

立法會

Legislative Council

LC Paper No. CB(1)1977/08-09
(These minutes have been seen
by the Administration)

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Panel on Public Service

Minutes of meeting held on Monday, 16 March 2009, at 10:30 am in Conference Room A of the Legislative Council Building

- Members present** : Hon LEE Cheuk-yan (Chairman)
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon TAM Yiu-chung, GBS, JP
Hon LEUNG Kwok-hung
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Dr Hon PAN Pey-chyou
- Member attending** : Hon WONG Kwok-hing, MH
- Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Deputy Chairman)
Hon LI Fung-ying, BBS, JP
- 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 Brian LO
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

Mr Patrick CHAN Nim-tak, JP
Director of General Grades

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

The Honourable Ronald ARCULLI, GBS, JP
Chairman
Committee on Review of Post-Service Outside
Work for Directorate Civil Servants

Ms Ivy LAW
Secretary
Committee on Review of Post-Service Outside
Work for Directorate Civil Servants

**Attendance by
invitation**

: Agenda item III

Hong Kong Civil Servants General Union

Mr CHUNG Tak-cheung
Vice Chairman

Hong Kong Federation of Civil Service Unions

Mr LEUNG Chau-ting
Chairman

Mr CHAN Wai-keung
Vice-Chairman

Government Disciplined Services General Union

Mr WAT Ki-on
Consultant

Mr CHIU Sin-chung
Executive Committee Member

Disciplined Services Consultative Council (Staff side)

Mr NGAI Sik-shui
Chairman

Mr CHIU Chi-keung
Member

Hong Kong Senior Government Officers Association

Dr YUEN Kwok-wah
Vice-Chairman

Police Force Council Staff Side

Mr David WILLIAMS
Representative

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Ms Sarah YUEN
Senior Council Secretary (1)6

Miss Winnie CHENG
Legislative Assistant (1)5

Action

Due to other urgent commitments, the Chairman would be late for the meeting while the Deputy Chairman was unable to attend. Members elected Mr WONG Sing-chi to chair the meeting on behalf of the Chairman.

I Information papers issued since last meeting

- | | | |
|--|--------|--|
| (LC Paper
CB(1)941/08-09(01) | No. — | Correspondence on employment of non-civil service contract (NCSC) staff between a NCSC staff member and the Administration |
| LC Papers
CB(1)995/08-09(01) and (02) | Nos. — | Correspondence on the 2009 starting salaries survey between the Police Force Council Staff Associations and the Standing Commission on Civil Service Salaries and Conditions of Service) |

2. Members noted the above papers issued after the last meeting.

II Items for discussion at the next meeting scheduled for 20 April 2009

- | | | |
|---------------------------------|-------|--|
| (LC Paper
CB(1)978/08-09(01) | No. — | List of outstanding items for discussion |
| LC Paper
CB(1)978/08-09(02) | No. — | List of follow-up actions) |

3. (The Chairman arrived at this juncture and took the Chair.) Members agreed to discuss the following items proposed by the Administration at the next regular meeting on Monday, 20 April 2009, at 10:45 am –

- (a) Disciplinary mechanism and related procedures for disciplined services and civilian grades; and
- (b) Integrity enhancement initiatives for civil servants.

(Post-meeting note: At the suggestion of the Administration and with the concurrence of the Chairman, the agenda for the April meeting was revised. The item on "Integrity enhancement initiatives for civil servants" was substituted with a staffing proposal on "Retention of one supernumerary post of Administrative Officer Staff Grade C in the Secretariat to the Commission on Strategic Development".)

III Medical and dental benefits for civil servants

- (LC Paper No. CB(1)978/08-09(04) — Administration's paper on medical and dental benefits for serving civil servants, pensioners and eligible dependants
- LC Paper No. CB(1)1001/08-09 — Background brief prepared by the Legislative Council Secretariat)

Presentation of views by deputations

Hong Kong Civil Servants General Union (LC Paper No. CB(1)978/08-09(03))

4. Mr CHUNG Tak-cheung, Vice Chairman of the General Union, briefed members on the salient points of the General Union's views as detailed in its submission. He highlighted problems in the provision of medical and dental benefits to civil service eligible persons (hereafter collectively referred to as "civil service medical benefits"). He urged the Administration to explore their provision by other better means, such as taking out medical insurance, so as to satisfactorily provide these benefits without compromising the medical service for the general public. He further expressed regrets that the provision of civil service medical benefits was not covered in the public consultation paper on healthcare reform, and opined that the Administration should extend to other hospitals the dedicated clinic sessions for specialist services for civil service eligible persons presently available at Queen Elizabeth Hospital (L Block).

