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**POLICE FORCE COUNCIL
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來件編號 YOUR REF:

13th October 2009

The Honourable Members
Legislative Council Bills Committee

Dear Sir / Madam,

2009 Public Officers Pay Adjustment Bill

We write to thank you for your invitation to send a delegation to the meeting of your committee on 17th October 2009. We have confirmed that eight delegates will attend the meeting.

We would like to formally register our appreciation for the time taken by members to read through the proposed bill and for the questions raised with the administration during the meeting on 6th October. We attach a document submitted to the Public Service Panel in July 2009 to explain fully our concerns. This is a lengthy document but our specific response to the queries raised on 6th October can be found in a second, much briefer, paper. We would be grateful if you could find time to review the second paper in particular.

We look forward to further discussion on this issue and stand ready to meet with individual members or the panel as a whole at your convenience.

Yours faithfully,

SHAM Wai-kin
Chairman
SPA

LIU Kit-ming
Chairman
HKPIA

David WILLIAMS
Chairman
OIA

CHUNG Kam-wa
Chairman
JPOA

.Encl

LEGISLATIVE COUNCIL
Public Service Panel Meeting 7th July 2009
2008 and 2009 Pay Trend Surveys

Please note that our submissions made on 15th, 19th and 22nd June remain valid and, where they relate to the conduct of the 2008 and 2009 Pay Trend Surveys (PTS) should be read in conjunction with this paper.

2. From the outset, the PFC SS stress that at all times we have sought to resolve issues by way of the established mechanism. The PFC SS has not entered, nor does it wish to enter, into any “deal” with the Administration that would circumvent the established mechanisms.

3. We find allegations of such “deal”, made both in the media and by people who should know better, deeply disturbing. We do, however, note that the South China Morning Post reported on 8th June 2009 that Professor James Sung of City University believed that there was no chance of the 2009 PTS not being validated because the Government was “lobbying behind the scenes”. This is perhaps something for the panel to take up directly with the Administration.

4. The PFC SS seeks fair, open and reasonable application of the established pay adjustment mechanisms. Our analysis has shown that the conduct of the 2008 PTS was not open and transparent, leading to doubts about the application of the mechanism in 2008. More importantly, this has led in the 2009 PTS to a complete circumvention of the established mechanism, and to the inclusion and validation of tainted results, also contrary to the mechanism.

The Pay Trend Survey Committee (PTSC)

5. The PTSC was established in 1983 and comprises a secretariat (1 member), independent lay members from the business and professional sectors (3 members), as well as Government (2 members) and staff side representatives (10 members). It oversees the conduct of the annual PTS. The fieldwork of the PTS is undertaken by the Pay Survey and Research Unit (PSRU) of the Joint

Secretariat for the Advisory Bodies on Civil Service and Judicial Salaries and Conditions of Service (“the Secretariat”).

6. The terms of reference of the PTSC are straightforward, with emphasis added by PFC SS: -

- (a) To commission the annual pay trend survey;
- (b) To analyse the results of the survey and to ensure that the agreed criteria for the interpretation of the data collected have been *properly applied*;
- (c) To *agree* the pay trend information resulting from the survey; and
- (d) To advise the Standing Commission on Civil Service Salaries and Conditions of Service on matters relating to pay trend survey methodology.

7. It is important to note two points:

- (A). There is **NO** provision for the PTSC to validate the PTS results by a “majority” decision. Since its inception in 1983 the PTSC has always validated the PTS by **UNANIMOUS** decision; and
- (B). The Survey Field is **ALWAYS** endorsed by unanimous agreement of **ALL** members at a committee meeting **OR** by way of **ALL** members signing reply slips in the absence of a formal meeting.

8. In validating the 2009 PTS contrary to 7(A) and (B) above, the PTSC has deviated from the established mechanism, even without reference to other problems arising from the inclusion of company L080 in the 2009 PTS, contrary to the established and agreed methodology, as discussed below. Because of “guidelines” agreed in 1999, the PTSC members cannot reveal the identity of company L080 but there are NO restrictions on providing suitably sanitised correspondence, material and data from that company as long as the identity is kept confidential.

9. The PFC SS urges members of the panel to require production and inspection of such material, in respect of the company L080 and its involvement in the 2008 and 2009 PTS. The material is held by the PSRU and

has already been “selectively” shown to members and observers from the PFC SS. The members may also wish to ascertain from the chairman of the PTSC why she refused to allow the PFC SS sight of relevant data from 20 other companies that were excluded from the calculation of Pay Trend Indicators (PTI) in the 2009 PTS. Of particular relevance to our submission is the agreed “improved” methodology of the PTS, which was first used in 2007 and is attached to this submission as *Appendix 1*.

