

立法會
Legislative Council

LC Paper No. CB(1)1827/07-08
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by the Administration)

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Panel on Public Service

**Minutes of meeting held on
Monday, 19 May 2008, at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon LI Fung-ying, BBS, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon TAM Yiu-chung, GBS, JP
Hon WONG Kwok-hing, MH
Hon KWONG Chi-kin
- Members attending** : Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Kwok-hung
- Members absent** : Hon Howard YOUNG, SBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
- Public officers attending** : **Agenda item IV**

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

Mr K S SO, JP
Deputy Secretary for the Civil Service 2

Mr Frankie LUI
Principal Assistant Secretary for the Civil Service
(Housing & Establishment)

Agenda item V

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

Mr K S SO, JP
Deputy Secretary for the Civil Service 2

Ms Maggie WONG
Principal Assistant Secretary for the Civil Service
(Conditions of Service)

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

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

Miss Winnie CHENG
Legislative Assistant (1)5

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In the absence of the Chairman, the Deputy Chairman chaired the meeting.

I Confirmation of minutes of meeting

(LC Paper No. CB(1)1499/07-08 — Minutes of meeting on 21 April 2008)

2. The minutes of the meeting held on 21 April 2008 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)1115/07-08(01) — Letter from the HKSAR Government Civil Engineers Association dated 13 March 2008 concerning the employment prospects for non-civil service contract Assistant Engineers/Engineers (Restricted to members) (English version only)

LC Paper No. CB(1)1115/07-08(02) — Reply from the Secretary for the Civil Service (Restricted to members) (English version only)

LC Paper No. CB(1)1108/07-08(01) - E-mail messages from a Mr Thomas

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- and (02) Wai-lung WONG dated 27 February 2008 and 28 April 2008 concerning dissemination of MPF information in the civil service (Restricted to members) (English version only)
- LC Paper No. CB(1)1108/07-08(03) - Replies from the Secretary for the and (04) Civil Service dated 25 April 2008 and 7 May 2008 (Restricted to members) (English version only))

3. Members noted the information papers issued since last meeting.
4. Mr LEE Cheuk-yan referred to a letter from the Union of Government Amenities Assistants dated 4 March 2008 expressing concern about the widened scope of responsibilities of the Amenities Assistants in the Leisure and Cultural Services Department as a result of the merger of the Amenities Officer and Recreation and Sport Officer grades in 2001. Mr LEE suggested and members agreed that the Administration should be requested to provide a written response, which would be circulated with the Union's letter to members.

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III Items for discussion at the next meeting scheduled for 16 June 2008

(LC Paper No. CB(1)1476/07-08(01) — List of outstanding items for discussion)

5. Members agreed that the following items should be discussed at the Panel meeting scheduled for 16 June 2008 –
- (a) Civil Service Code; and
 - (b) 2008 civil service pay adjustment.

IV Prevention of double benefits in the civil service

(LC Paper No. CB(1)1476/07-08(02) — Administration's paper on prevention of double benefits in the civil service)

6. The Secretary for the Civil Service (SCS) briefed members on the Government's policy on the prevention of double benefits in the civil service and its implementation, by highlighting the salient points in the paper.
7. Mr WONG Kwok-hing enquired about the number and nature of cases from 1981 to 2000 in which civil servants had breached the "no double benefits rule", the

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amounts involved and the outcomes of investigation. Mr WONG further asked about the preventive measures taken to enforce the "no double benefits rule".

