

立法會
Legislative Council

LC Paper No. CB(1)2345/06-07
(These minutes have been seen
by the Administration)

Ref : CB1/PL/PS/1

Panel on Public Service

Minutes of meeting
held on Monday, 25 June 2007 at 8:30 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon Howard YOUNG, SBS, JP (Chairman)
Hon LI Fung-ying, BBS, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Kwok-hing, MH
Hon KWONG Chi-kin
- Member attending** : Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
- Member absent** : Hon James TO Kun-sun
- Public officers attending** : **Agenda item III**
Miss Denise YUE, GBS, JP
Secretary for the Civil Service

Mr Andrew H Y WONG, JP
Permanent Secretary for the Civil Service

Mr K S SO
Deputy Secretary for the Civil Service 2

Agenda item IV

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

Mr Andrew H Y WONG, JP
Permanent Secretary for the Civil Service

Miss Jennifer MAK
Deputy Secretary for the Civil Service 1

Agenda item V

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

Mr Andrew H Y WONG, JP
Permanent Secretary for the Civil Service

Ms Mimi LEE
Acting Deputy Secretary for the Civil Service 3

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (1)4

Staff in attendance : Mr Noel SUNG
Senior Council Secretary (1)4

Ms Christina SHIU
Legislative Assistant (1)7

Action

I Confirmation of minutes of meeting
(LC Paper No. CB(1)1916/06-07 -- Minutes of meeting on 21 May 2007)

The minutes of the meeting held on 21 May 2007 were confirmed.

II Information paper issued since last meeting

2. Members noted that no information paper had been issued since last meeting.

III 2007-2008 Civil Service Pay Adjustment

(File Ref : CSBCR/PG/4-085-001/54 — Legislative Council Brief

File Ref : CSBCR/PG/4-085-001/54 — Legislative Council Brief)

Briefing by the Administration

3. The Secretary for the Civil Service (SCS) briefed members on the proposal for the 2007-2008 civil service pay adjustment by highlighting the salient points in the paper.

Discussion

2006 Starting Salaries Survey

4. While supporting the proposed civil service pay adjustment, Mr WONG Kwok-hing was concerned that as a result of the 2006 Starting Salaries Survey, new appointees to the civil service would be given a higher starting salary whereas civil servants who had joined the civil service for five years or more (i.e. after 1 April 2000) were awarded an increase of a maximum of one incremental salary point only despite their longer years of service. Mr WONG regretted that the normal conversion arrangement adopted by the Administration had led to unrest among the affected officers.

5. Ir Dr Raymond HO was concerned that the morale of civil servants who had joined the civil service after 1 April 2000 had been adversely affected by the implementation of the 2006 Starting Salaries Survey findings as new appointees would receive a salary just slightly lower than those officers who had worked in the civil service for five years or more. Ir Dr HO remarked that consideration should also be given to lifting the recruitment freeze on the civil service grades under the Voluntary Retirement Scheme (Phase II) (VR II) in view of the strained manpower situation in the relevant grades.

6. SCS responded that the normal conversion arrangement, which was endorsed by the Standing Commission on Civil Service Salaries and Conditions of Service, ensured that the salaries of serving civil servants would not be lower than those of new appointees under normal circumstances. Under the arrangement, if civil service starting salaries had to be adjusted downward as a result of future Starting Salary Surveys, the salaries of serving civil servants would not be affected. Given the protection against downward adjustments arising from a starting salaries survey, it would go against the principle of even-handedness in treatment if full conversion was given to serving civil servants in the event of upward adjustments in starting salaries. The normal conversion arrangement struck a balance between the need for consistency and even-handedness in treatment for both upward and downward revision in starting salaries on the one hand, and the need for ensuring that serving civil servants would not be paid less than new recruits on the other. As regards the recruitment freeze for the VR II grades, SCS said that the relevant departments would be allowed to undertake the preparatory recruitment

work so that appointments could be offered immediately upon the expiry of the freeze period in March 2008.

Non-civil service contract (NCSC) staff

7. Mr WONG Kwok-hing and Ms LI Fung-ying were concerned that the proposed 2007-2008 civil service pay adjustment would not cover NCSC staff. They pointed out that NCSC staff had contributed to the work of the civil service and performed the same duties as those of civil servants, while they earned a lower salary and did not enjoy the welfare benefits of civil servants.

8. SCS responded that the civil service and NCSC appointments were two distinct types of employment. For example, when the civil service pay was adjusted downward in 2002, the heads of bureaux/departments/offices (hereafter referred to as HoDs) were allowed to determine whether NCSC staff salaries should be adjusted downward accordingly, having regard to the recruitment and market situation, etc. In the 2002 exercise, some HoDs had not adjusted downward their NCSC staff's salaries.