The Improved Methodology

10. Under its terms of reference, the PTSC is responsible for ensuring the agreed methodology is properly applied to the data collected in the PTS. A “Survey Field” has to be endorsed BEFORE the survey is commissioned and companies from the “Survey Field” will be included in the results (or PTI indicator) calculation if, and only if, they fit the agreed criteria. An initial decision on inclusion of data in the PTI calculation is made by the PSRU. If a company’s data is excluded, the reason why must be explained to (and agreed by) the PTSC members by the PSRU before the PTI calculation (survey results) can be validated. So, validation relates not only to data companies included in the final calculation but also to data of those excluded.

11. The two criteria of relevance to company L080 are found at paragraph 11(a)(iii) and 11(d) of the agreed methodology as listed in Appendix 1.

Paragraph 11(a)(iii)

[All companies participating in the survey are included in the calculations provided that -] their economic activities, company size or salary structure has not changed to such an extent that it is no longer appropriate for the data provided by them to be compared with the data provided in the previous year;

Paragraph 11(d)

[pay] adjustments attributable to external and internal relativities are excluded from the calculation of the PTIs;

A Chronology – L080 in the 2008 and 2009 PTS

12. According to the PSRU, company L080 has participated in the PTS for many years and was included in both the survey field and the final PII calculation for the 2007 PTS. The PFC SS analysis indicates that company L080 has acted in good faith throughout the following sequence of events. It is also worth noting that the company is code-named L080 only in the 2009 PTS and so cross reference to previous surveys with that code number is not appropriate. The PFC SS analysis is therefore based upon the limited and selected material, all sanitised, made available by the PSRU.

13. According to a note on the company file, the PSRU EXCLUDED company L080 in 2008 based upon 11(a)(iii) and 11(d) – see PSRU file. However, the company itself twice confirmed that all results were SUITABLE for inclusion. Only at the third time of asking, when pushed by PSRU, did the company discover that there was an issue with paragraph 11(d) of the methodology.

14. Regardless, the PSRU file shows that L080 was excluded because the data contravening 11(d) could not be separated from suitable data and therefore criteria 11(a)(iii) – inappropriate comparison with the previous year's data – was also compromised. However, the PTSC members were not told of this reason. On the contrary, PSRU has informed PTSC members by way of a letter dated 14th May 2008 (the date of the 69th PTSC Meeting - *Appendix 2*) that among 23 companies excluded in 2008, 11 were excluded because they were ***“unable to provide all the required data by the cut off date of 7 May 2008, primarily due to a lack of a decision on the magnitude of any pay adjustment for the survey period”***.

15. PSRU confirms that L080 was counted amongst these 11 companies. As can be seen from *Appendix 2*, there was no mention of L080 failing to meet criteria 11(a)(iii) or 11(d). PSRU has misrepresented to the PTSC members the reason for exclusion of company L080 in the 2008 PTS. This misrepresentation has led the PFC SS to act unwittingly in a manner prejudicial to all police officers and all civil servants, as explained later.

16. The 70th PTSC meeting to validate the 2008 PTS results was held on 21st May 2008. The real reason for exclusion of L080 remained hidden from members by the PSRU. Indeed, the increased size of survey field that year has acted to mask the disappearance of L080, the largest company in the survey field.

17. A note dated 29th July 2008 on the PSRU file for L080 showed that the company had decided at that early stage to opt out of the 2009 PTS. This was reflected in 71st PTSC meeting (10th October 2008) but PFC SS (who were still not aware that L080 had been left out of the 2008 PTS and certainly not aware why) pushed for several companies (including L080) to be included. The PSRU wrongly cited “confidentiality” to decline supply of further information about why L080 and the companies had opted out of, or been excluded from, the 2008 PTS. PSRU agreed to approach these companies with a view to inclusion in the 2009 PTS survey field. The relevant portion of the 71st PTSC minutes is attached as *Appendix 3*.

18. At the 72nd PTSC Meeting held on 7th January 2009, there was an agreement to endorse 139 companies only. Several companies, including L080, were **NOT** included in that list. PSRU stated that the companies had opted out but again no reason was given because of the claim of confidentiality. The meeting also agreed to commission the 2009 PTS survey and PFC SS urged PSRU to approach four companies (including L080) “with a view” to including them in the survey field if they could meet the agreed criteria. A copy of the relevant portion of meeting minutes is at *Appendix 4*.

19. Analysis of the selected documents supplied to PFC SS by PSRU in respect of company L080, indicates that there was no record of any action taken by PSRU to approach L080 between 10th October 2008 and 4th March 2009, despite the “blind” requests of PFC SS. However, suddenly PSRU staff visited L080 on 4th March 2009. L080 purportedly agreed to take part in the survey because, although they still used methodology excluded by paragraph 11(d), and still could not differentiate between these and other pay adjustments, the company had decided to change the pay structure in 2009 by having a blanket pay freeze on basic pay. The PSRU claimed L080 could be included even though its pay adjustment system still does not fit the agreed criteria.