8. SCS replied that there were few cases of civil servants breaching the "no double benefits rule". Although information relating to cases since 1981 was not available, she said that in the past three years, i.e. from 2005 to 2007, there were 62 cases involving civil servants breaching the "no double benefits rule" relating to housing benefits. The majority of the 62 cases (about 70%) involved a "technical breach" of the "no double benefits rule", whereby the spouses of the concerned civil servants had not relinquished their public housing beneficiary status in time. In 13 cases, the spouses of the concerned civil servants were found to be receiving housing benefits from their employers. In three cases, it was revealed that the concerned civil servants or their spouses had already forfeited their eligibility for all other forms of housing benefits from the Government upon taking up certain specified housing benefits. Actions on all 62 cases had been completed. SCS undertook to provide a paper giving details of the cases, including the amount involved in these cases. SCS added that with regard to education and passage allowances, there were no cases involving a breach of the "no double benefits rule" during the past three years. SCS explained that upon receipt of an application for housing benefits, the approving authority such as the Treasury would check whether the spouse of the concerned civil servant had already received or was receiving some form of housing benefits from his/her employer. After an application for certain forms of housing benefit was approved, the approving authority would also conduct random surprise night checks to ensure compliance by the applicant of the "live-in" requirement.

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9. Mr LEE Cheuk-yan opined that the "no double benefits rule" should not be applied to a spouse of a civil servant who worked in the private sector, as the spouse's housing allowance was not paid out of public money. Mr LEE pointed out that since the introduction of the Mandatory Provident Fund (MPF) Scheme, many employers in the private sector had segregated a portion of the employees' salaries and turned it into a so called "housing allowance", in order to circumvent the payment of MPF. Under such circumstances, a civil servant's spouse who worked in the private sector might have to sacrifice a portion of his/her salaries in order to enable the civil servant to apply for civil service housing benefits. Mr LEE pointed out that although the MPF Ordinance had been amended to plug the loophole, such a malpractice still existed. Mr LEE asked whether in vetting applications for housing allowances, the Government would distinguish cases of spouses of civil servants receiving a fabricated "housing allowance" and exempt these civil servants from the "no double benefits rule". Mr LEE was of the view that the best arrangement was to delink the housing allowances from the marital status of the civil servants. Mr LEE further pointed out that under the existing arrangements, the spouse of a disciplined service officer had to relinquish his/her resident's status in public housing before the civil servant could apply for a married officer's quarter. Mr LEE considered that such a requirement was unreasonable and asked whether the Government would review the relevant quarter allocation policy.

10. SCS responded that the housing, education and passage allowances were

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granted to civil servants for specific purposes. Given that a family should live in one residence, it was not justifiable to grant housing benefits to a civil servant if his/her spouse was already receiving a form of housing benefit from his/her employer. Under the existing policy, a civil servant might opt either to take advantage of the benefits under his/her own terms of employment or those of his/her spouse. The option could be changed at any time if the officer and his/her spouse so wished. The Government bureaux/departments dealing with housing benefit applications were not in a position to distinguish whether the housing allowance granted by a private sector employer to the spouse of a civil servant was fabricated or not. Where necessary, clarification would be sought, on an individual case basis, from the employer concerned as to whether the allowance granted to the spouse of a civil servant was related to housing benefits. On the provision of departmental quarters to disciplined services married officers, SCS said that the officers concerned were still eligible for civil service housing benefits provided that they relinquished their quarters upon receipt of specified forms of housing benefits. SCS undertook to provide the Panel with detailed information regarding the enforcement of the "no double benefits rule" in the allocation of departmental quarters for disciplined services married officers.

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11. Mr LEE Cheuk-yan opined that if the spouse of a civil servant working in the private sector received a salary well below the normal market rate and yet was granted a housing allowance, the Government should consider whether the spouse's housing allowance should be taken into account when the civil servant applied for a civil service housing allowance. Mr LEE expressed concern about the loss of individual rights and privileges of the couples under the existing "no double benefits rule" relating to civil service fringe benefits. Mr LEE pointed out that a spouse of a civil servant granted with a civil service housing allowance would lose his/her own housing benefits, and if the couple divorced, the spouse could not claim back his/her housing allowance. Mr LEE was of the view that if the spouse of a civil servant worked in the private sector and received a housing allowance, this should not affect the civil servant's right for receiving housing benefits.

