

立法會
Legislative Council

LC Paper No. CB(1)2257/05-06
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PS/1

Panel on Public Service

Minutes of meeting
held on Monday, 19 June 2006 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, BBS, JP (Deputy Chairman)
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

Member absent : Hon LEE Cheuk-yan

Public officers : Agenda Items IV to VI

attending

Miss Denise YUE, GBS, JP
Secretary for the Civil Service

Mr Andrew WONG Ho-yuen, JP
Permanent Secretary for the Civil Service

Agenda Item IV

Mr K S SO
Deputy Secretary for the Civil Service (2)

Agenda Items V and VI

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

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 (1)8

Action

- I. Confirmation of minutes of meeting**
(LC Paper No. CB(1)1745/05-06 — Minutes of meeting on 20 March 2006)

The minutes of the meeting held on 20 March 2006 were confirmed.

- II. Date of next meeting and items for discussion**
(LC Paper No. CB(1)1746/05-06(01) — List of outstanding items for discussion

LC Paper No. CB(1)1746/05-06(02) — List of follow-up actions

LC Paper No. CB(1)1475/05-06(01) — Letter dated 11 May 2006 from Hon WONG Kwok-hing and Hon KWONG Chi-kin to the Chairman of the Panel

LC Paper No. CB(1)1693/05-06(01) — Letter dated 16 May 2006 from the Clerk to Panel to the Chairman of the Task Force to Review the Construction Stage of the Development Process (Task Force)

LC Paper No. CB(1)1693/05-06(02) — Written response dated 5 June 2006 from the Chairman of the Task Force)

2. The Chairman pointed out that at the last meeting on 15 May 2006, the Panel agreed that the Task Force under the Provisional Construction Industry Co-ordination Board (PCICB) be invited to provide information on its consultancy study on private certification of building submissions (consultancy study), and that a meeting be scheduled for the Panel to discuss the subject after the information provided by the Task Force had been received. In this connection, the Chairman drew members' attention to the information provided by the Task Force (LC Paper No. CB(1)1693/05-06(02)). The Task Force planned to issue the draft final report of the consultancy study to industry stakeholders for comments around end of July 2006. The Chairman invited members' views on the appropriate timing for discussion of the subject.

3. Mr WONG Kwok-hing, Mr KWONG Chi-kin and Ms LI Fung-ying were of the view that given the grave concerns expressed by civil service staff associations on the consultancy study, arrangements should be made for discussion of the subject in July 2006 before the summer recess of the Legislative Council (LegCo). The Panel might exchange views with the Administration, Task Force and the relevant civil service staff associations on the subject even if the draft final report of the consultancy study was not available at that time.

4. Given that the subject had been discussed at two meetings of the Panel on Planning, Lands and Works (PLW Panel) in July and December 2005, members agreed that a joint meeting with the PLW Panel be scheduled to be held in July 2006. Mr WONG Kwok-hing and Ms LI Fung-ying suggested that all non-Panel Members be invited to join the discussion of the subject.

(Post-meeting note: A joint meeting with the PLW Panel was held on Monday, 17 July 2006 for discussion of the subject.)

III. Draft Report of the Panel on Public Service for submission to the Legislative Council in July 2006
(LC Paper No. CB(1)1746/05-06(03))

5. The Chairman invited members' comments on the draft report of the Panel for submission to LegCo on 12 July 2006.

6. Members endorsed the draft report. They also authorized the Clerk, in consultation with the Chairman, to incorporate into the report the Panel's major deliberations made at the meeting.

IV. Development of an improved pay adjustment mechanism for the civil service: Progress update on the pay level survey

(LC Paper No. CB(1)1746/05-06(04) — Paper provided by the Administration

LC Paper No. CB(1)1797/05-06(01) — Submission dated 16 June 2006 from Police Force Council Staff Side)

