

**立法會**  
**Legislative Council**

LC Paper No. CB(1)1768/04-05  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/PS/1

**Panel on Public Service**

**Minutes of meeting**  
**held on Friday, 20 May 2005 at 10:45 am**  
**in Conference Room A 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 WONG Kwok-hing, MH  
Hon KWONG Chi-kin

**Members absent** : Hon Bernard CHAN, JP  
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP  
Hon Howard YOUNG, SBS, JP

**Public officers attending** : **Agenda Items III and 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**

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

**Agenda Item IV**

Mr Duncan PESCOD, JP  
Head, Efficiency Unit

Mrs Sharon YIP  
Principal Assistant Secretary (Civil Service) Manpower

**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

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Action

- I. Confirmation of minutes of meeting**  
(LC Paper No. CB(1)1521/04-05 — Minutes of meeting on 18 April 2005)

The minutes of the meeting held on 18 April 2005 were confirmed.

- II. Date of next meeting and items for discussion**  
(LC Paper No. CB(1)1522/04-05(01) — List of outstanding items for discussion)

LC Paper No. CB(1)1522/04-05(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 June 2005:

- (a) Progress update on the development of an improved pay adjustment mechanism for the civil service; and
- (b) Staff consultation mechanism in the civil service.

3. On paragraph 2(a) above, members noted that the Administration proposed to report to the Panel on the latest work progress of the exercise on the development

of an improved civil service pay adjustment mechanism. On paragraph 2(b), 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.

**III. Measures for managing cases of misconduct and under-performance in the civil service**

(LC Paper No. CB(1)1522/04-05(03) — Paper provided by the Administration)

Briefing by the Administration

4. At the invitation of the Chairman, the Deputy Secretary for the Civil Service (3) (DSCS3) briefed members on the measures taken by the Government in managing cases of misconduct and under-performance in the civil service. On measures for managing misconduct of civil servants, DSCS3 highlighted the following points in the Administration's paper:

- (a) To expedite the handling of cases of misconduct and to process them in a more systematic manner, the Secretariat on Civil Service Discipline (SCSD) was established in 2000 to centrally process formal disciplinary actions under the Public Service (Administration) Order (PS(A)O). Before the setting up of SCSD in 2000, action on disciplinary cases requiring a hearing was generally completed within the timeframe of seven to 18 months, whereas cases that did not require a hearing were dealt with within one to nine months. In 2004-05, the lead time had been reduced to three to nine months and one to three months respectively.
- (b) To uphold a high standard of conduct and integrity in the civil service, the Civil Service Bureau (CSB) worked closely with the Independent Commission Against Corruption (ICAC) and departments. Staff from SCSD also paid regular visits to departments and shared with departmental managers information on trends that were emerging on the discipline front, thereby helping them to better align management focuses and priorities in staff management.
- (c) While recognizing that disciplinary cases must be processed expeditiously, the Administration was equally mindful of the importance of due process. A number of safeguards were in place to ensure that officers alleged of misconduct were given a fair hearing and sufficient opportunities to defend themselves. Other safeguards included seeking the advice of the Department of Justice (D of J) on the sufficiency of evidence to substantiate the alleged misconduct, and

seeking independent advice from the Public Service Commission (PSC) on the level of punishment.

5. On measures for managing under-performers, DSCS3 advised that the Administration was taking actions including requiring an officer to retire under Section 12 of PS(A)O (the Section 12 mechanism) in the event of persistent sub-standard performance. In March 2003, CSB promulgated a set of revised procedures for handling persistent under-performers. Under the revised procedures, an overall “unsatisfactory” performance for a 12-month period would form the basis for invoking Section 12 action. With the implementation of the revised procedures, the lead time for compulsorily retiring persistent under-performers had been shortened. The procedures were being reviewed in the light of operational experience gained in the past two years and the Administration was of the initial view that there was scope for further streamlining the procedures. In drawing up proposals to further streamline the procedures, the principles underlying the existing procedures would remain unchanged, i.e. where an officer was not performing up to the required standard, he would be so advised, and helped to improve his performance through counselling, training or other administrative measures. Only when these measures failed to achieve the desired result would Section 12 action be resorted to. CSB would also ensure that the procedures adopted were fair and just, and that reasonable protection was given to the legitimate rights of individual officers. CSB would shortly seek the views of PSC and the staff sides on the relevant proposals.