Hong Kong Federation of Civil Service Unions

5. Mr LEUNG Chau-ting, Chairman of the Federation, said that since the development of the Hospital Authority (HA)'s Drug Formulary, civil servants could not receive proper medical treatment. The Administration should tackle problems related to civil service medical benefits, such as the long waiting time for dental service which could span one and a half years. In particular, improvements to out-patient service for civil servants should be introduced early by providing the service outside the public healthcare system, such as by taking out medical insurance. To prevent overuse, serving civil servants who received treatment under the insurance system could be asked to pay certain portion, say 10%, of the costs as co-payments. At a later stage, improvements to specialist services and treatment of chronic diseases should also be similarly introduced.

Government Disciplined Services General Union (GDSGU)
(LC Paper No. CB(1)1073/08-09(01))

6. Mr WAT Ki-on, Consultant of GDSGU, opined that problems related to civil service medical benefits emerged in the 90s, when their provision was entrusted to HA and became part of the public healthcare system. While the latter aimed at providing basic healthcare for the general public, the former should, according to the Civil Service Regulations (CSR), be “the best available medical attendance and treatment” which the Government as the employer had the contractual obligation to provide. To ensure the quality of civil service medical benefits and avoid giving the impression that civil servants were competing with the public for medical service, civil service medical benefits should be separated from the public healthcare system and provided at dedicated clinics for civil servants without being subject to any quota or the Drug Formulary. In addition, both the quality and efficiency of dental service for civil servants should be improved.

Disciplined Services Consultative Council (Staff Side)

7. Mr CHIU Chi-keung, member of the Consultative Council, quoted a case where a civil servant had not been able to receive timely and appropriate specialist treatment to show the failure of the Government to fulfil its contractual obligation of providing the best available medical attendance and treatment for civil servants. Mr NGAI Sik-shui, Chairman of the Consultative Council, supplemented that civil servants were not requesting additional benefits but just proper treatment when they fell ill.

Hong Kong Senior Government Officers Association

8. Dr YUEN Kwok-wah, Vice-Chairman of the Association, urged that to enable the Government to fulfil its contractual obligation of providing quality civil service medical benefits, their provision should be separated from the public healthcare system. According to CSR, where necessary civil servants should even be allowed to go overseas for treatment not available in Hong Kong or to seek private dental service. He also considered that the long waiting time for specialist out-patient services and dental service was unacceptable, and the present reimbursement arrangement problematic. The Association made the following suggestions –

- (a) set up more families clinics to serve civil servants in place of HA's general out-patient clinics;
- (b) reopen specialist outpatient clinics for civil servants;
- (c) bear the relevant costs if HA referred a civil servant to the private sector for specialist medical attendance and treatment;

- (d) effect direct payment of medical expenses to all self-financed items in HA facilities and accept doctors' prescriptions as medical certification without requiring the doctors concerned to complete reimbursement forms;
- (e) allow civil servants who had waited a long time for dental service to seek the service from private dentists with the relevant costs reimbursed by the Government; and
- (f) include Chinese medicine in the scope of civil service medical benefits.

Police Force Council Staff Side (PFCSS)
(LC Paper No. CB(1)1073/08-09(02))

9. Mr David WILLIAMS, representative of PFCSS, highlighted the potential danger of police work and the need to provide police officers timely and adequate medical treatment. However, not only were HA and the Department of Health (DH) not up to the task but the relevant consultation mechanisms, such as the Standing Committee on Medical and Dental Facilities for Civil Servants (SCMDF), had also failed to effectively address the concerns of police officers in this regard. PFCSS had therefore withdrawn from SCMDF and would like to urge the Civil Service Bureau (CSB) to take early action on the following three priority issues –

- (a) Police officers injured on duty should be given priority medical treatment;
- (b) Police officers were only permitted to perform their duties only when medically fit and should not be required to wait for weeks for diagnostic checks; and
- (c) Police officers on duty and requiring medical treatment due to minor complaints should be given priority for medical treatment because it would be wasteful and disruptive to police deployments to require police officers to spend hours queuing for the medical service.

