level that was equivalent to about 10% of the civil service establishment.
- (b) The abuse of the NCSC Staff Scheme had a number of adverse impacts. It tarnished the Government's image of a good employer, as NCSC staff performing duties comparable to those of their civil service counterparts were offered lower pay levels and were not provided with any fringe benefits. This was in fact a discriminatory policy against NCSC staff. It had affected not only the morale of NCSC staff and their cooperation with civil servants, but also the unity and stability of the civil service.
- (c) In the past, the Administration had put forward a number of measures to reduce the size of the civil service so as to maintain a small government, resulting in the need to employ NCSC staff to perform the duties of the deleted civil service posts. The Administration should review its policy of "big market, small government", and LegCo Members, including those of the Liberal Party, should not support this policy.
- (d) Moreover, the Administration should attach great importance to improving the administration of the NCSC Staff Scheme and tackle the existing problems through effective measures, such as preventing abuse of the scheme, improving the terms and conditions of employment for NCSC staff, and examining the service needs of NCSC posts and including those with long-term service needs in the permanent establishment.

Discussion

*Terms and conditions of employment of NCSC staff*

16. Referring to the information on the salary range of NCSC staff set out in Annex B to the paper provided by the Administration, the Chairman requested for a

breakdown of the number and percentage of NCSC staff with monthly salary below \$16,000. In response, DSCS1 provided the following information:

<u>Monthly Salary</u>	<u>% of total full-time NCSC staff</u>
Below \$8,000	about 36%
\$8,000 to \$11,999	about 30%
\$12,000 to \$15,999	16.4%

Admin

17. The Chairman requested the Administration to provide a breakdown of the number and percentage of NCSC staff with monthly salary below \$8,000 (e.g. those with salary below \$3,000, \$3,000 to \$3,999, \$4,000 to \$4,999 and \$5,000 to \$5,999, etc.). DSCS1 undertook to provide the information.

18. Mr WONG Kwok-hing shared the concerns of the staff unions about the unfavourable terms and conditions of employment of NCSC staff, and their lack of promotion prospects and career development opportunities. Given that NCSC staff were not provided with any fringe benefits and were offered pay levels lower than those of their civil service counterparts, Mr WONG considered such unfair treatment a discrimination against NCSC staff, which had affected civil service unity and the effective delivery of public service. In this connection, he requested the Administration to offer pay and fringe benefits to NCSC staff at the same level as those offered to their civil service counterparts.

19. In reply, the Secretary for the Civil Service (SCS) explained that before the introduction of the NCSC Staff Scheme in 1999, temporary staff had been employed on contract terms by different departments, such as the Post Office, the then Urban Services Department, the Radio Television Hong Kong (RTHK) and the Housing Department, to meet service needs that were short-term, part-time or seasonal. The introduction of the scheme was an attempt to systemize the employment of temporary contract staff by setting out the guiding principles for determination of the terms and conditions of service for NCSC staff and issuing detailed guidelines for HoDs to observe in the employment of NCSC staff.

20. As to the concern about the pay level of NCSC staff, SCS noted that the question of different pay for the same job had been raised by members in the past but he wished to point out that the pay levels of both civil servants and NCSC staff were determined by the prevailing market circumstances during their first appointment to the Government. SCS also pointed out that there were differences in the terms and conditions of service even among civil servants appointed at different times. For example, civil servants appointed on new terms since 2000 were not eligible to Overseas Education Allowance or Local Education Allowance and their leave entitlement was less favourable than civil servants appointed before 2000. SCS said that it was impracticable to expect the same terms and conditions of service be offered for all civil servants and NCSC staff across the board as flexibility for changes was necessary in human resources management to cope with the changing circumstances. He reiterated that of the 14 807 full-time NCSC staff employed as at

31 December 2004, 2 154 were employed under various job creation initiatives. The number of NCSC staff had recorded a drop as compared with the position in end of 2003. He expected that the number of NCSC staff employed might continue to reduce with the various control and monitoring mechanisms introduced to ensure proper usage of the NCSC Staff Scheme, such as the central clearing house mechanism for the re-deployment of surplus staff in the clerical and secretarial grades.

21. Mr LEE Cheuk-yan also expressed concern about the terms and conditions of employment of NCSC staff. Noting that HoDs had full discretion to decide on the appropriate employment package of their NCSC staff, Mr LEE opined that CSB should request HoDs to observe certain standard terms in the employment, such as the provision of annual increments and medical benefits to the NCSC staff.