## Discussion

### *Disciplinary punishments*

6. Noting from the figures in Annex A to the Administration’s paper that among the four types of severe punishment imposed under PS(A)O, reduction in rank had been awarded for the fewest cases (awarded for only one case in 2002-03 to 2004-05), Mr KWONG Chi-kin was concerned whether the disciplinary authority had given due consideration to awarding this type of punishment on civil servants convicted of misconduct. Referring to an example of an officer of the Bailiff’s Assistant grade who had committed misconduct eight years before and then maintained good performance record, Mr KWONG doubted why the disciplinary authority impose the severe punishment of compulsory retirement, instead of reduction in rank, on the officer. Mr KWONG pointed out that while officers subject to reduction in rank still had the opportunity to continue their work in the civil service, those subject to compulsory retirement would lose their job. In this connection, Mr KWONG urged CSB to review its policy of awarding punishment so that the level of punishment awarded would be commensurate with the gravity of the misconduct in question.

7. In response, the Secretary for the Civil Service (SCS) assured members that under the established disciplinary procedures, safeguards were in place to ensure a

fair and due process, including the process in awarding punishment. The Permanent Secretary for the Civil Service (PSCS) supplemented that in awarding punishment, the disciplinary authority would first consider the recommendation of the Heads of Department (HoDs) concerned, taking into account comments from SCSD and relevant factors such as the customary level of punishment. PSC would then be consulted on the level of punishment. As such, the level of punishment awarded was decided after going through the necessary procedures and taking into consideration relevant factors. As to the small number of cases of which reduction in rank was imposed, PSCS said that under certain circumstances, reduction in rank might not be practicable because of management or work environment considerations.

8. Mr KWONG Chi-kin stressed that the level of punishment should be commensurate with the gravity of the offences/misconduct and it would be unfair to the officers concerned if management consideration would be a determining factor in this regard. Mr LEE Cheuk-yan shared Mr KWONG's view. The Chairman also expressed concern that departmental management might be inclined to recommend compulsory retirement instead of reduction in rank to avoid any possible staff management problems in the event that the officers concerned were aggrieved of the decisions of the disciplinary authority.

9. In response, PSCS explained that management consideration could have two different meanings, inter alia, whether there was a lower rank the officer concerned could be demoted to and if there was, whether he/she could perform effectively after reduction in rank. In awarding the punishment of reduction in rank, the disciplinary authority would take into consideration the practical circumstances of the rank and post of the officer concerned. At the request of the Chairman, PSCS undertook to examine the current mechanism in respect of the level of punishment awarded and consider how members' concerns could be addressed in awarding punishment for disciplinary cases.

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10. Mr KWONG Chi-kin was concerned that as shown from the level of punishment awarded for disciplinary cases, the Administration was more lenient to officers at higher ranks compared with officers at lower ranks. In response, SCS referred members to Annex B to the information paper and pointed out that the percentage share of removal cases was higher for directorate officers compared with that for non-directorate officers. He advised that it was the Administration's policy that for the same type of offence, a more senior officer would normally receive heavier disciplinary punishment than a junior ranking officer, as senior officers were expected to lead by personal example.

*Handling appeals against the decisions of the disciplinary authority*

11. Mr LEE Cheuk-yan sought information about the channels for officers aggrieved of the disciplinary decisions to lodge their appeals. Mr LEE was of the view that an independent appeal panel should be established to handle appeals of

disciplinary cases so that an objective review of the cases could be made by independent members outside the civil service.