10. Members noted that Hong Kong Chinese Civil Servants' Association, Model Scale 1 Staff Consultative Council (Staff Side), and the Federation of Hong Kong & Kowloon Labour Unions, which did not send representatives to the meeting, had each provided a submission (LC Papers Nos. CB(1)1033/08-09(01) & (02) and CB(1)1073/08-09(03)) for members' reference.

Administration's initial response to deputations' views

11. SCS highlighted the need to exercise great care in considering improvements to civil service medical benefits given the large size of the pool of civil service eligible persons. She pointed out that the Administration had provided for an 18% increase in the relevant provision for meeting civil service medical and dental expenses in the 2009-2010 draft Estimates. In respect of the reimbursement of medical expenses, the provision for 2009-2010, if approved, would be about \$60 million more than the revised estimate for 2008-2009. She also made the following points –

- (a) Concerning the comments on whether the Government was, according to CSR, providing "the best available medical attendance and treatment" to civil servants, it should be noted that CSR 902 in fact provided that the treatment provided to an eligible person and his family would be dictated by the medical necessity of the case. Although every endeavour would be made to give officers and their families the best available medical attendance and treatment, the medical officer in charge of the case had sole discretion as to the amount and the nature of treatment provided;
- (b) The Administration had already been making efforts to improve the civil service medical benefits presently provided through DH and HA. For example, the Administration had already put aside funding in 2009-2010 for the opening of one more Families Clinic with six consultation rooms in the New Territories, and for adding two consultation rooms to the existing Chai Wan Families Clinic, thus increasing the total number of Families Clinics from three to four, and that of consultation rooms from 20 to 28 in due course. Civil servants could also seek priority medical service at most of HA's network of 74 general outpatient clinics through the priority disc quota system to enable them to return to work after receiving treatment if their conditions permitted;
- (c) For dental service, the Administration had succeeded in securing funding for the establishment of two additional orthodontic surgeries in 2008-2009 to increase their number to 13, and if LegCo approved the expenditure estimates for 2009-2010, the number of surgeries in the general dental clinics would be increased from 175 to 186 in 2009-2010. It was hoped that with the increase, the general waiting time at DH dental clinics would be below 12 months;

- (d) On the waiting time for specialist service and scanning services, the Administration was exploring with HA the possibility of shortening the waiting time for accessibility of relevant services by purchasing more equipment or by increasing service sessions, both of which would incur additional resources;
- (e) On direct payment arrangement, this would be extended to cover cancer drugs classified as self-financed items in the Drug Formulary from mid-2009 onwards. When the arrangement was implemented, it would mean that about 75% of the current reimbursement expenditure would be directly paid by the Administration to HA; and
- (f) On staff consultation, CSB established SCMDF in as early as 1979 to provide a useful forum to discuss with the staff sides matters regarding civil service medical benefits. SCMDF was broadly representative comprising the official sides' members (i.e. CSB, the Food and Health Bureau, HA and DH) and the staff sides' members (i.e. representatives from the staff sides of the four Central Consultative Councils). Despite PFCSS's withdrawal from it, SCMDF would continue to actively discuss, with participation from members of the other staff sides, matters regarding civil service medical benefits. The Administration had also used various other channels to encourage the staff sides to propose practicable measures to improve civil service medical benefits. In considering such proposals, the Administration had to take into account the Government's financial capability and the cost-effectiveness of the proposals.

Discussion

The proposal to include Chinese medicine in the scope of civil service medical benefits

12. In reply to Mr WONG Kwok-hing on why Chinese medicine was not included in the scope of civil service medical benefits, SCS explained that this was because the Chinese medicine clinics (CMCs) under HA were operated under a tripartite model under which HA collaborated with a non-governmental organization and a local university for each CMC. Since they were research-oriented and operated on a self-financing basis, the service they provided could not be regarded as a standard general outpatient service of HA.

13. Mr WONG Kwok-hing expressed dissatisfaction with SCS's response, adding that Chinese medicine had already become a part of Hong Kong's

public healthcare system. He considered that the Panel should follow up on this matter. Mr IP Wai-ming pointed out that even recipients of Comprehensive Social Security Assistance could consult Chinese medicine practitioners at CMCs under HA at a reduced fee. He questioned why civil servants could not get any benefits at all in using the service. He urged SCS to keep an open mind in considering this matter. SCS responded that Chinese medicine was presently outside the scope of civil service medical benefits as defined in the relevant CSR, CSB Circulars and Circular Memoranda, which formed part of the terms and conditions of employment of civil servants. She however reiterated the Administration's willingness to discuss improvements taking into account the Government's financial capability and cost-effectiveness of relevant proposals, and, if improvements could be agreed upon, amendments would be introduced to CSR.