9. While welcoming the proposed pay adjustment for the civil service, Mr LEE Cheuk-yan, Ms LI Fung-ying and Mr KWONG Chi-kin raised the concern that HoDs were put in a difficult position as they would not be allocated with any additional funding even if they wished to adjust their NCSC staff's salaries in line with the pay adjustment for civil servants. They opined that such an arrangement was unfair to HoDs and NCSC staff. They pointed out that the morale of NCSC staff was important to ensure that efficient and quality services were provided to the public.

10. SCS further explained that HoDs were given the flexibility in determining the pay package for NCSC staff, having regard to the situation of the employment market, recruitment and staff retention needs, management and operation considerations of the department, the pay levels in the market for similar jobs and the pay offered to civil servants of comparable level of responsibilities. In the past, when civil service pay was adjusted upward, there were cases where HoDs awarded a higher increase of salaries to their NCSC staff. When civil service pay was frozen in 2006, 43% of the NCSC staff in the Social Welfare Department received a pay increase ranging from 6.4% to 11%. In the same year, one fifth of the NCSC staff in the Education and Manpower Bureau received a pay increase ranging from 2.93% to 2.96% whereas about 7% of the NCSC staff in the Food and Environmental Hygiene Department received a pay increase of 10.7%. All such examples showed that the pay adjustment systems for the civil service and NCSC staff were completely different. HoDs were given full discretion to implement their service programmes based on the financial provisions in the fiscal envelopes, including the expenditure on the salary payments for NCSC staff. Past experience also showed that HoDs should not have severe difficulty in meeting the expenditure arising from pay adjustments for NCSC staff. For instance, departments which employed a large number of NCSC staff like the Social Welfare Department, the Leisure and Cultural Services Department and the Food and Environmental Hygiene Department underspent by about \$158 million, \$29 million and \$116 million

respectively in 2006-2007. Additional provisions were given to individual departments for civil service pay adjustment, but not NCSC pay adjustments. This was because HoDs had no control over the former which was determined by the Chief Executive-in-Council; while NCSC pay adjustments fell within the discretion of HoDs, and the adjustment rates were determined by the HoD concerned.

Admin

11. Mr LEE Cheuk-yan requested that the Administration should provide information regarding the full details, in the form of a table, of the pay adjustments for NCSC staff in all Government bureaux/departments/offices during the various occasions of civil service pay adjustments since 1999 when the system of NCSC staff was introduced.

Pay adjustment for subvented sector staff

12. Mr CHEUNG Man-kwong, Ms LI Fung-ying and Mr KWONG Chi-kin were concerned that in adjusting the funding for subvented organizations to cater for staff pay adjustment, the Government did not require the subvented organizations to use the additional funding exclusively for staff pay adjustment. They were worried that some subvented organizations might use the subvention earmarked for staff pay adjustment for other purposes. They requested that the Government should lay down guidelines and require the organizations to use the additional subvention solely for staff pay adjustment and make public their arrangements for staff pay adjustment, especially in view of the mounting dissatisfaction among staff in the subvented sector that their salaries were lower than their counterparts in the civil service.

13. SCS responded that apart from the teachers and some non-teaching staff in aided schools, the salary structures of staff in the subvented organizations had been delinked from the civil service pay scales. Their pay scales and terms of employment were matters between the organizations as employers and their employees. The annual subventions allocated to the subvented organizations were made on a lump sum basis and the Government was not in a position to intervene in the management and personnel matters of the organizations. However, since the organizations were non-profit making bodies providing services to the public, they should value the contribution of their employees and make appropriate pay adjustments to their staff upon receipt of the additional funding.

Performance related pay adjustment

14. Mrs Sophie LEUNG remarked that since the pay adjustment for NCSC staff would take into account the market situation, pay adjustment for the civil service should follow the trend in the private sector so that the pay levels for individual staff should be set in relation to their performance. To this end, consideration should be given to reviewing the existing pay adjustment system for the civil service.

15. SCS responded that civil servants were appointed on a permanent basis whereas NCSC staff were recruited to meet short-term service needs. Hence, the pay systems for

civil servants and NCSC staff were completely different. While there was a need to maintain the stability of the civil service, over the years the Civil Service Bureau (CSB) had continuously implemented measures to improve the management of the civil service.

Salary review for the judiciary

Admin 16. Ms Margaret NG enquired about the progress of the salary review for the judiciary and requested that the Administration should provide a report on the progress of the review.

17. SCS responded that the Director of Administration would be invited to provide the relevant information to the Panel.

Lower salary band civil servants

18. Mr KWONG Chi-kin welcomed the arrangement that where the net Pay Trend Indicators for the lower salary band officers was below that of the middle salary band, the pay adjustment for the lower salary band would be brought up to the same level as the middle salary band. He opined that the same arrangement should be adopted in future in order to maintain the morale of the lower salary band officers.