12. In reply, PSCS stressed that proper safeguards had been built into the existing disciplinary system to ensure that officers alleged of misconduct were given a fair hearing and that the punishment awarded was fair and reasonable. These included seeking the advice of DoJ on the sufficiency of evidence to substantiate the alleged misconduct and the appointment of inquiry officers who did not have supervisory responsibilities over the accused officer to determine his culpability. An officer who was aggrieved by a decision of the disciplinary authority might appeal to the Chief Executive (CE) or his delegates. CSB would provide information on the appeal cases for the consideration by CE. SCS added that an officer aggrieved by a decision of the disciplinary authority might also seek redress through the court by means of an application for judicial review. He advised that, from time to time, the Government defended its decisions on disciplinary cases through legal proceedings and the court ruled in favour of the Government for the vast majority of these judicial review applications.

13. Mr LEE Cheuk-yan maintained his view that appeal cases should be considered by an independent appeal panel instead of CE or his delegates. In response, SCS advised that PSC was a statutory body with non-civil service members appointed by CE to give independent advice on civil service appointments, promotions and discipline. He pointed out that, as shown in the annual report of PSC, the Administration had practically accepted all the recommendations of PSC in such matters.

14. Mr KWONG Chi-kin referred again to the example of an officer of the Bailiff's Assistant grade who had been compulsory retired. Pointing out that he and the other two LegCo Members representing the labour constituency had written a joint appeal letter to CE for further consideration of the level of punishment for this particular case, Mr KWONG was surprised to note that the officer concerned had received a reply from CSB in this regard. He queried the fairness of the disciplinary mechanism. Given that CSB was taking up the roles of both the disciplinary authority in determining the level of punishment and the appeal body in ruling that its original decision should be maintained, Mr KWONG doubted whether the principles of natural justice would be upheld. Mr LEE Cheuk-yan expressed similar concern.

15. In response, DSCS3 explained that the procedures for handling appeals against disciplinary decisions varied depending on the circumstances of the cases in question. Cases in which the officers appealed against the disciplinary decisions of their respective HoDs were normally handled by SCS. Officers aggrieved of the decision of SCS on their initial appeals might appeal to CE or seek redress through the court by means of applications for judicial review. At that stage, their appeals/judicial reviews would be handled by the CE's Office/the court respectively. DSCS3 advised that for the case mentioned by Mr KWONG, CSB had responded to the appeal made by the officer concerned. Should there be a further appeal to CE, the

case would be processed by the CE's Office. SCS assured members that the Administration was mindful of the importance of due process in processing disciplinary cases. A number of safeguards were in place to ensure that the disciplinary cases would be processed according to the principles of natural justice and appeals lodged by officers aggrieved by the disciplinary decisions would be handled in accordance with the same principles.

*Monitoring the performance of departmental management in disciplinary proceedings*

16. Quoting the examples of two disciplinary cases involving officers of the Post Office which resulted in dismissals of the officers concerned, Mr LEE Cheuk-yan commented that these cases had involved malpractices on the part of the departmental management. However, all the consequences had been borne by the subordinate staff in the disciplinary actions taken. Mr LEE was therefore concerned whether there were adequate measures in place to monitor the performance of the departmental management for avoidance of malpractices in staff management and departmental administration which might lead to breaches of rules by their subordinates. Mr James TO shared Mr LEE's concern and urged CSB to take into account the existence of management malpractices in taking actions against alleged misconduct of civil servants.

17. PSCS responded that if malpractices in staff management were identified during the disciplinary process, CSB would follow up with the departmental management of the officers concerned. She assured members that the Administration would not tolerate improper management practices and would take necessary actions to rectify any problem identified. Mr LEE Cheuk-yan requested CSB to provide for his reference further information on the follow-up actions taken on the possible staff management problems in respect of the above-mentioned cases in the Post Office. The Chairman asked the Administration to liaise with Mr LEE in this regard as it was not the normal practice of the Panel to deal with individual cases unless wide public interests were involved. SCS agreed to look into the cases mentioned by Mr LEE in further detail.