The proposal to separate the provision of civil service medical benefits from the public healthcare system

14. Mr WONG Kwok-hing urged the Administration to study the proposal made by Hong Kong Federation of Civil Service Unions of providing civil service medical benefits outside the public healthcare system, such as by taking out medical insurance. SCS said that the Administration would be willing to discuss the proposal with the staff sides, but she also stressed the need to take into account the Government's financial capability and the cost-effectiveness of relevant proposals.

15. Dr PAN Pey-chyou pointed out that, if civil service medical benefits were not provided outside the public healthcare system, the medical service civil servants received would be no different from that received by the general public under the public healthcare system. As such, the benefits could not be claimed to be the best available medical attendance and treatment, not to mention that civil servants had to wait for unacceptably long time for elective surgeries. In addition, separation of civil service medical benefits from the public healthcare system could allow the system to better serve the general public.

16. SCS responded that before HA was established in the early 1990s, DH and the then Hospital Services Department, like HA, also provided both public healthcare services and civil service medical benefits. So, the mode of provision of civil service medical benefits had not changed with the establishment of HA. SCS further pointed out that the medical services received by civil servants and the general public were in fact different, as illustrated below –

- (a) Civil servants might apply to DH for reimbursement of medical expenses if the attending HA doctor certified that the drugs/equipment/services concerned were prescribed in accordance

with the medical necessity of the patient and were chargeable by HA or not available in HA. Civil servants therefore had access to the necessary drugs for treatment even though such drugs were classified as self-financed items in HA's Drug Formulary; and

- (b) Dental service was not generally available to the public but civil servants could enjoy such service.

17. Dr Margaret NG considered that the above highlighted differences were so insignificant that civil service medical benefits might as well be described as non-existent. She asked whether the Government considered that it had fulfilled its obligation as an employer in providing such benefits for its employees. SCS responded that CSR 900 had spelt out that medical advice and treatment, X-ray examinations and medicines were available free of charge to an eligible person and his family only when these benefits were provided by government medical facilities or HA. Dr NG said that the point at issue was not through which institutions civil service medical benefits should be provided but the service level currently maintained for civil servants, which was found to be almost no different from that available to the general public. She considered that the current CSRs defining the scope of relevant benefits did not restrict the Government from rendering better medical and dental services for its employees.

Other views and concerns

18. Mr LEUNG Kwok-hung considered that the Government as an employer had the responsibility to provide proper medical service to civil servants. He enquired about the estimated funding required to improve civil service medical benefits. SCS responded that the contractual responsibility of the Government in the provision of civil service medical benefits was specified in CSR 900 and CSR 902 as quoted above. If improvements in this regard were agreed between the Government and staff sides, CSR could be amended for the purpose. Before any amendments were made, the benefits would be provided as currently specified in CSR.

19. Mr IP Wai-ming considered the concerns and proposals put forward by the deputations reasonable and urged the Administration to actively explore improvements in the provision of civil service medical benefits. In particular, he considered it unacceptable that, as PFCSS had pointed out, even police officers injured on duty were not given priority for medical treatment.

Concluding remarks

20. At the Chairman' invitation, the following representatives of deputations supplemented the following views –

- (a) Mr CHUNG Tak-cheung pointed out that as civil servants had to queue with the general public for specialist medical service, the purchase of more scanning equipment or the increase in diagnostic scanning service sessions would not help address the long waiting time problem. Moreover, if the unit cost for the provision of civil service medical benefits in 2007-2008 was some \$300 only as derived from the Administration's paper for this item, the provision could hardly ensure proper service for civil servants;
- (b) Mr LEUNG Chau-ting considered that the new initiatives mentioned by SCS to improve civil service medical benefits were insufficient given the large service demand. In fact, most civil servants had to seek medical service from the private sector at their own expenses. As the Government accepted medical certification from Chinese medicine practitioners for sick leave purpose, he queried why Chinese medicine was not included in the scope of civil service medical benefits;
- (c) Mr CHIU Sin-chung opined that the inadequacy of civil service medical benefits would delay civil servants' recovery and resumption of duty and in turn lead to staff shortage. He also opined that notwithstanding the stipulations in CSRs, Chinese medicine could be included in the scope of civil service medical benefits;
- (d) Mr NGAI Sik-shui considered that improvements should be made to civil service medical benefits as soon as practicable, so as to enhance Government productivity to benefit the community as a whole;
- (e) Dr YUEN Kwok-wah stressed that CSR had not specified HA and DH to be the only providers of civil service medical benefits. On the contrary, the Director of Health could give permission for civil servants to seek medical service overseas or dental service from the private sector, if such was not available from HA and DH. As he understood, private companies normally spent 3% to 5% of staff costs on staff medical benefits. It was questionable whether a similar percentage of cost on civil servants was spent on providing their medical benefits; and
- (f) Mr David WILLIAMS expressed support on behalf of police officers for the introduction of necessary amendments to CSRs and the provision of civil service medical benefits by taking out medical insurance.