Briefing by the Administration

7. At the Chairman's invitation, the Secretary for the Civil Service (SCS) briefed members on the latest progress on the pay level survey (PLS) for the civil service. SCS advised that since the Panel was last updated on the progress at its meeting on 19 December 2005, the Phase Two Consultant had submitted a report to the Administration detailing the finalized job inspection approach, and the relevant details were set out in the LegCo Brief entitled "Development of an improved pay adjustment mechanism for the civil service: conduct of the pay level survey" issued on 12 January 2006 (CSBCR/PG/4/085-001/46). An important feature of the PLS was the carrying out of an in-depth job inspection process for 193 civil service ranks from 61 grades, which had been included in the survey field (civil service benchmark jobs). Following the submission of the report, the Consultant had been taking forward the job inspection process. The following work steps involved in the job inspection process had been substantially completed so far:

- (a) Completion of a job analysis questionnaire for each civil service benchmark job;
- (b) Nomination of post-holder representatives by grade/departmental management in consultation with Departmental Consultative Committees (DCCs) and staff unions/associations to participate in the job inspection interviews with the Consultant;
- (c) Preparation of one or more job brief(s) for each civil service benchmark job; and
- (d) Conduct of job inspection interviews with the post-holder representatives.

8. SCS pointed out that the scale of the job inspection process was extensive. The Phase Two Consultant had prepared a total of some 350 job briefs for civil service benchmark jobs, conducted some 220 interview sessions involving a total of about 1 400 post-holder representatives. The Consultant was currently refining the job briefs in the light of the information gathered from the interviews. The refined briefs would be circulated to grade/departmental management, DCCs and staff

unions/associations for further comments. In parallel, the Consultant had drawn up a list of private sector organizations to be invited to participate in the PLS in accordance with the selection criteria developed under the Phase One Consultancy and having taken into account the comments received from the staff side of the Consultative Group on Civil Service Pay Adjustment Mechanism (Consultative Group) and other staff bodies. The list comprised a total of 208 organizations coming from seven economic sectors. In May 2006, the Consultant invited the selected private sector organizations to participate in PLS. Depending on their response and the final outcome of the job inspection process, the Consultant would assess whether and, if so, what other private sector organizations should be approached in order to enlarge the survey field. Before a decision was taken, the staff side of the Consultative Group would be consulted. On the way forward, the Administration expected to receive the survey findings from the Consultant later in 2006, after which it would consult the staff side on the proposed application of the findings. The Administration would keep Members informed of the progress of the exercise to develop an improved civil service pay adjustment mechanism.

Discussion

Staff consultation

9. Mr WONG Kwok-hing pointed out that staff understanding and support would facilitate the smooth conduct of PLS. He stressed the importance for the Administration to consult and maintain close communication with the staff side throughout the survey process. He also enquired whether the Administration had received any strong views from the staff side on the conduct of PLS so far.

10. In reply, the Deputy Secretary for the Civil Service (2) (DSCS2) said that the Administration attached great importance to staff consultation in taking forward PLS and had taken every opportunity to gauge staff views on the conduct of the survey at various stages of the exercise. He pointed out that the Phase Two Consultant had maintained good communication with the staff bodies during every stage of its work and taken full account of staff views throughout the process through over 20 meetings with the Consultative Group, and provision of relevant information on the survey to the Consultative Group, DCCs and other staff unions/associations. Useful and constructive views had been collected from staff on areas such as the content of the job analysis questionnaire.

11. Referring to the written submission dated 16 June 2006 from the Police Force Council Staff Side (PFC Staff Side) (LC Paper No. CB(1)1797/05-06(01)), Mr KWONG Chi-kin pointed out that members of PFC Staff Side had raised queries about the impartiality of the Phase Two Consultant and hence the credibility of the findings of PLS at the Panel meeting on 21 November 2005. Mr KWONG asked whether the staff queries had been addressed, and if not, how the queries could be addressed.

12. In response, SCS explained that the Civil Service Bureau (CSB) initiated the formation of the Consultative Group when the preparation for PLS commenced two years ago. The Administration had all along tried to enhance the transparency of PLS so as to inspire confidence and acceptance of the survey results by civil servants and the community at large. She stressed that CSB had tried its best to keep civil service staff unions/associations abreast of the progress of the exercise and take account of staff views throughout the process of the survey. CSB noted the view of the PFC Staff Side on the appointment of the Phase Two Consultant and their decision of not participating in meetings of the Consultative Group since the appointment, and would improve the transparency of PLS to gain the support of the staff side. SCS pointed out that the Consultant reported its work progress to the Consultative Group on an on-going basis to gauge the latter's views and solicit its support. By maintaining high transparency in the conduct of PLS and close communication with the staff side in the process, SCS hoped that the impartiality of the Consultant's work could be demonstrated.