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*Disciplinary cases involving disciplined grades staff*

18. Referring to the breakdown of disciplinary cases in the civil service by punishment and rank at Annex B to the Administration's paper, Mr CHEUNG Man-kwong noted with concern that having regard to the total strength of the disciplined grades and the civilian grades, the percentage of disciplinary cases involving officers of the disciplined grades was higher. While fully appreciating that this might have resulted from the higher standard required of their staff by the Heads of disciplined services departments and the unique working environment in which disciplined grades staff were subject to more temptations, Mr CHEUNG was concerned whether CSB had examined the crux of the problem and

requested disciplined services departments to work out measures to address the problem, such as providing more training and guidance to their staff.

19. SCS agreed that as a matter of fact, disciplined grades were subject to a high standard of probity and conduct because of the need for them to perform law enforcement duties. Nevertheless, SCS considered that the figures provided in Annex B to the paper should not be taken as indicators of higher percentage of disciplinary cases among disciplined grades staff. He pointed out that in general, the number of cases involving breaches of the civil service rules on conduct had remained steady in the past few years. Moreover, according to the figures set out in the annual report of ICAC, the number of alleged/convicted corruption cases had been on the decrease. Referring to the information provided in paragraph 23 of the paper, SCS pointed out that the Hong Kong civil service was acclaimed internationally for its integrity and efficiency. He cited, as examples, third-party endorsement contained in a World Bank report released recently and the World Competitiveness Yearbook 2005. He assured members that the Government took a very serious view of breaches of the civil service rules on conduct and would strictly enforce disciplinary action where appropriate.

20. PSCS observed that as shown in the figures provided in Annex B to the paper, the percentage shares of removal cases under PS(A)O were higher than those under the Public Service (Disciplinary) Regulation. She pointed out that sustained efforts were being made to enhance staff awareness of the high standards of probity and integrity expected of them, including the provision of training. In recent years, the number of cases that ICAC referred to departments for consideration of disciplinary/administrative action had been on the decrease. To facilitate departmental management in acting on these referral cases, CSB had arranged them to meet with the ICAC case officers. Staff from SCSD also paid regular visits to departments to share with them information on trends that were emerging on the discipline front.

21. Mr CHEUNG Man-kwong was dissatisfied that the Administration's response had not directly addressed his concern about the problem of the larger percentage of disciplinary cases among disciplined grades staff. Pointing out that disciplinary cases processed under disciplined services legislation excluded cases involving senior officers in the disciplined services departments, Mr CHEUNG said that the total number of disciplinary cases involving all disciplined grades staff would be even larger. In this connection, he requested the Administration to review the situation and explore measures to rectify the problem. SCS reiterated that disciplined grades staff were subject to high expectations from their departmental management in respect of civil service rules and conduct given the distinctive characteristics of the roles and responsibilities of the disciplined services. He said that the Administration would continue to closely monitor changes in the number of disciplinary cases over time and review the situation in the light of Mr CHEUNG's concerns about the figures in the disciplined services departments. PSCS agreed to convey Mr CHEUNG's observation on the percentage of disciplinary cases in the disciplined

grades to the respective HoDs.

22. Mr James TO pointed out that as shown in a number of judicial review applications where the court finally ruled in favour of the disciplined grades officers, Heads of disciplined services departments had taken disciplinary actions against officers on the basis of their past performance record or the subjective judgment of these officers rather than on the basis of evidence. Mr TO considered that CSB should draw the attention of HoDs to the importance of objective and fair disciplinary proceedings taken on the basis of evidence. Moreover, for judicial review cases of which the court ruled against the Government, if the advice of DoJ had been sought on the sufficiency of evidence to substantiate the alleged misconduct previously, the Administration should examine and re-assess in detail the legal advice given by DoJ to see whether improvements could be made in preventing future legal challenges to disciplinary decisions.