21. Dr PAN Pey-chyou moved the following motion which was seconded by Mr IP Wai-ming –

"本委員會促請政府從速改善現行各項公務員的醫療服務：

- (一) 為公務員提供中醫藥的治療及服務；及
- (二) 研究採用醫療保險等更佳的途徑為公務員提供醫療福利，讓公營醫療系統更好地為普羅市民服務。"

(translation)

"That this Panel urges the Government to expeditiously improve the existing medical services for civil servants by:

- (a) providing Chinese medicine treatment and services to civil servants; and
- (b) exploring the provision of medical benefits to civil servants by such better means as taking out medical insurance, so as to allow the public healthcare system to better serve the general public."

22. Mr CHEUNG Man-kwong expressed concern about the financial implications of taking out medical insurance for civil service eligible persons, as he believed that the amount would be quite significant. Dr PAN Pey-chyou said that the motion he moved was only asking the Administration to consider excluding the provision of civil service medical benefits from the annual lump sum provision given by the Government to HA, i.e. changing the approach of funding allocation. After discussion, the Chairman proposed to amend the motion to read as follows -

"本委員會促請政府從速改善現行各項公務員的醫療服務：

- (一) 為公務員提供中醫藥的治療及服務；及
- (二) 研究採用更佳的途徑，包括醫療保險等，為公務員提供醫療福利，讓公營醫療系統更好地為普羅市民服務。"

(translation)

"That this Panel urges the Government to expeditiously improve the existing medical services for civil servants by:

- (a) providing Chinese medicine treatment and services to civil servants; and
- (b) exploring the provision of medical benefits to civil servants by other better means such as taking out medical insurance, so as to allow the public healthcare system to better serve the general public."

23. The Chairman put the motion as amended to vote. Seven members voted in favour of the motion, and no member voted against it. The Chairman declared that the motion as amended was passed.

24. The Chairman requested the Administration to follow up on the issue and to report any improvements proposed to be made to the provision of civil service medical benefits about six months later. Members agreed to retain this item on the Panel's list of outstanding items for discussion.

IV Civil service-related issues featuring in the 2009 Budget

(LC	Paper	No. —	Administration's paper on
CB(1)978/08-09(05)			civil service-related issues in
			the 2009-10 Budget)

The civil service establishment

25. Mr WONG Kwok-hing said that the Hong Kong Federation of Trade Unions had all along been urging the Government to relax control of the civil service establishment. He therefore welcomed the Government's plan to increase the establishment to 164 174 by end-March 2009 to meet service needs, and enquired whether the some 10 000 non-civil service contract (NCSC) positions the contracts of which would expire in 2009 and 2010 would also be retained. SCS responded that it was estimated that the number of NCSC positions would stay at around 14 000 in 2009 and 2010. With additional positions to be created during summer months to meet seasonal upsurge in the demand for certain services, the number would stay at around 14 800 to 15 000 in summer. The Chairman added that he had also learnt from the Hongkong Post that they had no layoff plan.

26. The Chairman considered it disappointing that although the Government was advancing the recruitment of 7 700 Government vacancies between December 2008 and 2009-2010 in keeping with its pledge to create jobs, the Government would only allow a moderate increase of about 0.9% (about 1 530 posts) in the civil service establishment to meet public service demands. To ascertain if the increase was adequate, he enquired about the number of posts which bureaux/departments (B/Ds) had originally applied for to meet service demands.