22. In reply, the Permanent Secretary for the Civil Service (PSCS) said that given the nature of the NCSC Staff Scheme in which staff were employed on short fixed term contracts, the provision of annual increments in their terms of employment might not be appropriate. Having said that, HoDs had full discretion to offer pay increase to their NCSC staff upon the renewal of their contracts, where appropriate, having regard to the circumstances of the employment market, management and operational considerations of the department. As the NCSC Staff Scheme was introduced to systemize the employment of short-term or temporary contract staff, it was desirable to have a simple remuneration package for NCSC staff. Hence, HoDs offered NCSC staff with an all-inclusive monthly salary. PSCS further pointed out that HoDs had to offer pay levels comparable with the market pay levels to attract suitable candidates for NCSC jobs.

23. Mr LEE Cheuk-yan commented that while HoDs had discretion to offer pay increase to their NCSC staff, the reality was that they had been reducing the pay of their NCSC staff in recent years upon renewal of contracts, at an extent even larger than that of the civil service pay reductions. Mr LEE considered this unfair to the NCSC staff. In response, SCS said that NCSC staff were employed on fixed contract terms and it was reasonable for them to receive the remuneration package stipulated in their contracts.

#### *Management and control of the NCSC Staff Scheme*

24. Mr WONG Kwok-hing considered that NCSC posts with long-term service needs should be incorporated into the civil service establishment. It was unfair for HoDs to employ NCSC staff to fill such posts by breaking up their contracts into a series of short-term contracts. In some cases, the duration of the contracts was less than one year. Referring to the recent arrangement of the Hospital Authority (HA) for offering appointment on a long-term basis to about 80% of its contract staff, Mr WONG requested the Administration to work out a mechanism to assess the operational needs of the NCSC posts for inclusion of those with long-term needs in the permanent establishment.

25. Referring to the presentation made by some representatives of staff unions that some NCSC staff had been working in their posts for five to ten years with contracts renewed annually, Mr Howard YOUNG urged the Administration to review whether there was long-term service needs for the posts. Mr YOUNG pointed out that while the LegCo Members of the Liberal Party considered that the Administration should continue to contain the size of the civil service so as to achieve the optimum utilization of public resources and to observe the principle of “big market, small government”, they would not object to the creation of posts if the need for the posts was established and the Administration was able to offset the expenditure involved by deleting other posts.

26. In response, SCS explained that the NCSC Staff Scheme allowed flexibility for HoDs to employ staff on fixed contract terms ranging from a few months to three years and it was CSB’s policy not to micro-manage departments in the employment of NCSC staff to maintain the flexibility of the scheme. CSB would look into specific cases of short-term employment upon provision of relevant information on such cases. PSCS added that at the departmental level, the employment of NCSC staff must be approved by a directorate officer with delegated authority from HoDs and there should be a directorate officer not below the Directorate Pay Scale of D2 or equivalent to control and monitor the implementation of the scheme. CSB conducted half-yearly surveys to collect statistics from departments on the general information of NCSC staff and additional ad hoc surveys where needed to monitor the NCSC staff situation in general.

Admin

27. At the request of Mr WONG Kwok-hing, SCS undertook to look into the arrangements of HA for offering appointment on a long-term basis to its contract staff.

28. Referring to the information on contract duration of NCSC staff set out in Annex B to the paper provided by the Administration, Mr LEE Cheuk-yan pointed out that the information failed to give a clear picture on the length of the contracts offered to the NCSC staff nor the years of service of the staff concerned, such as the number of NCSC staff who had been working in the posts for over five years with their contracts renewed annually. He criticized the Administration for exploiting the NCSC staff concerned by offering short-term employment to them and requiring them to perform duties of posts with long-term service needs. Of the total 14 807 NCSC staff, Mr LEE sought information on the number and percentage of staff who had been working in their posts for over five years and whether the Administration would include such posts in the permanent establishment having regard to the obvious long-term needs of the posts.

29. PSCS responded that about 7% of the 14 807 NCSC staff (i.e. about 1 100 staff) had been employed for over five years. PSCS explained that the majority of these staff were employed in three departments, details of which were as follows:

- (a) The Post Office employed over 400 NCSC staff to meet service need that was short-term or required staff on a part-time basis, e.g. seasonal demand for postal services and mail sorting;
- (b) LCSD employed over 200 NCSC staff to meet service need where the mode of delivery of service was under review or likely to be changed, e.g. plan to provide electronic booking of LCSD venues; and
- (c) FEHD employed about 120 NCSC staff to meet service need where the mode of delivery of service was likely to be changed, e.g. Workmen employed for various cleansing services pending outsourcing of these services.