23. DSCS3 explained that decisions on disciplinary cases involving certain members of the disciplined services departments (mainly the rank-and-file and middle-ranking officers) were taken by the heads of the disciplined services under provisions in the respective disciplined services legislation. Nevertheless, appeals lodged against the HoD's decisions on disciplinary cases would be handled by SCS under delegated authority from the CE. DSCS3 assured members that there were built-in safeguards in the disciplinary mechanism to ensure a fair hearing and due process. CSB had regular liaison with the departments on the handling of disciplinary cases. For instance, in those case where circumstantial evidence cast substantive doubt on an officer's suitability to remain in the service, but disciplinary actions were thwarted by difficulties inherent in discharging the burden of proof to standards that stood up to judicial scrutiny, CSB would advise the department to consider recourse to Section 12 action under which an officer might be required to retire in the public interest on grounds of loss of confidence. The latter was an administrative rather than disciplinary measure. The officer so retired remained eligible for pension upon reaching the normal retirement age. CSB would also discuss with relevant departmental management the comments made by the court on judicial review cases, including any lessons learned. DSCS3 advised that in recent years, the number of judicial review cases in which the court had made adverse comments on the handling of the disciplinary proceedings by the Administration was declining.

#### *Processing time for disciplinary cases*

24. Ms LI Fung-ying expressed concern about the immense pressure that the officers concerned would be facing as a result of prolonged disciplinary proceedings. Moreover, Ms LI considered that for cases in which interdiction was ordered during the period of disciplinary proceedings, the prolonged process would also bring about concerns about the proper use of public money as the officers concerned continued to receive pay during the interdiction period. In this connection, Ms LI requested the Administration to give an overview on how the current disciplinary mechanism

could ensure a due process which was fair, reasonable and transparent while at the same time meeting public expectations on effective and efficient processing of disciplinary cases.

25. In response, PSCS advised that the processing time for disciplinary cases had been progressively reduced over the years after the establishment of SCSD in 2000 to centrally process formal disciplinary actions under PS(A)O. In general, over 80% of the disciplinary cases which required a hearing under PS(A)O could be completed within the timeframe of three to nine months. Nevertheless, longer processing time would generally be involved for complicated cases which called for more in-depth investigation, including cases for which disciplinary actions had to be held in abeyance pending the outcome of criminal investigations and/or court judgment. PSCS pointed out that under Section 11 of PS(A)O, punishment could be imposed upon an officer convicted on a criminal charge without any further hearing. She assured members that the Administration was mindful of the importance of due process in processing disciplinary cases as well as the need to meet the high standard of probity that the community expected of civil servants.

26. DSCS3 said that in response to concern about the arrangements for interdiction during disciplinary proceedings, the Administration had demanded vigilance on the part of departmental management to ensure that interdiction was resorted to only when it was strictly necessary. However, under circumstances where it was considered not in the public interest for the officer concerned to remain in office before he/she was cleared of the criminal/disciplinary charge laid against him/her and where suitable alternative posting was not available, interdiction would be ordered. He advised that the number of active interdiction cases had dropped in the past few years, from about 150 in mid-2001 to about 80 cases in March 2005. He also pointed out that the majority of the interdiction cases were ordered with suspension of pay. The number of interdiction cases where pay was not suspended had steadily gone down over the years. A snap shot taken in mid-2001 showed that there were 70 such cases. There were about 20 such cases in March 2005. Ms LI Fung-ying requested the Administration to provide further information on the number of disciplinary cases in the past three years where interdiction were ordered during the period of disciplinary proceedings with a breakdown on the number of cases where pay was suspended and where pay was not suspended. For cases where pay was not suspended, Ms LI asked the Administration to provide information on the maximum length of the interdiction period. DSCS3 undertook to provide the required information.

#### *Managing under-performers*

27. Noting that persistent sub-standard performers would be duly counselled under the revised procedures for handling persistent sub-standard performers promulgated in March 2003, Mr WONG Kwok-hing enquired about the arrangements for counselling the officers concerned, such as the parties providing the counselling and channels for the officers concerned to lodge complaints against

their supervisors in case of unfair or improper management. Mr WONG was concerned whether the performance of the supervisors or managers in counselling and managing the performance of their subordinates would also be taken into account in the process.

28. In reply, DSCS3 said that under the Section 12 mechanism, persistent sub-standard performers would be placed under supervision and counselling would be provided to them by their immediate supervisors or officers designated by the departmental management. Where an officer was not performing up to the required standard, he would be so advised, and helped to improve his performance through counselling, training or other administrative measures as appropriate. Recourse to retirement in public interest would only be considered when these measures did not achieve the desired results.