12. SCS reiterated that civil service housing benefits were provided for a specific purpose and if the housing needs of a civil servant had already been met, either through a benefit provided by the Government or by a private sector employer through his/her spouse's employment, the civil servant should not be granted another housing benefit. To be fair to all civil servants, the "no double benefits rule" should be applied across the board in the civil service. Since the "no double benefits rule" had been clearly spelt out in the terms and conditions of service for civil servants joining the civil service between 1981 and 1 June 2000, the civil servants concerned had to abide by the rule. To address the concern of the rights and privileges of individuals and to keep abreast of time, the policy on the granting of housing and leave passage benefits had been modified to delink the benefits from the marital status of individual officers who were offered appointment with effect from 1 June 2000. The new housing and leave passage fringe benefits were formulated on the basis of a "total remuneration" approach in line with private sector practice. Without the linkage to the marital status of the civil servant, the rules on the prevention of double benefits were no longer fully applicable. SCS

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reiterated that the relevant government bureaux/departments were not in a position to check and determine whether the housing benefit granted by a private sector employer to the spouse of a civil servant was fabricated or not.

13. Mr LEE Cheuk-yan queried whether the existing civil service housing benefits policy had contravened the Family Status Discrimination Ordinance as there were different treatments for single and married officers.

14. SCS responded that the "no double benefits rule" was exempted from the Family Status Discrimination Ordinance. SCS said that CSB would check the advice given by the Department of Justice regarding the application of the Family Status Discrimination Ordinance to the "no double benefits rule" in granting civil service fringe benefits.

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15. Mr LEE Cheuk-yan opined that even if the "no double benefits rule" was exempted from the Family Status Discrimination Ordinance, the Government policies relating to granting of fringe benefits should comply with the spirit of the Ordinance as the spouse of a civil servant granted with a civil service housing allowance might never recover his/her entitled housing allowances from his/her employer when the couple divorced.

16. SCS responded that the conditions for the granting of civil service fringe benefits to single officers, married officers, and married officers with children appointed before 1 June 2000 were different; and in order to comply with the spirit of the contracts, the terms and conditions of employment for these officers would not be changed. However, since 1 June 2000, the granting of civil service housing and leave passage benefits had been delinked with the marital status of the officers concerned.

V Medical benefits for serving civil servants, retired civil servants and eligible dependants

(LC Paper No. CB(1)1476/07-08(03) — Administration's paper on medical benefits for serving civil servants, retired civil servants and eligible dependants)

17. SCS briefed members on the medical benefits provided to serving civil servants, retired civil servants and eligible dependants, by highlighting the salient points in the paper.

18. Mr WONG Kwok-hing enquired about the number of civil servants appointed on or after 1 June 2000, and the reasons for the difference in medical benefits for civil servants appointed before and after 1 June 2000. Mr WONG pointed out that many civil servants and their eligible dependants, especially those suffering from chronic diseases, were facing difficulties in bearing high medical expenses for drugs classified as patient

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self-financed items by Hospital Authority (HA) in its Drug Formulary. Mr WONG asked whether there were any measures/mechanism to assist them.

19. SCS replied that about 12 800 civil servants were appointed on or after 1 June 2000. In response to demands from the public and Legislative Council in the latter half of the 1990's, a series of reforms were carried out in the civil service during the turn of the century. These reforms included revision of the terms and conditions of service for civil servants. In this connection, civil servants appointed on or after 1 June 2000 were not eligible for local education allowance for their children, nor pension and medical benefits for themselves and their eligible dependants after leaving the civil service. SCS stressed that in order to keep abreast of time, the terms and conditions of employment for civil servants had been revised from time to time over the years, and civil servants joining the civil service at different periods might be employed on different terms and conditions. These changes would not lead to division among the civil servants. With regard to the introduction of HA's Drug Formulary, the Government had closely liaised with HA to remove any ambiguities about the role and responsibilities of the Government as the employer of civil servants. HA was advised that civil service eligible persons (i.e. civil servants/pensioners and their eligible dependants, and other eligible persons) might apply to the Government for re-imburement of expenses for drugs/equipment/services which formed an essential part of the medical treatment as prescribed and certified by the attending HA doctors on medical grounds but were not available in HA's hospitals or clinics or were chargeable by HA. If a civil service eligible person had any queries about the drugs/equipment/services prescribed by the HA attending doctors, he might request the attending doctors to re-consider whether the drugs/equipment/services were necessary to his medical conditions. Manpower resources in the Department of Health (DoH) had also been enhanced in the past two years to deal with the re-imburement applications, and currently cases involving large amount of payments could be settled within four to six weeks. Arrangements had also been made to enable the Government to directly pay to HA for certain drugs/equipment/services required by civil service eligible persons, without requiring the latter to make any upfront payment. At present, about one-third of the total re-imburement claims could be settled through direct payment. HA needed time to examine and modify its computer systems at all its service outlets and efforts were being made to facilitate the early implementation of an overall direct payment system. SCS pointed out that through the various improvement measures implemented in the last year or so, there had recently been few complaints from civil service eligible persons relating to the payment of drugs/equipment/services in seeking medical treatments from HA.