30. Mr LEE Cheuk-yan was dissatisfied with the Administration's response. As far as he knew, apart from the three departments mentioned above, the Social Welfare Department and RTHK had also employed considerable number of NCSC staff over a long period of time. To facilitate the Panel's consideration of how the matter should be taken forward, such as setting up a subcommittee under the Panel to study in detail the long-term service need of each NCSC posts, Mr LEE requested the Administration to provide a list of all NCSC posts by bureau/department and provide further information on each NCSC post, including when the NCSC post was created and the planned duration of the post, the length of the contract offered to the NCSC staff occupying the post, and the years of service of the staff concerned. For the posts which were created to meet service need where the mode of delivery of service was under review or likely to be changed, Mr LEE requested the Administration to provide the target date for completing the review.

31. In response, SCS pointed out that the review of the mode of service delivery would be undertaken by the departments concerned as a continuous process and there might not be a set time frame for completion. Moreover, with the delegation of the employment of NCSC staff to HoDs and the number of over 14 000 NCSC posts, it might not be easy to collate the requested information. The details of such information would also be subject to changes at different times with changes in the NCSC posts. Nevertheless, SCS undertook to provide the requested information as far as possible.

Admin

32. Mr KWONG Chi-kin said that he was surprised to note that 7% of the 14 807 NCSC staff had been employed for over five years and he could not accept the Administration's explanation in this regard. Referring to the three types of service needs met by employment of NCSC staff set out in paragraph 5 above, Mr KWONG requested the Administration to provide further information on the NCSC posts by bureau/department with details on the type of service needs that each post was created for.

33. In reply, SCS explained that the general objective of the NCSC Staff Scheme

Admin

Admin

was to provide departments with flexibility in sourcing manpower outside the civil service establishment for meeting service needs which were short-term, part-time or under review. For departments operating as trading funds and where business level and staffing requirements might change over time, the scheme provided the much needed flexibility for them to adjust their staffing level quickly to cope with changing business demands whilst ensuring the viability of their operations. SCS undertook to consider Mr KWONG's request for the information mentioned in paragraph 32 above. At the request of Mr KWONG, SCS also undertook to provide the Panel with a regular update on the employment of NCSC staff once every six months.

34. Ms LI Fung-ying was of the view that the NCSC Staff Scheme had been abused by HoDs. Noting that CSB operated a central clearing house mechanism to re-deploy surplus staff of the clerical and secretarial grades to meet service needs of bureaux/departments, Ms LI enquired whether CSB would operate similar mechanisms for the re-deployment of surplus staff of other civil service grades. She also doubted the effectiveness of the central re-deployment mechanism as she had noticed from the recruitment advertisement that some bureaux/departments, such as the Education and Manpower Bureau, were still offering short-term contracts of six to nine months to NCSC staff for performing clerical and secretarial duties.

35. SCS explained that CSB examined and monitored the NCSC Staff Scheme on a regular basis and new guidelines would be issued to HoDs to ensure proper usage of NCSC Staff Scheme, where necessary. PSCS advised that among the NCSC staff performing duties comparable to clerical and secretarial grades, over 300 were employed under job creation initiatives, and majority of the remaining staff were employed for short-term duties under the following circumstances:

- (a) To assist in data conversion for the implementation of new computer systems in departments;
- (b) To assist in clearing backlog for more efficient delivery of public service;
- (c) To cope with the seasonal influx of workload or sudden surge in workload; and
- (d) To cope with the temporary mismatch in supply and demand of manpower in bureaux/departments.

36. PSCS explained that with the introduction of the central clearing house mechanism in mid 2004, HoDs would only be allowed to recruit new NCSC staff for clerical and secretarial duties if their need could not be met in part or in full by the deployment. As staff surplus in clerical and secretarial grades would arise gradually, the present level of surplus might not be able to meet fully the demand for manpower from all bureaux/departments and NCSC staff might have to be recruited in the interim. PSCS further advised that CSB had reminded Heads of Grades (HoGs) and

HoDs to monitor closely the manpower supply in different civil service grades, and HoDs were required to submit manpower plans to CSB annually. At the present stage, CSB did not see the need to operate a central re-deployment mechanism for other civil service grades. However, HoGs would be reminded to report surplus in any grades to CSB for consideration of the need to operate a similar mechanism.