IV Acting appointments in the civil service

(LC Paper No. CB(1)1915/06-07(01) — Information paper provided by the Administration

LC Paper No. CB(1)1756/06-07(01) — Letter received from Hong Kong Chinese Civil Servants' Association, Social Work Officer Grade Branch)

19. Since the Administration had provided the paper later than the agreed deadline, the Chairman consulted members as to whether they would agree to discuss the item. Members agreed to discuss the paper.

Briefing by the Administration

20. SCS briefed members on the acting appointments arrangements in the civil service, by highlighting the salient points in the paper.

Guiding principles for acting appointments

21. Ms LI Fung-ying pointed out that many civil servants had been acting in a post for more than two years, and in making some of these protracted acting appointments, the relevant civil service guidelines had not been properly followed. She opined that acting appointments for a protracted long period were unfair to the officers concerned. In fact, Members had received complaints from civil service staff associations and individual officers regarding the problems associated with long-term acting

appointments. Ms LI was of the view that HoDs should be requested to review the existing acting appointment arrangements in their bureaux/departments/offices so as to ensure that the acting appointments were made in compliance with the civil service guidelines.

22. SCS responded that the HoDs would be reminded to comply with the laid down procedures in making and reviewing acting appointments.

23. Mr KWONG Chi-kin remarked that based on SCS's written reply to a question raised at a Legislative Council meeting in May 2007, in the past three years there were around 700 to 900 officers who had acted continuously for more than two years. Such an arrangement had contravened the guidelines that acting appointments should only be made if there were insufficient suitable officers ready for substantive promotion or the officers' ability should be tested before substantive appointment. Mr KWONG opined that if an officer had acted in a post for two years, his ability should have been tested and the officer should either be promoted or removed from the acting post. Mr KWONG pointed out that as all acting appointments exceeding six months would have to be reported to the Public Service Commission, many bureaux/departments/offices selected two or more officers to take turn in acting in a post. This arrangement would adversely affect the operation and efficiency of the offices as the same officers would take turn to be the supervisor and subordinate in the office. Based on the Public Service Commission's report in 2006, out of the 2 008 promotion-related appointment cases, more than 1 700 acting appointments were made on the basis of administrative convenience; and many acting appointments were made without going through a selection process.

24. SCS replied that in response to the Public Service Commission's comments and civil service staff associations' representations, CSB had taken steps to improve the acting appointment arrangements.

25. The Chairman remarked that the Administration should provide a progress update on its actions to rectify improper practices or problems in relation to acting appointments in the civil service.

Admin

Complaint from staff association

26. Mr KWONG Chi-kin said that he had received a complaint from a staff association of the Leisure and Cultural Services Department pointing out that the acting arrangements in the department were unfair to the staff resulting in adverse impact on the staff's family life and self development studies. Mr KWONG requested that the Administration should investigate into the complaint.

Admin

27. SCS undertook to provide a written response on the case.

Acting allowance

28. The Chairman enquired about the payment for officers on acting appointment. SCS responded that since 2000, an officer acting in a post for less than 30 days would not receive any acting allowance. Since 2004, an officer who had acted for more than 30 days but less than 180 days would receive an allowance equivalent to 90% of the difference between the minimum salary of the acting post and the officer's substantive salary.

29. The Chairman pointed out that in the private sector, a staff member acting in a higher rank post would not receive any additional allowance as it was an opportunity for the staff to prove his ability to work in a higher rank.

V Updated overview of civil service conduct and discipline

(LC Paper No. CB(1)1915/06-07(02) — Information paper provided by the Administration)

30. Noting from the Administration's paper that in the past seven years, 195 officers had been required to retire compulsorily but only two officers were penalized by reduction in rank, Mr KWONG Chi-kin was concerned that bureaux and departments were inclined to award a heavier penalty of compulsory retirement and seldom considered the penalty of reduction in rank in handling disciplinary cases. He said that he had received quite a number of complaints from officers who had been required to retire compulsorily and observed that in some cases, the misconduct involved was not so serious as to deserve compulsory retirement. He opined that the Administration should review the situation and consider adding a level of penalty between compulsory retirement and reduction in rank (e.g. reduction in rank plus financial penalty, or suspension from work for a period of, say, three months), as officers being forced to retire prematurely might suffer from loss of income permanently. Mr KWONG further suggested that consideration should be given to allowing officers who retired compulsorily to receive his pension payment immediately upon compulsory retirement so that the officer could maintain his living.

31. SCS responded that in handling disciplinary cases, CSB would determine the penalties based on the gravity of the misconduct involved, penalties for similar cases in the past, and the circumstances of individual cases.