20. A note on the company file by the Controller, PSRU, dated 5th May 2009 clearly shows that L080 still could not segregate data between that contravening 11(d) and other components, but states that L080 was confident it could provide suitable data for the 2010 PTS (note: **NOT** the 2009 PTS). In the same note, the Controller also expressed concern about comparison with data for the previous year in respect of L080, i.e. not appropriate because of paragraph 11(a)(iii) of the methodology. Clearly L080 should have been excluded from the 2009 PTS on the basis of the grounds expressed by the Controller alone.

21. Regardless of the above, and contrary to the claims of the Secretary for Civil Service in the last Public Service Panel Meeting (29th June), there was no meeting of PTSC in March to endorse the inclusion of two additional companies in the survey field. Those two companies (L057 and L080) had still **NOT** been endorsed in accordance with the usual mechanism for the 2009 survey field, let alone calculation of PFI.

22. A letter from PSRU sent out on 4th May 2009 (one day before the Controller's note above!) accompanied a paper sent out in respect of the 2009 PTS. The paper asked members to note that two companies were re-included in the 2009 PTS survey field. Members were not told which two companies and nor were they told the history of L080 in the 2008 PTS. It is important to note, as confirmed by the Secretary for Civil Service in the Public Service Panel meeting of 29th June, that members were not informed of the conclusion of two companies in the 2009 survey field until **AFTER** the 2009 PTS had been concluded.

23. Two weeks later, at the 73rd PTSC Meeting held on 18th May 2009, the results of the 2009 PTS (the PFI calculations) were promulgated together with a letter similar to the one dated 14th May 2008. This letter again contained generic reasons why companies had been excluded. No specific explanations for 20 excluded companies were given. L057 and L080 were not endorsed for the survey field during the meeting. Indeed, it would have been inappropriate to do so because the 2009 PTS had already been CONCLUDED. A meeting to validate the 2009 PTS results was set for 25th May 2009.

24. In the interim, on 19th May 2009, the CE announced that he and 33 political appointees would “stand shoulder to shoulder with the people of Hong Kong” and take a pay cut. The timing of this announcement was most unfortunate, given that the 2009 PTS results had yet to be validated. It no doubt contributed directly to the pressure brought to bear on staff representatives to validate the results at the 74th and 75th PTSC meetings.

25. At the 74th PTSC Meeting on 25th May 2009, the PFC SS refused to validate the 2009 PTS results because of concerns over L057 and L080. These concerns were shared by most members and the meeting was adjourned, without validation, until 8th June for members to review relevant material. The PFC SS requested a later date but this was opposed by Mr. Brian LO from CSB, who stated that one week should be sufficient.

26. Between 25th May and 8th June, the PFC SS met with the PSRU and the Secretariat on 2 different occasions (1st & 5th June). On each occasion the PSRU adopted a policy of “selective transparency”, only responding to specific queries and only supplying material that they considered relevant. The PSRU deliberately obfuscated the issues surrounding company L080 and the PFC SS were not persuaded by their arguments. At the 75th PTSC meeting on 8th June 2009 it appeared that some PTSC members were of the belief that if they validated the PTS results then the lower and middle bands would be given a pay freeze. As mentioned earlier, the SCMP was carrying that morning a story that it would be unlikely the survey would NOT be validated because the Government was “lobbying behind the scenes”. The PFC SS clarified this story with Brian LO of CSB, who denied there was any such deal.

27. Despite requests from the PFC SS for more time to review the material, the Chairman PTSC insisted on pushing ahead with validation. PFC SS (2 members) and one member each - from the SCSC and MOD I Council (four out of 10 staff members in total) did not validate the 2009 PTS results.

28. Two other members of the PTSC commented that the data was unrepresentative or ambiguous but change that they would validate in any case because it was either (a) necessary to consider the bigger picture outside the pay methodology or (b) the issue should not be addressed in the Committee but should wait for a future review of methodology. Clearly these two members

had lost sight of their terms of reference as outlined earlier. In addition, external factors such as the economic climate or the chance of a pay freeze deal should have absolutely no bearing on the decision of members to validate the data calculation of the PTS. The PTS was then validated even though there is no provision for validation by “majority”.

The Effect of Exclusion / Inclusion of L080 in 2008 / 2009

29. Although it is not strictly relevant to the validation of the PTS findings, the effect of the year on year exclusion / inclusion of company L080 can be seen from *Appendix 5*. The effect is dramatic, and in itself calls into question the validity of a PTS system that uses a weighted average approach. This is a matter for the PTSC to resolve in the immediate future and certainly prior to the conduct of the 2010 PTS.

Conclusion

30. We have explained clearly why the PFC SS believes results of the 2009 PTS are tainted. However we continue to maintain that the data of 119 companies can be validated and stand ready to accept the associated pay adjustments, including any pay cut arising therein for the upper band. We urge the members to assist in seeking a remedy to the problems highlighted above as a matter of urgency.

