

For discussion on  
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## **LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE**

### **Policy on earth burial at Gallant Garden**

#### **Purpose**

This paper presents, for Members' information, the policy on earth burial at Gallant Garden.

#### **Gallant Garden**

2. In support of a proposal by the Staff Sides to provide burial spaces for civil servants who died on duty, an area of approximately 1,600 sq. m. inside the Wo Hop Shek Public Cemetery, named "Gallant Garden", has been set aside for the earth burial of civil servants who died on duty since 1996. A civil servant is considered to have died on duty if he dies as a result of injuries received in the actual discharge of his duty; without his own serious and willful misconduct; and on account of circumstances attributable to the nature of his duty.

3. Gallant Garden has 110 earth burial spaces, 165 urn spaces and a columbarium consisting of 120 niches. As at May 2006, 25 earth burial spaces, 7 urn spaces and 11 niches have been taken up. In addition, to commemorate their contributions to Hong Kong, a memorial plaque has been erected inside Gallant Garden on which is inscribed the names of all civil servants that died on duty.

#### **The Six-Year Exhumation Policy**

4. To conserve land, earth burials in public cemeteries are subject to the six-year exhumation policy. As Gallant Garden forms part of the Wo Hop Shek Public Cemetery, the earth burials therein are also subject to this policy. So the remains of deceased civil servants buried in Gallant Garden

have to be exhumed after six years for re-interment in permanent urn spaces or in niches (after cremation) in Gallant Garden.

5. From time to time, we have received requests from the Staff Sides urging us to consider permanent earth burial (or an exhumation time limit longer than six years) for civil servants buried in Gallant Garden. We have explained to them that this is not feasible for legal considerations. We have been advised by the Department of Justice that 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 is likely to constitute discrimination within the meaning of the Hong Kong Bill of Rights Ordinance (HKBRO) which incorporates the provisions of the International Covenant on Civil and Political Rights (ICCPR). Article 26 of the ICCPR prohibits and protects against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Thus any differential treatment in respect of earth burials in public cemeteries on the basis of a deceased person's employment status whilst alive is likely to constitute discrimination and to offend Article 26 of the ICCPR. Article 39 of the Basic Law states that the provisions of the ICCPR shall remain in force in Hong Kong.

### **Exemption from the Six-Year Exhumation Policy**

6. On 12 September 2000, the Executive Council advised and the Chief Executive ordered that, on request from family members of the deceased, permanent earth burial in Gallant Garden should be given to those civil servants who died whilst performing exceptional bravery acts in their final duties. Similarly, also on request from family members of the deceased, permanent earth burial in public cemeteries should be given to non-civil servants who died whilst performing exceptional acts of bravery. As this arrangement ensures even-handed treatment for all persons – civil servants and non-civil servants – who died whilst on duty and performing acts of bravery, it is in compliance with the HKBRO and the ICCPR.

7. As to what constitutes an exceptional act of bravery, it is normally expected that the act should be recognisable by the award of a bravery medal granted by the Chief Executive on the recommendation of the Honours Committee.

## **Continuation of the Present Arrangement**

8. We consider the present policy on earth burials at Gallant Garden strikes 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. We will continue to apply this policy.

Civil Service Bureau  
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