29. PSCS advised that under the current performance appraisal system, officers would have their immediate supervisors as their reporting officers and officers at a higher rank as their countersigning officers. Officers might air their dissatisfaction or lodge complaints against their immediate supervisors through the countersigning officers. In the event of improper or unfair management of subordinates' performance, the countersigning officers would exercise their judgment and make assessment on the staff management skills of the supervisors concerned, as staff management was an important element in assessing the performance of managers in the civil service. PSCS assured members that all complaints against supervisors would be handled by the departmental management and/or CSB in a prudent and fair manner. In response to Mr WONG Kwok-hing's request, PSCS undertook to provide the number of cases received by CSB in the past 12 months in relation to complaints lodged by civil servants against their supervisors on unfair or improper management.

*(Post-meeting note: The supplementary information provided by the Administration as required in paragraphs 26 and 29 above was issued to members vide LC Paper No. CB(1)1783/04-05(01) on 14 June 2005.)*

30. Referring to paragraph 18 of the Administration's paper, Mr WONG Kwok-hing sought information on the Administration's proposals to further streamline the current Section 12 procedures. In reply, PSCS advised that as the revised procedures had only been in operation for about two years, CSB was reviewing them in the light of the operational experience gained since their implementation in 2003. In general, the revised procedures had facilitated the Administration in taking management action on persistent under-performers in a more effective manner and shortening the lead time for compulsorily retiring such officers. CSB would consider whether the procedures could be further streamlined and the lead time further reduced, and seek the views of PSC and the staff sides on the relevant proposals in due course.

31. Mr CHEUNG Man-kwong referred to paragraph 17 of the Administration's paper and sought clarification on whether any time limit would be set for persistent

under-performers brought under supervision to show improvement before the respective HoDs decided to compulsorily retire the officers under the Section 12 mechanism. In reply, DSCS3 explained that under the Section 12 mechanism, persistent under-performers brought under supervision would normally be allowed six-months to show improvement (after the officer concerned had been duly counselled and forewarned) before further actions would be taken to compulsorily retire those who failed to make improvement from the service. Flexibility and discretion might be given subject to the special circumstances of individual cases, such as allowing a longer period for officers who had not been able to perform their duties due to sickness. Mr CHEUNG Man-kwong commented that the Administration's paper had been misleading readers that there were 29 civil servants who had been under supervision during the whole period of the two years ending March 2005. DSCS3 explained that since individual civil servants came under the "watch list" at different points of time in the past two years whilst others already on the list might be going off the list for one reason or other, the figure (29) was meant to show the number of officers who remained on the list as at the end of March 2005 (i.e. a snap-shot). Care would be taken to bring out this point when the figures were presented to Members next time.

#### **IV. Impact of government outsourcing programme on civil servants**

(LC Paper No. CB(1)1460/04-05(01) — Paper on "Request for information on contracting out government services" provided by the Administration)

##### Background

32. The Chairman drew members' attention that the Administration had provided an information paper on contracting out of government services in response to a member's request made at the Panel meeting held on 17 January 2005 and subsequently proposed to discuss the item at this meeting. The Chairman reminded members to focus the discussion on the impact of government outsourcing programmes on civil servants having regard to the terms of reference of the Panel.

##### Discussion

###### *Factors to be considered in outsourcing public services*

33. Mr WONG Kwok-hing enquired about the amount of savings achieved through government outsourcing programmes. The Head, Efficiency Unit (H/EU) said that based on the estimates provided by 45 bureaux/departments in the survey on outsourcing government activities in 2004 (the 2004 survey), average savings of 25% had been achieved for services that were previously delivered in-house. H/EU pointed out that it was incumbent upon the Administration to deliver public services in a cost-effective manner. Hence, it was imperative that bureaux/departments

focused on ensuring that value for money was achieved in every outsourcing exercise. At the request of Mr WONG, H/EU agreed to see if there was any further information on the amount of savings achieved through government outsourcing programmes in 2004-05 in terms of administration cost and staff cost that could be provided to members for reference.