Police Force Council Staff Side
3 July 2009

SURVEY METHODOLOGY

Objective

The Pay Trend Survey (PTS) is carried out to ascertain the average year-on-year movements in private sector pay. Fringe benefits, whether made in cash or in kind, do not fall within the ambit of the survey.

Survey Period

2. The survey covers the period from 2nd April of the previous year to 1st April of the current year.

Survey Field

Distribution of companies in the survey field

3. In selecting companies for the survey field –
- (a) the distribution of companies by major economic sectors in the survey field should reflect closely the overall distribution of Hong Kong's economically active population.
 - (b) Around 25% of the PTS survey field should be taken up by smaller companies (i.e. those with employee number from 50 to 99) and around 75% by larger companies (i.e. those employing 100 staff and more). This apportionment is based on the distribution of the private sector labour force by these two types of company size as at September 2006¹.

¹ According to the statistics from the Census & Statistics Department, the distribution of employees by company size (excluding those employing less than 50 staff) in the private sector as at September 2006 was as follows –

Company size	Total number of employees	Percentage (%)
50-99	247,364	24.57
100-499	317,689	31.55
500-999	111,344	11.06
1,000 or above	330,460	32.82
Total	1,006,857	100

- (c) A deviation of around plus/minus 5 percentage points will be allowed in the application of this general guideline (i.e. smaller and larger companies accounting for 20% – 30% and 70% – 80% respectively of a PTS survey field). This flexibility is needed as the actual number of companies and the share between smaller and larger companies in a PTS will depend on how many smaller and larger companies agree to participate in the survey.

Guidelines for selection

4. The ultimate objective is to identify good and steady employers. To this end, the following guidelines should be used in the selection –

- (a) Individual companies in the survey field should –
 - (i) be regarded as typical employers in their respective fields;
 - (ii) be generally known as steady and good employers conducting wage and salary administration on a rational and systematic basis;
 - (iii) determine pay on the basis of factors and considerations applying to Hong Kong, rather than factors applying outside Hong Kong;
 - (iv) if they form part of a group or consortium in Hong Kong, only be treated as separate companies where they have complete autonomy in setting and adjusting pay rates; and
 - (v) not use the government pay adjustment as the main factor in determining pay adjustments.
- (b) Only those smaller companies (with 50 to 99 employees) that meet the following guidelines should be selected –
 - (i) they have been operating in Hong Kong for a minimum period of around five years;

- (ii) their employment size has not changed by more than 50% as compared with the previous year. The focus will be put on downward change, such that smaller companies whose employment size has reduced by more than 50% will be excluded from the PTS survey field. Smaller companies whose employment size has increased by more than 50% may, if considered appropriate, be included in the PTS survey field; and
- (iii) they have not been convicted of any charges under labour-related legislation² and should preferably have not been involved in labour disputes (even though the disputes have not resulted in convictions under labour-related legislation) in the past five years.

Salary Bands

5. Three salary bands are used for data consolidation and calculation of gross pay trend indicators (PTIs). They are –

- Lower band : Below Master Pay Scale (MPS) Point 10 or equivalent
- Middle band : MPS Points 10 to 33 or equivalent
- Upper band : Above MPS Point 33 to General Disciplined Services (Officer) Pay Scale (GDS(O)) Point 38 or equivalent

6. For collection of survey information, the lower band will be kept intact whereas the middle and upper bands will each be sub-divided into two bands, as detailed below –

Middle bands:

- (a) MPS Points 10 to 23 or equivalent

² There are at present more than 20 major labour-related ordinances. The majority of prosecutions against employers for non-compliance with the law are taken by the Labour Department pursuant to the Employment Ordinance (Cap. 57), the Employees' Compensation Ordinance (Cap. 282), the Occupational Safety and Health Ordinance (Cap. 509) and the Factories and Industrial Undertakings Ordinance (Cap. 59). The Mandatory Provident Fund Schemes Authority is responsible for taking action on any non-compliance with the Mandatory Provident Fund Schemes Ordinance (Cap. 485).

- (b) Above MPS Point 23 to Point 33 or equivalent

Upper bands:

- (a) Above MPS Point 33 to Point 44 or equivalent
- (b) Above MPS Point 44 to GDS(O) Point 38 or equivalent

Employees Covered

7. The survey covers all employees in the participating companies with the exception of –

- (a) employees whose basic salaries are above the dollar term of GDS(O) Point 38 or equivalent;
- (b) craft and technician apprentices;
- (c) part-time employees who are certified by the surveyed company to work less than 75% of the normal weekly working hours in that company;
- (d) employees remunerated at piece-rates;
- (e) all imported labour; and
- (f) employees whose pay is determined on the basis of factors and considerations other than those applying to Hong Kong.