Conduct of PLS

13. Referring to paragraph 7 of the paper provided by the Administration, Ms LI Fung-ying was concerned about the procedures involved for the Phase Two Consultant to approach other private sector organizations outside the current list to enlarge the survey field, in particular, whether staff consultation would be conducted before inviting additional organizations to participate in the survey. Ms LI also asked whether the proportion of organizations in each of the seven economic sectors would be maintained after the addition.

14. SCS advised that the Phase Two Consultant had issued invitation letters to the selected private sector organizations on the list but their responses to the invitation were awaited. In the event of unfavourable responses from these organizations, CSB might have to discuss with the Consultant the need to approach other private sector organizations so as to ensure a representative sample size in the survey. Moreover, even in the case of good responses, the Consultant might still be asked to identify additional private sector organizations for comparison if difficulties were encountered in finding suitable job matches in the organizations concerned. DSCS2 added that in working out the list of private sector organizations to be invited to participate in PLS, the Consultant had taken into account comments received from the Consultative Group, adding some organizations proposed by the staff side and removing some which were seen by the staff side as unsuitable. SCS and DSCS2 assured members that the Consultant would seek the views of the Consultative Group and other staff bodies on any proposed addition to the list before inviting the organizations concerned to participate in the survey.

15. Referring to the relevant work steps involved in the job inspection process set out in paragraph 7 above, Mrs Sophie LEUNG was concerned whether information on the soft skills required for the civil service benchmark jobs, such as team spirit, would be included in preparing the job briefs for identification of corresponding private

sector job matches. She pointed out that private sector companies had attached great importance to the promotion of team spirit in recent years, as good team spirit would enhance quality and efficiency of a team when each of the team members worked to complement the deficiency of each other.

16. In reply, DSCS2 advised that according to the survey methodology formulated by the Phase One Consultant, a broadly-defined job family method was adopted for making job comparison between civil service benchmark jobs and private sector job matches. Civil service benchmark jobs would be categorized according to job content and work nature, level of responsibilities and typical requirements on qualification and experience. Apart from the aforesaid elements, the Phase Two Consultant was also required to include information on other special skills required for civil service benchmark jobs, such as soft skills, in the job analysis questionnaire and job inspection interviews. All the information collected during the job inspection process would be taken into account in the analysis of the survey findings as well as for consideration on application of the survey results. Responding to Mrs Sophie LEUNG's request, DSCS2 undertook to convey to the Phase Two Consultant the need to give due consideration to the soft skills required for civil service benchmark jobs in undertaking the survey field work.

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Application of PLS findings

17. Noting that the Administration expected to receive the survey findings from the Phase Two Consultant later in 2006, Ms LI Fung-ying was concerned about the timing for the next civil service pay adjustment. Ms LI pointed out that civil servants had experienced pay freeze and pay reductions in the past few years and were looking forward to possible pay increases alongside with their private sector counterparts in the light of the recent economic recovery.

18. In reply, SCS advised that given the scope and complexity of PLS, as well as the need to conduct staff consultation each step of the way before asking the Consultant to move forward, the process so far had taken longer than initially expected. Nevertheless, the time spent on thorough staff consultation was necessary and worthwhile. SCS also pointed out that as annual pay trend surveys had not been carried out in the past two years, the Administration had to make reference to the findings of PLS and consider how to apply them to the civil service in order to work out the proposed civil service pay adjustment, if any. SCS informed members that PLS would capture the latest pay levels in the private sector as at 1 April 2006 instead of 1 April 2005 as originally planned. This would enable the survey findings to reflect the latest pay levels in the private sector after the recent economic recovery. According to the current progress of the survey, SCS was confident that the Consultant could complete the survey and report the findings to CSB by the end of 2006. On the application of the survey findings, SCS pointed out that policy considerations, such as civil service stability, would have to be taken into account in working out the proposed application. The Administration would continue to endeavour to complete the remaining tasks of PLS in full speed, aiming to conclude

the findings of the survey in late 2006 and reach a decision on the application of the survey results around mid 2007 after consulting staff side on the proposed application.