34. Referring to the list of outsourcing programmes set out in the Annex to the paper, Mr WONG Kwok-hing queried the necessity and propriety of these programmes, in particular the following ones:

- (a) Guarding services for Lo Wu Correctional Institution under item 6;
- (b) Highways Department (HyD) Term Management Contract under items 27 to 29, with long duration (ranging from five to nine years) and large contract size; and
- (c) A number of outsourcing programmes for training and education services to the Hong Kong Police Force (HKPF) under items 46, 47, 49 and 50.

35. In reply, H/EU advised that apart from the key objective of obtaining value for money, bureaux/departments outsourced services for a number of reasons, such as for gaining access to skills and technology which were not available in-house. While pointing out that he was not in a position to go into details of each outsourcing programme mentioned in paragraph 34 above, H/EU gave a brief account of the reasons for outsourcing, as follows:

- (a) Outsourcing services of guarding premises of the Correctional Services Department (CSD) would facilitate the deployment of in-house skills and expertise to core functions of CSD such as guarding of prisoners;
- (b) The size and duration of contracts were among the key factors to be considered by bureaux/departments in outsourcing arrangements. Bureaux/departments were advised to consider having contracts of reasonable size so that efforts in processing and managing these contracts would be justified. Moreover, for services which required considerable investment in equipment, technology and people, long-term contracts would be needed to encourage investment because costs and returns could be spread over longer time periods; and
- (c) While HKPF would provide trainings for their officers on performance of legal and law enforcement duties, outsourcing would facilitate the provision of trainings which required the expertise or skills not available in the department, such as trainings for social issues, management and language.

36. Mr WONG Kwok-hing maintained his view that the Administration should provide adequate justification for the size and duration of the road maintenance contracts outsourced by HyD mentioned in paragraph 34(b) above. The Chairman considered that Mr WONG's concern was outside the scope of the discussion at this Panel meeting, which was the impact of government outsourcing programmes on civil servants. He suggested Mr WONG to pursue the matter in other forums.

37. Mr LEE Cheuk-yan was gravely concerned that with an increasing trend of using outsourcing for delivery of public service, the Administration would overlook the importance of maintaining a stable team of civil servants devoted to the provision of the necessary public services on a long-term basis. Mr LEE cautioned that in outsourcing services, the Administration should be mindful that important functions such as regulatory and statutory functions, must be performed by civil servants. He was therefore concerned about the types of services provided through outsourcing in the recent years, in particular, whether the Administration was widely outsourcing environmental hygiene and building management services.

38. In reply, H/EU said that the majority of outsourcing contracts were for capital works and construction. He reiterated that government bureaux/departments, in deciding whether services should be outsourced, would take into consideration a number of factors and observe the primary principle of delivering public services to the community in the most cost-effective and efficient manner. The factors were set out in the general guide to outsourcing published by EU in 2003. H/EU undertook to provide a copy of the guide for members' reference.

39. At the request of Mr LEE Cheuk-yan, H/EU undertook to provide information on the findings of the surveys on outsourcing of government activities in 2000 and 2002, with the same details of the 2004 survey as set out in paragraph 7 of the Administration's paper.

#### *Impact of outsourcing on civil servants*

40. Mr WONG Kwok-hing was concerned that with the increasing number of outsourcing programmes, the Administration was attempting to reduce the size of the civil service establishment through contracting out more and more of its services to private contractors. He therefore doubted whether the staff savings achieved through containing the size of the civil service would be offset by the cost for these outsourcing contracts. Mr WONG was disappointed that the Administration's paper did not give a full picture on the impact of outsourcing programmes on civil servants. In this connection, he sought information on the total number of staff employed by government contractors under all the outsourcing programmes currently in force.

41. In response, H/EU said that according to the 2004 survey, there were 4 512 contracts in force in August 2004. He pointed out that government outsourcing contracts specified the types and level of services to be delivered by the contractors rather than the number of staff to be employed for the services. As such,

it would be for individual contractors to determine the number of staff to be employed. As a matter of fact, the number of staff employed by contractors for the delivery of public services fluctuated over time.