Components of Pay Adjustment

8. Salary adjustments awarded to employees on account of the following factors are included in the calculation of the PTIs –

- (a) cost of living;
- (b) general prosperity and company performance;
- (c) general changes in market rates; and
- (d) inscale increment and merit.

9. Changes in payments additional to basic salary such as year-end bonuses are also included.

10. Salary adjustments attributed to external and internal relativities are identified and reported for reference. They are excluded from the calculation of the PTIs. (Note: Adjustments due to external relativities refer to those given to a specific group of employees in a company as a result of salaries paid by other companies for a similar job.)

Calculation Criteria

11. The following criteria will be used for the calculation of the PTIs –
- (a) All companies participating in the survey are included in the calculations provided that –
 - (i) they can furnish and confirm data on adjustments of salary and additional payments for not less than 75% of their total employees by a specified date;
 - (ii) where appropriate, they can furnish, either separately or in an aggregate form, data on adjustments relevant to the calculation of the PTIs, i.e. adjustments attributed to cost-of-living changes, general prosperity and company performance, general changes in market rates, inscale increment and merit;
 - (iii) their economic activities, company size or salary structure has not changed to such an extent that it is no longer appropriate for the data provided by them to be compared with the data provided in the previous year;
 - (b) only data on salary adjustments and additional payments relating to the survey period and additional payments for the 12 months before the survey period reported belatedly are included in the calculation of the PTIs;
 - (c) data on salary and additional payments for company employees in a particular band are included in the calculation of the PTIs only if by a specified date the company has announced adjustments for not less than 75% of the employees in that band relevant to the survey period;

- (d) adjustments attributable to external and internal relativities are excluded from the calculation of the PTIs;
- (e) changes in bonus are taken into account and one month's bonus is taken as equal to 8.33% of the annual basic salary;
- (f) changes in payments and monthly allowance reported in dollar terms are converted into annual percentage terms by relating them to the appropriate salary rates; and
- (g) where a range of percentage adjustments to a particular salary band is reported, the average figure is used.

Data Consolidation

12. A modified weighted average approach, as elaborated below, should be adopted to consolidate the pay data obtained from the surveyed private sector companies and to work out the gross PTIs –

- (a) the surveyed companies will be separated into two groups by their employment size, namely those employing less than 100 staff and those employing 100 or more staff;
- (b) a weighted average adjustment rate will be worked out for the companies within each group;
- (c) based on the distribution of private sector employees by company size (mentioned in paragraph 3 above), a gross-up factor of 0.25 will be applied to the weighted average adjustment rate in respect of the group of companies with less than 100 staff and a gross-up factor of 0.75 will be applied to the other group. These two gross-up factors will remain unchanged irrespective of the actual number of surveyed companies in each of the two groups; and
- (d) the figures worked out under (c) will then be added up to give the gross PTIs.

Survey Results

13. The PTS produces three gross PTIs, each representing the weighted average (or modified weighted average) pay adjustment for all surveyed employees within each salary band. These PTIs are submitted to the Administration which then deducts from the indicators the payroll cost of civil service increments to produce the net PTIs. The net PTIs and other relevant factors are taken into consideration by the Chief Executive-in-Council when deciding on the adjustment rates for civil service pay for the year.

薪酬研究調查組

Pay Survey and Research Unit

Appendix 2

本會檔號 Our Ref. : JS/PSR/3/2
尊函檔號 Your Ref. :
電 話 Tel. : 2912 8500

14 May 2008

Ms Virginia Choi Wai-kam
Chairman
Pay Trend Survey Committee

Dear Chairman,

Report on the 2008 Pay Trend Survey

On 17 December 2007, the Pay Trend Survey Committee (PTSC) commissioned the Pay Survey and Research Unit (PSRU) to conduct a pay trend survey (PTS) covering the period of 2 April 2007 to 1 April 2008. The survey has now been completed and I am pleased to submit the survey report.

The report comprises the background and methodology of the 2008 PTS, the survey results and my observations. Appended to the report are statements containing data provided by surveyed companies, tables showing the calculation of pay trend indicators (PTI) and other relevant background information.

Of the 120 companies in the confirmed survey field, 23 companies have been excluded from the 2008 PTS for the following reasons –

- (a) seven companies opted out on their own volition;
- (b) 11 companies were unable to provide all the required data by the cut-off date of 7 May 2008 primarily due to the lack of a decision on the magnitude of any pay adjustment for the survey period;
- (c) three smaller companies reduced their size to less than 50 full-time employees thereby not meeting the criteria under the survey methodology; and
- (d) two companies were unable to provide data on adjustments of salary and additional payments for not less than 75% of their total employees as required under the survey methodology.