V. Civil servants' freedom and right to join trade unions and take part in trade union activities

(LC Paper No. CB(1)1288/05-06(01) — Letter dated 7 March 2006 from Hon LEE Cheuk-yan to the Clerk to Panel

LC Paper No. CB(1)1288/05-06(02) — Paper provided by the Administration

LC Paper No. CB(1)1746/05-06(05) — Letter dated 18 May 2006 from Hon LEE Cheuk-yan to the Clerk to Panel (with a copy of the International Labour Convention No. 98 — Right to Organise and Collective Bargaining Convention 1949)

LC Paper No. CB(1)1746/05-06(06) — Supplementary paper provided by the Administration)

Existing statutory and administrative measures to protect the right of Government employees to join trade unions and take part in trade union activities

19. Mr WONG Kwok-hing noted the Administration's advice in the information papers provided to the Panel in April and June 2006 (LC Paper Nos. CB(1)1288/05-06(02) and CB(1)1746/05-06(06)) that the freedom and right of Hong Kong residents (including civil servants) to join trade unions and take part in trade union activities were protected under Articles 27 and 39 of the Basic Law but the Employment Ordinance (Cap. 57) (EO) was not applicable to the Government. He was concerned whether and how civil servants and non-civil service contract (NCSC) staff would be protected from discrimination and/or termination of service for participation in trade unions.

20. SCS pointed out that any government employees (including civil servants and NCSC staff) who considered that the Government had violated, or threatened to violate, his/her right to freedom of association under Article 18 of the Bill of Rights (as set out in section 8 of the Hong Kong Bill of Rights Ordinance (HKBRO) (Cap. 383)) might sought remedy or relief under section 6(1) of the Ordinance. By virtue of section 7 therein, HKBRO bound the Government and any person acting on behalf of the Government. While EO was not applicable to the Government as an employer, the Administration had laid down procedures and provisions that the appropriate authority in the Government must observe before terminating the service of a civil

servant. Where appropriate, the relevant authority would seek the advice of the independent Public Service Commission (PSC) before executing a decision to terminate the service of a civil servant.

21. The Deputy Secretary for the Civil Service (3) (DSCS3) supplemented that there were built-in checks and balances in the procedures for termination of service of a civil servant. Taking the example of the processing of disciplinary cases, a number of safeguards were in place to ensure that civil servants alleged of misconduct were given fair hearings and sufficient opportunities to defend themselves. In awarding punishment for disciplinary cases, the independent advice from PSC on the level of punishment would be sought. Civil servants aggrieved by the decisions of the disciplinary authority might appeal to the Chief Executive (CE) or seek a legal remedy through judicial review.

22. Regarding NCSC staff, SCS pointed out that while the management of these staff would not be subject to the advice of PSC, CSB had put in place comprehensive administrative guidelines that required Heads of Department (HoDs) not to do anything that was in contravention of the provisions under EO relating to unreasonable and unlawful dismissal. In this connection, Mr WONG Kwok-hing requested the Administration to provide in writing, the existing administrative guidelines issued to HoDs, in particular, whether and how NCSC staff would be protected from termination of employment, penalty or discrimination because of their participation in a trade union and its activities. SCS undertook to provide the requested information after the meeting.

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23. Mr WONG Kwok-hing further enquired about the channels of appeal available to NCSC staff against unreasonable dismissal. In reply, SCS opined that Mr WONG had made the assumption that the Government would dismiss its employees without reasonable cause, which was not the case and she was not aware of any such precedents. She reiterated that HoDs were requested to observe the administrative guidelines in the employment of NCSC staff. Any NCSC staff aggrieved of the decision of HoDs for his/her dismissal might seek explanation from the HoDs concerned and lodge a complaint to CSB if he/she was dissatisfied with the responses of the HoDs. CSB would take necessary follow-up actions upon receipt of such complaint and give a reply to the complainant accordingly. A NCSC staff might also exercise his/her right under the Basic Law to appeal to CE or seek judicial review of the Administration's decisions.