32. Ms LI Fung-ying shared the view that there was a need to review the penalty system to ensure that an appropriate level of penalty would be imposed in each case. She also requested that the procedures for disciplinary hearings should be further streamlined in order to shorten the time of the hearings and alleviate the level of anxiety on the part of the officers concerned.

33. The Permanent Secretary for the Civil Service (PSCS) responded that in delivering their service to the public, civil servants were expected to uphold a high

standard of integrity, and misconduct would be subject to disciplinary actions. The level of punishment would be determined based on the nature and gravity of the misdemeanor. CSB had set up a special secretariat in 2000 to centrally process disciplinary cases and provide support for disciplinary hearings. Sufficient time would be given to the officers concerned to prepare their representations in responding to the charges and defend their cases. In general, the time for completing a disciplinary case requiring an inquiry hearing ranged from three to nine months.

Disciplinary procedures

34. Mr TAM Yiu-chung asked whether an officer facing disciplinary action would be given the information relating to the charges, including any relevant letters of complaint, and whether he would bear the burden of proving his innocence. Mr TAM also enquired whether, where appropriate, a disciplinary case might be referred to the Police or Independent Commission Against Corruption (ICAC) for investigation.

35. PSCS responded that in a case of alleged misconduct, legal advice would be sought prior to the ordering of an inquiry hearing. Before the commencement of an inquiry hearing, the officer concerned would be given all relevant information relating to his alleged misconduct so that he could defend himself. It was the duty of the departmental management to substantiate the alleged misconduct with evidence. If a misconduct case involved criminal or corruption elements, the bureau or department concerned must report the case to the Police or the ICAC for follow up action.

36. The Chairman enquired about the arrangement for payment of contributions to the provident fund to civil servants who had been dismissed for misconduct.

37. PSCS responded that CSB was considering the appropriate arrangements for the payment of contributions to the civil service provident fund of a staff who had been dismissed as a result of misconduct.

Legal representation at disciplinary hearings

38. Ms Margaret NG and Mr KWONG Chi-kin were concerned that an officer facing a disciplinary hearing was not allowed to be legally represented at the hearing even though he might be subject to dismissal and loss of his pension. Ms NG opined that such an arrangement might have contravened the principle of natural justice.

39. PSCS explained that disciplinary hearings were not judicial hearings, and were hearings between the employer and the employee on alleged misconduct cases. It was therefore not considered necessary to involve legal representation on both sides at such hearings. The existing disciplinary procedures had fully taken into account the need for maintaining fairness and natural justice, and the relevant procedures had been streamlined to shorten the period of the hearings. An officer who felt aggrieved with the penalty imposed on him might seek redress through an appeal to the Chief Executive or judicial review.

Determination of penalty

40. Mr KWONG Chi-kin queried the advisability of requesting the department concerned to recommend the level of penalty as a civil servant who had offended his supervisors might be given a heavier penalty than what he deserved. He cited an actual case as illustration in this regard. SCS responded that she would not comment on individual cases. But she had personally attended to the case cited by Mr KWONG and could confirm that CSB had determined the penalty after thorough consideration of the circumstances of the case.

41. Ms Margaret NG was concerned that the level of penalty imposed on high ranking officers and low level staff committing the same offence might vary. PSCS responded that the Government expected more from high ranking officers who should lead by personal example. If the same offence was committed by a higher ranking officer and a junior ranking officer, the former would be subject to a heavier penalty than the latter. In determining the penalties, consideration would be made to the gravity of the misconduct, the penalties imposed in similar cases for similar ranks of officers in the past and any mitigation factors of the case concerned.

Disciplinary cases involving criminal offences

42. Ms Margaret NG was concerned that some civil servants, especially those in the lower ranks, were worried that they might be dismissed over a relatively minor criminal offence and lose their pension after serving the civil service for many years. She opined that a review of the guidelines for imposing punishment on civil servants who were convicted of a criminal offence should be conducted.

43. PSCS responded that an officer who had committed a relatively minor criminal offence would not be automatically liable to dismissal, and the level of punishment for disciplinary cases involving criminal offences would be considered having regard to the nature and gravity of the offence. Where appropriate, the views of the Public Service Commission would be sought before determination of the punishment.

44. Ms Margaret NG requested the Administration to provide the following information –

- (a) the guidelines for imposing punishment on civil servants who were convicted of a criminal offence; and
- (b) in respect of disciplinary actions taken on account of criminal convictions, the breakdowns of dismissal cases and compulsory retirement cases by rank of the concerned civil servants in the years from 2000-2001 to 2006-2007.

VI Any other business

45. There being no other business, the meeting ended at 10:45 am.

Council Business Division 1
Legislative Council Secretariat
12 September 2007