As a result, 97 companies employing a total of 145,347 staff were eventually included in the calculation of PII. After excluding 4,058 employees for not meeting the criteria under the survey methodology, the current survey covers the pay data of 141,289 employees.

The consolidated gross PII derived from the survey findings are as follows –

	Gross Pay Trend Indicators	=	Basic Pay Indicators	+	Additional Pay Indicators
Lower Salary Band (below \$14,990 per month)	4.47%	=	3.77%	+	0.70%
Middle Salary Band (\$14,990 - \$45,970 per month)	5.87%	=	4.33%	+	1.54%
Upper Salary Band (\$45,971 - \$91,765 per month)	6.90%	=	5.05%	+	1.85%

As always, the PSRU attaches great importance to upholding the rule of confidentiality in handling data collected from participating companies. I have assured the participating companies that all data they have provided to us would be kept in the strictest confidence. To honour this pledge and preserve their anonymity, the surveyed companies are number-coded in this survey report which is distributed to PTSC Members only. May I therefore count on the support and co-operation of the PTSC to keep this report and its contents in strict confidence.

I stand ready to offer assistance to Members in the interpretation of the survey findings before the PTSC's validation meeting scheduled for 21 May 2008. I will conduct a briefing for Staff-side Members and Observers of the PTSC on 14 May 2008 after the distribution of survey report, followed by a series of briefings for individual staff consultative councils on 15 May. Members requiring further support are most welcome to contact me at 2912 8500.

Yours sincerely,



(Ms Vicky Kwan)
Controller

Pay Survey and Research Unit

Extract from Minutes of the Pay Trend Survey Committee 71st Meeting

Agenda Item 3 – Review of Survey Field
(Paper No. PTSC/10/2008/D)

35. In response to the Chairman's request, **the Controller** gave a brief account of the Paper. To enhance the credibility and representativeness of the PTS, the 2009 PTS aimed to have around 100 surveyed companies. **The Controller** recommended inviting 99 existing companies (74 larger companies and 25 smaller companies) to participate in the 2009 PTS, and adding not more than 26 companies to the survey field. Depending on the response of the companies, the exact split of the 26 new companies between larger companies and smaller companies might be adjusted subject to meeting the approved ratio of 75 : 25 (with a deviation of around plus/minus 5%). In selecting prospective companies, efforts had been made to ensure that the distribution of companies by major economic sector in the survey field would reflect the overall distribution of Hong Kong's economically active population and that there would be a reasonable balance of companies with different establishment sizes. Members were invited to comment on and/or confirm their acceptance of the lists of prospective companies at Annexes D and E of the Paper by 24 October 2008.

36. **Mr Chow Yiu-kwong** was concerned that a larger company in the “Financing, insurance, real estate and business services” sector was not retained for the survey field of the 2009 PTS. **The Controller** responded that while efforts had been made to retain existing companies in the survey field, some companies had to be excluded as they decided to opt out of the survey, or could not meet the selection guidelines or calculation criteria of the methodology. Due to confidentiality, the Secretariat could not disclose the information of individual companies, including the reasons of excluding them from the survey field. In response to Mr Chow’s another question on whether the companies listed in Annexes A and B of the Paper would definitely participate in the 2009 PTS, **the Chairman** responded that the PSRU had only made initial contact with the companies. **The Controller** supplemented that formal invitation letters would be issued upon the commissioning of the 2009 PTS.

37. **Mr Peter Cornthwaite** opined that more lobbying efforts should be made to solicit the continued participation of companies which chose to opt out of the survey. **Mr Leung Tat-wah** said that a greater number of good and steady larger companies should be included in the prospective list. **The Chairman** expressed that she had joined hands with the PSRU in encouraging private companies to take part in the 2008 PTS. She would do the same for the 2009 PTS.

38. After discussion, **the Chairman** concluded that the Secretariat would provide the list of 23 companies not retained in the 2009 PTS to Members for information. She appealed to Members for an early reply on the lists of prospective companies as it was important to issue the invitations early so as to secure the support of the companies.

[Post-meeting note : The list of 23 companies not retained in the survey field for the 2009 PTS was issued on 14 October 2008.]

Extract from Minutes of the Pay Trend Survey Committee 72nd Meeting

Agenda Item 2 – Survey Field for the 2009 Pay Trend Survey
(Paper No. PTSC/1/2009/D)

4. **The Chairman** invited the Controller to give a brief account of the Paper.

5. **The Controller** reported that, taking into account the views of Members as expressed at the last meeting, the Chairman and the Pay Survey and Research Unit (PSRU) had approached again the 23 companies in the survey field for the 2008 PTS which were not to be retained in the survey field for the 2009 PTS due to various reasons. Two of them indicated that they were prepared to participate in the 2009 PTS. Of these two companies, Company A indicated that its employment size had been restored to over 50 full-time employees and it would maintain the same level of manpower in the foreseeable future. Company B had agreed not to opt out of the 2009 PTS. The Secretariat recommended retaining them in the survey field for the 2009 PTS. She went on to recapitulate the reasons for the exclusion of the remaining 21 companies. Among them, eight companies had maintained their decision to opt out of future surveys while 13 companies could not meet the selection

guidelines or calculation criteria of the PTS methodology.