20. Mr KWONG Chi-kin remarked that he had received complaints from civil service eligible persons about HA doctors not understanding the civil service medical benefits re-imburement policy, and refusing to certify certain drugs/equipment/services as an essential part of medical treatment. Mr KWONG enquired about the time-table for setting up the comprehensive computerized civil service medical benefits direct payment system.

21. SCS responded that in order to put in place the direct payment system, both

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the Government and HA had to accord priority to setting up the computerized direct payment system and HA, in particular, would need to look into how the proposed system could best be established within HA, which would need to interface with its various internal systems and be connected with all its service outlets. SCS undertook to report the progress, within the current legislative session, on setting up the computerized direct payment system.

22. Mr LEUNG Kwok-hung opined that when HA introduced the Drug Formulary, consideration should have been given to introducing appropriate measures to address the direct payment requirements from the Government for civil service eligible persons receiving medical treatments.

23. SCS responded that the civil service reform measures implemented in 2000 were unrelated to the Drug formulary which was introduced by HA in 2005. Since the introduction of the Drug Formulary, the Government had closely liaised with HA to explain the prevailing policy and to refine the re-imburement procedures to facilitate civil service eligible persons accessing necessary medical items. The revised re-imburement procedures were promulgated for implementation in July 2006. Complaints from civil service eligible persons relating to medical re-imburement had greatly reduced since the implementation of the revised procedures.

24. Mr LEE Cheuk-yan enquired whether the Government would review the civil service medical benefits policy as it was unreasonable not to provide medical benefits to the civil servants who were appointed on or after 1 June 2000 after their retirement. The number of these civil servants would continue to grow, and they would have already worked in the civil service for many years when they retired. Mr LEE also enquired about the reasons for consulting the civil service central consultative councils regarding the reform on the public healthcare system, e.g. the possibility of replacing the civil service medical benefits schemes with a mandatory medical insurance system.

25. SCS responded that there was no plan to review the medical benefits arrangements for civil servants appointed on or after 1 June 2000. The civil service central consultative councils were consulted on the proposed reform of the public healthcare system as a general consultation exercise, and without any specific proposals.

26. The Chairman noted that paragraph 11 of the paper stated that "the outcome of this consultation may impact on the provision of civil service medical benefits", and "we (the Government) will take into account the views of the staff sides and the outcome of the public consultation exercise in our further consideration of what changes (if any) should be made to the provision of civil service medical benefits". She asked whether there was any plan to revise the civil service medical benefit schemes in the consultation with the central consultative councils on the proposed reform of the public healthcare system.

27. SCS responded that the Government, as an employer, had a contractual obligation to provide civil service medical benefits to civil service eligible persons,

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through DoH and HA. As HA was one of the principal medical service providers, any change in the mode of delivery of service by HA might have an impact on the provision of civil service medical benefits. The Government had thus invited the staff sides of the central consultative councils to examine the issues raised in the public consultation document, having regard to the provision of civil service medical benefits to civil service eligible persons, and to advise the Government of their views. At this stage, the Government had no pre-conceived proposal on whether (and how) the provision of civil service medical benefits should be changed.

VI Any Other Business

28. There being no other business, the meeting ended at 12:15 pm.

Council Business Division 1
Legislative Council Secretariat
13 June 2008