24. Ms LI Fung-ying was concerned whether HoDs and NCSC staff were aware of the administrative arrangements in place so as to ensure that NCSC staff would not be dismissed without reasonable cause. She also enquired whether the protection provided to NCSC staff under the administrative arrangements was comparable to and not lower than the statutory requirements stipulated in EO.

25. SCS responded that detailed administrative guidelines were issued to departmental management, requiring HoDs to uphold the spirit of EO in the

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employment of NCSC staff. HoDs could always approach the Labour Department for enquiries on the provisions of EO. Responding to Ms LI Fung-ying's enquiry on whether and how NCSC staff were provided with information about the content of the guidelines, SCS undertook to respond to the Panel in writing after the meeting.

Application of EO to the Government

26. Mr WONG Kwok-hing was concerned about the inconsistency in the application of HKBRO, but not EO, to the Government for protecting government employees' rights to join a trade union and/or participate in its activities.

27. SCS pointed out that there was a common law presumption that an ordinance was not binding on the Government unless it was therein expressly provided for or unless it appeared by necessary implication that the Government was bound thereby. Regarding application of ordinances to the Government of the Hong Kong Special Administrative Region, the common law presumption was retained in statutory form and adapted in section 66(1) of the Interpretation and General Clauses Ordinance (Cap. 1). As there was no such express provision or necessary implication in EO, EO was not applicable to the Government. As for HKBRO, such express provision was laid down in section 7 of the Ordinance.

Admin

28. Mr CHEUNG Man-kwong noted that in the paper provided by the Administration in June 2006, the Administration explained that although EO was not applicable to the Government as an employer, it had put in place administrative arrangements that helped ensure that the relevant spirit of the Ordinance was upheld. Mr CHEUNG was concerned that such administrative arrangements did not enjoy the same status as legislation. He queried why the Government as an employer should not be bound by EO like all other employers of the private sector. Pointing out that the Government should have no difficulties in complying with the relevant provisions of EO as an employer, Mr CHEUNG urged the Administration to consider application of EO to the Government to inspire public confidence in its lawful governance. Ms LI Fung-ying was also of the view that the administrative arrangements could not replace the statutory protection given to employees under EO.

29. SCS explained that the issue of concern raised by Mr CHEUNG Man-kwong involved a broader question which had been examined earlier on by the Panel on Administration of Justice and Legal Services (AJLS Panel), i.e. the question of whether the common law presumption should be reversed in respect of all legislation in Hong Kong. As far as she knew, the information provided to the AJLS Panel showed that in most common law jurisdictions, the State was not bound by a piece of legislation unless it was expressly stated in the legislation that the State was bound by it or unless the State was bound by the legislation by necessary implication. Responding to Mr Howard YOUNG's enquiry, SCS affirmed that the administrative arrangements to ensure that the spirit of EO was upheld were applicable to both civil servants and NCSC staff.

30. Mr CHEUNG Man-kwong opined that it was unjustified for the Government, being the biggest employer in Hong Kong, to deprive its employees of the statutory protection provided under EO. Given that some relevant ordinances, such as the Disability Discrimination Ordinance (Cap. 487) and the Family Status Discrimination Ordinance (Cap. 527) were applicable to the Government, it was unjustified that EO was not applicable to the Government. Stressing the importance of protection of the rights of employees, Mr CHEUNG urged the Administration to take into serious consideration the application of EO to the Government with reference to the relevant provisions in the above-mentioned ordinances.

31. SCS reiterated that the question had to be examined in the light of the implication of reversing the common law presumption in respect of legislation in Hong Kong. She reiterated that although EO was not applicable to the Government, administrative arrangements had been put in place to ensure that the spirit of EO was upheld.

32. Mr KWONG Chi-kin pointed out that there was also express provision in the Employees' Compensation Ordinance (Cap. 282) stating that the Government was bound by the Ordinance. Mr KWONG considered that the non-application of EO to the Government did not affect the rights of civil servants as much as those of the NCSC staff given that the employment and management of the civil service was subject to the provisions of the Civil Service Regulations (CSRs). NCSC staff were treated unfairly by the Administration as they would not enjoy the protection of CSRs or EO and could not have the same level of protection as employees of private companies. Mr KWONG urged the Administration to review the subject and adopt a consistent approach in considering whether a piece of legislation should be applied to the Government. The Chairman requested CSB to consider members' views and study the subject with the relevant bureau/department. SCS agreed.