6. As for the prospective companies, **the Controller** said that, with Members' agreement, the PSRU had contacted the 116 prospective companies to ascertain their interest in participating in the 2009 PTS. Among them, 39 companies had shown interest in participating in the 2009 PTS. All but one had met the criteria of the PTS methodology. Having regard to the positive response of prospective companies, the Secretariat recommended enlisting all the 38 new companies which had indicated interest in participating in the 2009 PTS and met the criteria of the PTS methodology.

7. **The Controller** highlighted that, subject to Members' endorsement, the survey field of the 2009 PTS would comprise 139 companies, including 104 larger companies and 35 smaller companies in the ratio of 75 : 25. The increase in the number of companies would enhance the credibility and representativeness of the survey. **The Chairman** noted that the size of survey field had increased by about 16%, as compared to the survey field of 120 companies in the 2008 PTS.

8. **Mr Peter Cornthwaite** stated that, whilst noting the efforts of the Chairman and the Controller, the PFC Staff Side was concerned that only two of the 23 companies (referred to in paragraph 5 above) were to be retained in the survey field for the 2009 PTS. He opined that further lobbying efforts should be made to solicit the continued participation of four larger companies, two in the "Financing, insurance, real estate and business services" sector and two in the "Community, social and personal services" sector. They were typical employers in their respective fields and were generally known as good and steady employers. He suggested that in addition to liaising with the Human Resources (HR) department of these companies, consideration should also be given to lobbying the support of their senior management.

9. **The Controller** stressed that for companies that had opted out of the survey, repeated and dedicated efforts had been made to solicit their continued participation. As for those companies which could no longer meet the criteria under the survey methodology, they should not be retained in the survey field. She asked for Members' understanding that due to confidentiality, she could not disclose the information of individual companies.

10. Upon the Chairman's invitation, **Miss Elaine Chan** commented that from the HR point of view, participation in the survey was entirely voluntary. The companies would have to consider various issues and go through their internal procedures before deciding whether to continue participating in the survey, and we should respect their decisions. Besides,

some companies were excluded because they could not meet the criteria stipulated under the PTS methodology. To uphold the rule of confidentiality, it would not be appropriate to disclose the information of these companies. She noted that efforts had been made to add more new companies to the survey field so as to maintain the level of surveyed population.

11. In response to the Chairman's request, **Ms Li Kwai-yin** commented that it would be beneficial to retain those companies that had all along participated in the survey, especially those companies with a large employment size. However, as participation in the PTS was upon invitation and entirely voluntary, and since the PSRU had made repeated and dedicated efforts to solicit the continued participation of the companies, we had to respect their decisions.

12. **Mr Philip Kwok** shared Mr Cornthwaite's views that those larger companies which had a long history of participating in the survey should be retained as far as possible and suggested that consideration should be given to lobbying the senior management of the four companies concerned. He also expressed appreciation to the Chairman and the PSRU for their efforts in recruiting 38 new companies to join the 2009 PTS. Echoing the views of Mr Kwok, **Mr Chan Ba-tak** thanked the Chairman and the PSRU for their efforts and suggested that further lobbying efforts should be made to the senior management of the four companies concerned.

13. **The Chairman** noted that the operation of the PTS system depended very much on the co-operation of the participating companies. In view of Members' comments, **the Chairman** agreed that further efforts would be made with a view to retaining the four companies concerned in the survey field for the 2009 PTS, provided that they could meet the PTS methodology.

14. **Mr Peter Cornthwaite** welcomed the Chairman's decision. He appreciated the additional efforts to be made, and considered that the commissioning of the 2009 PTS could proceed in parallel regardless of the outcome of the additional efforts. In response to Mr Cornthwaite's other comments on the new companies in the "Community, social and personal services" sector, **the Controller** reassured Members that all companies proposed to be included in the survey field of the 2009 PTS had been approached to ensure that they met the selection criteria of the PTS methodology, including the criterion of not using the government pay adjustment as the main factor in determining pay adjustments.

15. After deliberations, **Members** endorsed the proposed survey field for the 2009 PTS. Meanwhile, further efforts would be made to solicit the continued participation of the four companies as mentioned in paragraph 13 above.

The Company L080 in 2008

Should the company have been excluded in 2008?

	Gross PTI Company Excluded	Gross PTI Company included	Difference
Lower Band	+ 4.47%	+ 4.66%	+0.19%
Middle Band	+ 5.87%	+ 8.35%	+ 2.48%
Upper Band	+ 6.90%	+ 12.45%	+ 5.55%
Across ALL	+ 5.19%	+ 6.77%	

The Company L080 in 2009

Should the company be included in 2009?