37. Mr James TO asked whether CSB had examined the employment of NCSC staff in different bureaux/departments to ensure that there was no abuse of the scheme. Referring to the employment of NCSC staff as land executives, Mr TO doubted whether NCSC staff were empowered under existing legislation to perform law enforcement duties and whether the employment of NCSC staff for law enforcement would give rise to query of the legality of the enforcement actions. He also opined that CSB should remind HoDs of the importance of ensuring the legal authority of engaging NCSC staff in the performance of law enforcement duties.

38. In response, SCS assured members that HoDs would ascertain the legal basis for NCSC staff to take up law enforcement duties before employing them for performing such duties. Regarding Mr James TO's concern about the abuse of the NCSC Staff Scheme by HoDs, SCS explained that as illustrated with the examples in paragraph 9 of the paper provided by the Administration, some departments had operational needs to employ NCSC staff for the flexibility in sourcing manpower outside the civil service establishment. Under the NCSC Staff Scheme, HoDs had the discretion to offer fixed term contracts of up to three years subject to their operational needs. While management and control measures were in place to monitor the administration of the scheme, SCS pointed out that CSB would not make any assumptions on abuse of the scheme by HoDs. Nevertheless, he would be willing to look into any cases of alleged abuse upon receipt of relevant information on the cases.

*Review of the policy governing the employment of NCSC staff*

39. Mr CHEUNG Man-kwong expressed disappointment about the way in which the Administration had managed the NCSC Staff Scheme. He considered that while it was important for the Administration to maintain flexibility of the scheme to enable bureaux/departments to employ NCSC staff to meet service needs under special circumstances, such as taking up tasks that were short-term or part-time, it was equally important to maintain civil service stability. He shared other members' view that for NCSC staff employed over a period of time, the Administration should provide a mechanism to review the long-term needs of the posts and offer appointment to the staff concerned on long-term basis if the service needs were established. Referring to the written submission of the Federation of Hong Kong & Kowloon Labour Unions, Mr CHEUNG echoed their suggestion for the Administration to offer permanent/long-term appointment to NCSC staff who had been serving in the posts for six years. Mr CHEUNG recapped that he had made a similar request at the Panel meeting in April 2004 for conversion of NCSC posts with long-term operational needs to civil service posts and Miss CHAN Yuen-han shared

his view. On behalf of Miss CHAN Yuen-han (who had just left this meeting), Mr CHEUNG requested SCS to confirm whether he would honour his undertaking at the Panel meeting held in April 2004 to review the NCSC Staff Scheme.

40. In reply, SCS advised that at the Panel meeting held in April 2004, he had agreed to review the NCSC Staff Scheme at a later stage given that priority had to be accorded to other measures for meeting the target of reducing the civil service establishment. He explained that under the current approach, if the long-term operational needs for a post currently filled by an NCSC staff were confirmed, arrangements could be made to include the post in the permanent establishment and open recruitment for a suitable candidate to fill the post would be conducted. The NCSC staff concerned could apply for the post during the open recruitment. He further pointed out that some NCSC posts might not be included in the permanent establishment due to their special work patterns, e.g. posts with working hours below 44 hours per week.

41. Mr CHEUNG Man-kwong was dissatisfied with SCS's response. He cautioned that the problems arising from the employment of NCSC staff had remained outstanding for long and should be addressed without further delay. He requested the Administration, in providing further information required by the Panel, to submit at the same time its proposed measures to alleviate the hardship of NCSC staff working in their posts for a long period of time.

42. Mr LEE Cheuk-yan shared Mr CHEUNG Man-kwong's view that the problems should be addressed without further delay. To facilitate the Panel to follow up the issue, Mr LEE requested the Administration to provide the requested information before July 2005.

43. Mr KWONG Chi-kin expressed his concern that under the "financial envelope" system, HoDs had to resort to employing NCSC to meet long-term service needs because of the shortage of resources in their financial envelopes. Mr James TO shared his concern. In this connection, the Chairman pointed out that he had received complaints that bureaux/departments were employing NCSC staff to cope with the service demand given the lack of resources in their "financial envelopes". Mr KWONG urged the Administration to consider the suggestion that the "financial envelopes" of bureaux/departments should not include expenditure on personal emoluments.

44. In reply, SCS said that he did not consider that NCSC staff were in hardship because they were not offered permanent terms like civil servants as long as the terms of their contracts were reasonable. He pointed out that the "financial envelope" system was implemented with a view to controlling public expenditure more effectively. PSCS added that given the need to tackle fiscal deficits and the introduction of the "financial envelope" system in recent years, HoDs might have faced some uncertainties in the deployment of resources. The situation was expected to improve in due course.