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VI. Policy on earth burial at Gallant Garden

(LC Paper No. CB(1)1458/05-06(01) — Letter dated 8 May 2006 from Hon WONG Kwok-hing to the Chairman of the Panel

LC Paper No. CB(1)1746/05-06(07) — Paper provided by the Administration

LC Paper No. CB(1)1458/05-06(02) — Extract from the minutes of meeting of the Panel on Public Service on 26 April 2001

LC Paper No. CB(1)1248/00-01 — Follow-up paper to the meeting on 26 April 2001)

Discussion

33. Mr WONG Kwok-hing pointed out that he had raised the subject about “policy on earth burial at Gallant Garden” for discussion given the grave concern expressed by some civil service staff associations. He also pointed out that when the subject was last discussed by the Panel at its meeting on 26 April 2001, the Administration was requested to reconsider granting permanent earth burial at Gallant Garden to civil servants who died on duty to commemorate their contribution, to provide a clear definition on “exceptional act of bravery” and to use job risk as a key criterion for determining permanent earth burial at Gallant Garden (paragraph 33 of the minutes of the meeting). Mr WONG regretted to note that the Administration had not addressed the concerns expressed by the Panel and the staff associations over the past five years and only reiterated in the discussion paper for this meeting that it would continue to apply the present policy (LC Paper No. CB(1)1746/05-06(07)). In this connection, Mr WONG pointed out that the representative of the PFC Staff Side had expressed its view at the Panel meeting on 26 April 2001 that “in the absence of a clear definition of “exceptional act of bravery”, it would take time for the Administration to decide whether the deceased civil servant should be granted permanent earth burial. The lengthy process and discussions would cause anguish to the deceased’s family” (paragraph 31 of the minutes of the meeting). Mr WONG considered that the Administration should revise its policy and grant permanent earth burial at Gallant Garden to civil servants who died on duty irrespective of whether they died whilst performing an exceptional act of bravery in their final duties or not.

34. In response, SCS said that the Administration had examined the subject but considered that there were constraints in acceding to the staff side’s requests and that such constraints had been conveyed in writing to the Panel in May 2001, shortly after the Panel meeting held on 26 April 2001. She noted that according to the legal advice obtained from the Department of Justice (DoJ), to allow permanent earth burials in Gallant Garden for civil servants who died on duty but not the same in public cemeteries for non-civil servants who also died whilst on duty was likely to constitute discrimination within the meaning of HKBRO which incorporated the provisions of the International Covenant on Civil and Political Rights (ICCPR). Apart from legal considerations, the Administration had also taken into account the present policy which encouraged cremation instead of earth burial for land conservation purposes. The Government would not wish to act in breach of its own policy by designating a piece of land as a private cemetery for the permanent earth burial of civil servants who died on duty. For these reasons, the Administration considered that the present policy on earth burials at Gallant Garden had struck the right balance between all the relevant considerations, including giving due respect to civil servants who died on duty, drawing a distinction between civil servants who died on duty and those who died on duty whilst performing exceptional acts of bravery, recognizing the scarcity of land in Hong Kong, and complying with the law.

35. Quoting the comments made by Ms LI Fung-ying at the Panel meeting on 26 April 2001 (paragraph 28 of the minutes of the meeting), Mr WONG Kwok-hing shared Ms LI's view that the Administration's advice was self-contradictory. At that meeting, Ms LI had pointed out that "[w]hile the Administration stressed that civil servants and non-civil servants should be subject to the same treatment, it had set up Gallant Garden to commemorate the contribution of civil servants died on duty, but not non-civil servants". Mr WONG considered that it was also self-contradictory for the Administration to grant permanent earth burial at Gallant Garden to those civil servants who died whilst performing exceptional bravery acts in their final duties on the one hand, and stress its present policy of encouraging cremation instead of earth burial on the other. The Chairman and Mr KWONG Chi-kin expressed similar concerns.