42. Mr WONG Kwok-hing urged that the Administration should provide information on the total number of staff employed by government contractors under all the government outsourcing programmes currently in force, as the information was crucial for members to assess the propriety of the outsourcing programmes and the possible impact these programmes might have on civil servants. H/EU reiterated that bureaux/departments focused on the quality and level of service delivery by the contractors under their outsourcing programmes rather than the number of staff employed to deliver the service and therefore did not gather information in this respect. The Chairman requested the Administration to consider providing the information required by Mr WONG.

*(Post-meeting note: The supplementary information provided by the Administration as required in paragraphs 33, 38, 39 and 42 above was issued to members vide LC Paper No. CB(1)1795/04-05(01) on 15 June 2005.)*

43. Mr LEE Cheuk-yan was of the view that outsourcing had adverse impact on the promotion prospect and succession planning in the civil service. He also pointed out that bureaux/departments had identified staff surplus in different civil service grades through outsourcing their services and including these grades in the two rounds of Voluntary Retirement (VR) Schemes. Mr LEE considered the Administration unfair to civil servants of these VR grades. He was concerned whether the Administration had fully assessed the impact of outsourcing on civil servants before pursuing outsourcing exercises.

44. In response, H/EU advised that given the government's policy that no staff would be made redundant due to contracting out, it was expected that the outsourcing programmes would not have direct impact on civil servants. He pointed out that the implementation of VR Scheme was not the result of outsourcing and there was no direct link between the two. While in some cases, bureaux/departments might use outsourcing as an alternative means of service delivery following the departure of VR-takers, the various on-going outsourcing exercises were considered in the light of current needs for provision of new or expanded services which were not previously undertaken by civil servants. SCS said that it was the Administration's policy that in taking forward reform measures in the civil service, no civil servant would be forced to become redundant.

45. Mr LEE Cheuk-yan maintained his view that there was a close if not direct connection between the VR Scheme and the outsourcing programmes as the services previously provided by VR-takers were taken up by contractors through outsourcing. He stated his disagreement with the principle of "big market, small government" and urged that the Administration should seriously consider whether public services other than those for capital works and construction should be outsourced. He also

requested the Administration to assess the impact of outsourcing programmes on civil servants and consult the staff concerned before procuring outsourcing services. Ms LI Fung-ying also expressed concern about staff consultation during the planning stage of large-scale outsourcing programmes which would have impacts on civil servants. Ms LI doubted whether bureaux/departments would conduct thorough consultation and consider dropping the outsourcing plans in the event that there was strong objection from civil servants.

46. SCS responded that while he could not comment on a hypothetical situation of staff objection to an outsourcing exercise, he assured members that the Administration would give due consideration to the views of civil servants and make a decision on the way forward for the best interest of the community as a whole. He pointed out that there had been cases that the Administration had decided to shelve the plan for corporatization of public services after consideration of the views expressed by staff. Responding to Ms LI Fung-ying's concern about a target for further reducing the size of the civil service through outsourcing, SCS reaffirmed that other than the announced target of reducing the civil service establishment to about 160 000 by 2006-07, the Administration had no new target. SCS pointed out that the Administration shared the view that certain core functions such as policy making and statutory duties must be performed by civil servants. CSB would work in collaboration with EU in monitoring the implementation of large-scale outsourcing programmes having regard to the possible impacts the programmes might have on civil servants and the need for proper delivery of public service to the best interest of the community.

*Impact of outsourcing on non-civil service contract (NCSC) staff*

47. Mr KWONG Chi-kin was concerned about the impact of outsourcing on NCSC staff. Pointing out that there were currently about 14 000 NCSC staff in different bureaux/departments, Mr KWONG enquired whether consideration would be given to the impact on these staff in making outsourcing arrangements. In response, SCS pointed out that NCSC staff were employed on fixed contract terms to meet seasonal or short-term operational needs of bureaux/departments. The renewal of their employment contracts would be subject to the operational requirements of bureaux/departments concerned. Hence, the employment of NCSC staff and use of outsourcing services were two separate issues.

**V. Any other business**

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

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