	Gross PTI Company Excluded	Gross PTI Company included	Difference
Lower Band	+ 0.75%	-0.17%	-0.92%
Middle Band	+0.83%	-1.34%	-2.17%
Upper Band	-1.59%	-4.79%	-3.2%
Across ALL	+0.67%	-0.86%	

Has the exclusion/inclusion of the company year on year disadvantaged staff by an accumulated effect of between 1.11% and 8.75%?

Applying a consistent approach in 2009 with the company excluded will protect the integrity and credibility of the PTS.

**Police Force Council Staff Side Submission
to LegCo Bills Committee on
Public Officers Pay Adjustment Bill 2009
(Meeting on 2009-10-17)**

Police Force Council Staff Side appreciates the time taken by members to read through the proposed bill and raise questions with the administration on the **key issues** of Police Pay, the 2009 Pay Trend Survey (PTS) and CE in Council decision on pay adjustment. These issues bring into question the necessity for the Public Officers Pay Adjustment Bill 2009.

We believe the decision to implement pay cuts by Public Officers Pay Adjustment Bill 2009 is wrong. Legislation to enforce a pay cut is not conducive to a stable and efficient Police Force. The manner of this pay cut suggested by the Administration with different treatment for the Lower, Middle and Upper pay bands will create resentment and strikes of unequal treatment. The use of survey data for net PTIs that is questionable will only make any legislation open to legal challenge.

We would ask to keep politics out of Police pay and for a reasonable and fair approach to support the frontline work of our Police.

The key issues are:

1. The **Administration** claims that the 2009 Pay Trend Survey (PTS) was conducted according to the established mechanism. This is **not true** and we would highlight that;
 - (a) **Two companies used in the results of the 2009 PTS were not properly endorsed** by members of the Pay Trend Survey Committee (PTSC) in a meeting or by written confirmation for inclusion in the survey field;
 - (b) **For the first time, in some thirty-five years, the pay survey was not validated by members of the Pay Trend Survey Committee (PTSC).** There remains a dispute amongst members of the committee on the appropriateness of including **two companies**. There is no mechanism for a majority decision on disputed companies in the PTSC. There is however no dispute on the data of the remaining **139** companies.

The impact of the inclusion or exclusion of the two companies on the net PTI should be considered.

The decision of the Chief Executive to implement a pay adjustment based on questionable data from the survey that stems from two disputed companies renders the net PTI of all bands INVALID. **Members of the LegCo Public Service Panel have already pointed out that a decision is likely open to further challenge by Judicial Review.** The net PTI if calculated from the results of 139 companies would not be open to dispute. We are not convinced that our requests for a Committee of Enquiry and Arbitration on the data have been properly addressed and we seek members' assistance to properly examine the concerns raised in those requests.

- (c) Any pay adjustment of minus 5.38% for the Upper Band demonstrates a lack of proper consideration of the pay range at the lower end of the Upper band in the range i.e. \$48,000-75,000. (Upper Band II) and economic impact on morale and family budgets.

2. The **Administration** claims that the **Chief Executive** took into account six factors when deciding on the pay cut for the upper band. The Staff Side has been unable to obtain any explanation on how and why the six factors are being applied in a different manner to the Lower, Middle and Upper bands. The Chief Executive's decision lacks sufficient logic and rational to be understood or accepted by police officers. We note the following political announcements;

- (a) **The CE announced** a pay cut for political appointees on 19th May 2009, one day after the tentative survey results were announced and **BEFORE** the survey results were "endorsed". This effectively pre-empted any rational discussion **AFTER** the survey findings were found to include **two disputed companies**; and
- (b) The subsequent announcement that political appointees would take exactly the same pay cut as upper band civil servants (5.38%) but middle and lower band pay would be frozen was clearly political.

We ask that **members of this Bills Committee** in LegCo examine the issues and data that is the basis for this **Public Officers Pay Adjustment Bill 2009** in detail to remedy the inequity of the situation.

Honourable Members may rightly believe **compassion** should be shown to the lower and middle bands but when considering upper band civil servants there is a

MISCONCEPTION that these are on a par with principal officials and are exclusively directorate ranks. In fact the “upper band” goes so far down the pay scale to include police officers from Inspector up to Chief Inspector, the **non-directorate starting Management level** of the Police Force, who are on equivalent pay to MPS 34-42. They are the frontline managers of the day to day operations of the force and most susceptible to morale issues through any pay cut;

We are not seeking compassion but rather a **FAIR** and **REASONABLE** approach to Police Pay. We would take issue with the unequal treatment of police officers and the suggestion of cuts to our pay when we see assurances to maintain and protect Judicial Pay.

**Police Force Council Staff Side
October 2009**