45. Ms LI Fung-ying was gravely concerned that the Administration was trying to replace civil servants with the employment of NCSC staff. Mr LEE Cheuk-yan queried whether the Administration wished to abolish the current civil service appointment system and replace it by appointments on contract terms through the implementation of the NCSC Staff Scheme. Mr James TO shared Mr LEE's view.

46. In reply, SCS clarified that the NCSC Staff Scheme supplemented the civil service appointments and did not replace the making of civil service appointments. SCS pointed out that as shown in the figures provided to the Panel earlier on, bureaux/departments with genuine operational needs had been granted approval for exemption from the general recruitment freeze to conduct recruitment.

#### *Training for NCSC staff*

47. Mr Howard YOUNG was of the view that for the best use of training resources, NCSC staff should mainly be provided with the necessary training to equip them with the work skills required for their jobs. In this connection, Mr YOUNG referred to paragraph 13 of the paper provided by the Administration and enquired whether the courses provided by the Civil Service Training and Development Institute (CSTDI) were all work-related training courses. In reply, DSCS1 said that apart from work-related training courses provided by departments, NCSC staff could apply for training courses provided by CSTDI to upgrade their skills in areas such as computer operation and customer services.

#### Further views of staff unions

48. Mr KWOK Kam-lam, General Secretary of GESU, said that departments were attempting to confuse the public by using different post titles for NCSC posts to prevent direct comparison with civil service posts. Mr KWOK reiterated his concern that many of the NCSC posts were not temporary or short-term posts as the staff occupying the posts had been working in the same posts for even up to seven years. To provide more job stability to NCSC staff, Mr KWOK requested CSB to issue guidelines to HoDs for standardizing all NCSC contracts on fixed term of three years and providing medical and dental benefits in the terms and conditions of employment of all NCSC staff.

49. Mr WONG Hyo, President of HKCCSA, doubted the need to retain the NCSC Staff Scheme given the flexibility in employment of civil servants provided for under the new terms of appointments for the civil service implemented since 2000. Referring to examples of NCSC posts in FEHD and the Centre for Health Protection of the Department of Health, Mr WONG pointed out that the NCSC posts were not for meeting service needs which were short-term or under review. He therefore queried whether CSB had monitored the NCSC Staff Scheme in an effective manner. He also took the opportunity to convey to members some of

the grievances of NCSC staff, including their disappointment towards the Government and their career future.

50. Miss LI Wai-ye, Committee member of GEA, disagreed with the suggestion of standardizing the contract duration for NCSC staff to fixed term of three years. In her view, for the NCSC staff who had been occupying their posts for over six years and the posts were identified to have long-term operational needs, the Administration should offer them permanent appointment instead of three-year contracts.

Motion proposed by Mr WONG Kwok-hing

51. Mr WONG Kwok-hing put forward the following motion for the Panel's consideration, a copy of which was tabled at the meeting:

“本事務委員會促請政府立即研究把長期僱用的非公務員合約職位納入常額編制之內，改為長期聘用，並在7月前提交研究結果。”

(English translation)

“That this Panel urges the Government to immediately study the inclusion of the posts filled by non-civil service contract staff over a period of time in the permanent establishment by converting them to posts in respect of which appointment is offered on a long-term basis, and to present the outcome of the study before July.”

52. The Chairman considered that the proposed motion was directly related to the agenda item under discussion and it was appropriate for the Panel to deal with the motion. All members present agreed that the motion should be proceeded with. The Chairman put the motion to vote. The seven members present voted for the motion. The Chairman declared the motion passed.

Admin

53. The Chairman invited the Administration to provide the Panel with a written response with the requested information before July 2005.

**IV. Promotion of integrity in the civil service**

(LC Paper No. CB(1)1248/04-05(04) — Paper provided by the Administration)

54. At the invitation of the Chairman, the Deputy Secretary for the Civil Service (3) (DSCS3) briefed members that the paper provided by the Administration presented an overview of the work of CSB in the promotion of integrity in the civil service. He welcomed questions from members.

55. Referring to chapter 10 of the “Civil Servants’ Guide to Good Practices” (the Guide) at Annex B to the paper, Mr CHEUNG Man-kwong enquired whether there were adequate provisions under the existing legislation against different types of “misconduct in public office”. In reply, DSCS3 said that rules and guidelines governing the conduct of a civil servant in particular activities were contained in respective civil service regulations and circulars. He stressed that the Government took a very serious view of breaches of civil service rules on conduct. Corrupt conduct contrary to the ethical standards that a public official was expected to apply when discharging his/her official duties might not be dealt with merely as an in-house disciplinary matter. It might be criminally actionable, under the common law offence of “misconduct in public office”.