36. SCS responded that, as a matter of principle, both civil servants and non-civil servants buried in public cemeteries were subject to the same six-year exhumation policy. However, the Administration considered it necessary to draw a distinction between civil servants who died on duty and those who died on duty whilst performing exceptional acts of bravery and make an exceptional arrangement for the latter. Therefore, the six-year exhumation policy was subject to the exception that on the request from family members of the deceased, permanent earth burial in Gallant Garden would be given to those civil servants who died whilst performing exceptional bravery acts in their final duties. To ensure even-handed treatment for both civil servants and non-civil servants, on request of family members of the deceased, permanent earth burial in public cemeteries would also be given to non-civil servants who had died whilst performing exceptional acts of bravery.

37. Given the grave concerns expressed by civil service staff associations and the controversy over how the term "exceptional act of bravery" should be defined, Mr WONG Kwok-hing urged the Administration to re-examine the issue and grant permanent earth burial to all civil servants who died on duty. He considered that civil servants who died on duty should deserve recognition from the Government and the community irrespective of whether they had died whilst performing an exceptional act of bravery in their final duties or not. Mr KWONG Chi-kin shared his view.

38. SCS reiterated that according to the legal advice obtained by the Administration, the permanent earth burial policy, if adopted, should apply to both civil servants and non-civil servants so that the latter would also be granted permanent earth burials at public cemeteries if they had died on duty. In view of the number of non-civil servants who died on duty, the demand for earth burial spaces for this group of people could be quite substantial and would put pressure on land supply for that purpose. In this connection, the Administration considered it appropriate to use "exceptional act of bravery" as the criterion to determine whether permanent earth burial should be granted. Responding to Mr WONG Kwok-hing's enquiry, SCS undertook to provide the information on the number of civil servants who had died on duty from 2001 to 2005 after the meeting.

39. Given that the purpose of permanent earth burial was to commemorate the contribution of civil servants who died on duty, Mr KWONG Chi-kin urged the Administration to consider how the concerns expressed by the staff side over the existing criterion for permanent earth burial could be addressed. As pointed out by the PFC Staff Side, it was difficult to meet the existing criterion as “exceptional act of bravery” referred to an act which was recognizable by the award of a bravery medal granted by CE on the recommendation of the Honours Committee. Mr KWONG considered that if the Administration was concerned that Gallant Garden was part of the Wo Hop Shek Public Cemetery and thus subject to the six-year exhumation policy, it might explore other options, such as designating another piece of land as a private cemetery for the permanent earth burial of disciplined services staff who died on duty having regard to the nature of their high risk job. Given the limited land resources in Hong Kong, the Chairman considered that it might be difficult for the Administration to identify another piece of land for the permanent earth burial of civil servants. He asked whether it would make any difference if Gallant Garden was not considered as part of the Wo Hop Shek Public Cemetery.

40. SCS advised that the Administration had already considered the alternatives mentioned by the Chairman and Mr KWONG Chi-kin. Given the limited land resources in Hong Kong, the Administration considered it necessary to maintain the six-year exhumation policy. If a piece of land was designated as a private cemetery for the permanent earth burial of civil servants who died on duty, it would give rise to the question of how large the land should be. Moreover, it might invite public queries on whether and why civil servants were given preferential treatment, and could give rise to other organizations’ request for land for permanent earth burial of their staff who died on duty.

41. Mr WONG Kwok-hing reiterated his concerns and requested the Administration to re-examine the issue. The Chairman invited the Administration to re-examine the issue of whether permanent earth burial at Gallant Garden (or at other burial grounds designated for the purpose) should be granted to all civil servants who died on duty so as to commemorate their contribution, taking into account the views of the staff side and the controversy over the current definition of “exceptional act of bravery”.

(Post-meeting note: The information provided by the Administration in response to members’ requests mentioned in paragraphs 38 and 41 above was issued to members vide LC Paper No. CB(1)1961/05-06(01) on 11 July 2006.)

VII. Any other business

42. There being no other business, the meeting ended at 12:35 pm.

Council Business Division 1
Legislative Council Secretariat
25 September 2006