56. Mr CHEUNG Man-kwong pointed out that some civil servants had expressed concern about the ambiguity of the definition of “misconduct in public office”. As such, they were worried that they might inadvertently involve in such misconduct which resulted in criminal liability. In this connection, Mr CHEUNG enquired whether the Government had any established guidelines for the circumstances under which misconduct would be dealt with as a disciplinary matter or a criminal case, and whether civil servants had knowledge of such circumstances.

57. In response, SCS said that civil servants were fully aware that disciplinary actions would be taken against misconduct, and the information in the Guide mainly served as a reminder to the civil servants about the possible criminal liability of corrupt conduct. For cases with prima facie evidence of misconduct with criminal liability, the disciplinary authority would refer them to the law enforcement authority, such as the Independent Commission Against Corruption (ICAC), to make further investigations, and the disciplinary proceedings would then be suspended. Whether or not prosecution action was justified was a matter for the Department of Justice to determine. Irrespective of whether legal proceedings were then taken against the officers concerned and whether they were convicted of the offences, the evidence collected by the law enforcement authority and/or the judgment of the Court would be taken into account by the disciplinary authority when considering sanctions against the officers, if any. DSCS3 added that examples of cases involving breaches of the common law offence of “misconduct in public office” were provided to civil servants for reference through the relevant website. Mr CHEUNG requested the Administration to provide the examples on these cases, including cases subject to legal proceedings, investigations by ICAC and disciplinary actions. DSCS3 undertook to provide the required information for members’ reference.

58. Mr WONG Kwok-hing noted that as stipulated in chapter 9 of the Guide, NCSC staff were subject to the same Government rules and regulations on conduct and related matters as applied to civil servants. He considered it unfair for the Government to expect NCSC staff to uphold the same high standards of probity while offering them less favourable terms and conditions of employment and not including them in the civil service establishment. He opined that the Government should not continue with such unfair and unreasonable arrangements. In reply,

DSCS3 explained that having considered public expectations of the high standards of integrity and probity in the civil service, the Government considered it necessary to require NCSC staff to uphold the same high standards. In this connection, the requirements that NCSC staff were subject to the same Government rules and regulations on conduct and related matters as applied to civil servants had been stipulated in their terms of employment.

59. Mr LEUNG Kwok-hung considered it very unfair for the Administration to require NCSC staff to be subject to Government rules and regulations on conduct while not taking any actions against some former senior civil servants who did not comply with the terms of approval for their post-retirement employment. In this connection, Mr LEUNG enquired whether CSB would incorporate cases of post-retirement employment of former civil servants such as Ms Elaine CHUNG Lai-kwok (former Deputy Director of Housing), Hon Sir David Akers-Jones (former Chief Secretary), Mr HUI Ki-on (former Commissioner of Police) and Mr TSANG Yam-pui (former Commissioner of Police), as the answers to common questions at Annex to the Guide.

60. In response, SCS explained that the Administration had briefed the Panel on the review of the policy on post-service employment of former directorate civil servants at the last meeting in March 2005. As members were informed at the last meeting, the Administration was consulting the staff sides and departmental management on the preliminary proposals under the review before reaching a final decision on the proposed changes, and the Administration planned to commence the operation of the revised mechanism in the latter half of 2005. SCS also clarified that not all the cases quoted by Mr LEUNG Kwok-hung involved breaches of the terms of approval for post-service employment.

61. Referring to the “number of civil servants convicted” set out in Annex A to the paper provided by the Administration, Ms LI Fung-ying requested the Administration to provide a breakdown of the number by directorate and non-directorate grades. DSCS3 undertook to provide the requested information after the meeting. Ms LI asked whether training was provided to the NCSC staff on the rules and guidelines they were subject to during their service in the Government. DSCS3 said that in the induction training provided to NCSC staff (to help familiarize them with the basic structure and systems of the government), there was a segment that reminded NCSC staff of the high standards of probity expected of government staff at all levels.

*(Post-meeting note: The supplementary information provided by the Administration on paragraphs 57 and 61 above was circulated to members vide LC Paper No. CB(1)1500/04-05(01) on 10 May 2005.)*

**V. Any other business**

62. There being no other business, the meeting ended at 1:00 pm.

Council Business Division 1  
Legislative Council Secretariat  
19 May 2005