27. SCS responded that B/Ds could bid for additional staff through the annual resource allocation exercise. In line with the principle of prudent management of public resources, the number of staff approved was normally smaller than that applied for. Moreover, considering that appointment to the civil service on permanent terms would provide a long-term career and a high level of job security, the civil service establishment should not be increased in response to temporary fluctuations in the economy. As a result, new civil service posts would only be created when the operational need was fully justified, when the work involved could not be undertaken by re-deployment of existing staff, and when alternative modes of service delivery (e.g. enhanced use of information technology and outsourcing) were considered inappropriate.

Concerns about the outsourcing of tasks presently performed by Model Scale 1 grades

28. The Chairman noted that none of the 7 700 civil service vacancies to be filled between December 2008 and March 2010 belonged to Model Scale 1 (MOD1) grades, and expressed concern that the Government was planning to outsource all tasks presently performed by Workman II posts under MOD1 grades and depriving the lower-skilled workers of the opportunity to join the civil service. SCS responded that the open recruitment of Workman II was subject to control, and approval from CSB was required for open recruitment to fill these posts. CSB would examine such applications when received. In fact, she had recently approved five to six applications for open recruitment for grades under open recruitment control. As such, departments which had the need to recruit Workman I or II posts under MOD1 grades could submit their applications to CSB for consideration as necessary.

29. Mr LEUNG Kwok-hung opined that outsourcing of Government services would have the adverse effect of suppressing the wage level of workers in the private sector, which would undermine people's consumption power and lead to further shrinking of the economy. To mitigate the effect, he urged the Administration to take into account the pension element when specifying the wage level of Government contractors' workers to bring it in line with that of civil servants performing similar tasks.

30. SCS pointed out that outsourcing contracts of the Government were awarded through open tender, and a tender offer would not be considered if the monthly wage rates offered by the tenderer to its non-skilled workers were less than the average monthly wages for the relevant industry/occupation as published in the latest Census and Statistics Department's Quarterly Report of Wages and Payroll Statistics at the time when tenders were invited. Mr LEUNG Kwok-hung emphasized that notwithstanding the efforts, there remained a big gap between the wage levels of Workman I or II posts under MOD1 grades and those of workers employed under Government contracts

performing similar duties.

31. The Chairman enquired whether the Administration had any plan to stop contracting out services presently delivered by Workman I or II posts under MOD1 grades. In response, SCS said that when CSB proposed in March 2008 to allow serving MOD 1 staff, who were originally Category B officers holding non-established offices, to opt to become Category A officers, i.e., civil servants appointed to and confirmed in established office, it had reviewed and confirmed there was long-term operational need for a core workforce of Workman I and II in the civil service. CSB would consider applications for open recruitment to fill vacant MOD1 posts if received from B/Ds. The Chairman said that as the Panel would discuss "Government outsourcing" at its May meeting, members might further raise questions about the employment of non-skilled workers under government service contracts then.

V Consultation document on Review of Post-Service Outside Work for Directorate Civil Servants

— Consultation document published by the Committee on Review of Post-Service Outside Work for Directorate Civil Servants on 20 February 2009

(LC Paper No. CB(1)747/08-09(03) — Paper on work progress and public consultation plan from Committee on Review of Post-service Outside Work for Directorate Civil Servants

LC Paper No. CB(1)1033/08-09(03) — Administration's paper on the number of approved applications from directorate civil servants of major professional grades and education grades to take up post-service outside work with organizations related to their professions (from 2006 to 2008)

LC Paper No. CB(1)86/08-09 — Background brief prepared by the Legislative Council Secretariat)

32. Mr Ronald ARCULLI, Chairman of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants (the Review

Committee), briefed members on the consultation document published by the Review Committee on 20 February 2009 (the consultation document) and the relevant consultation plan.

The underlying principles

33. Referring to "issue 1" in the consultation document, Mr CHEUNG Man-kwong considered that it was the public's expectation that protecting public interest was more important than protecting an individual's right to pursue post-service employment, given that civil servants upon retirement were rewarded relatively generous retirement benefits. He considered that the most important mission of the Review Committee was to come up with effective measures to avoid suspicion or perception of "deferred reward" for past favour done by a former directorate civil servant in his official position to benefit a particular entity or individual in return for lucrative post-service employment, such as through policy initiatives tilted in favour of the party concerned, or through transfer of interests. Mr CHEUNG said that the need for such measures was all the more imminent as the number of directorate civil servants on pensionable terms decreased with the setting up of the Civil Service Provident Fund (CSPF) Scheme. As a result, suspension of pensions could no longer be used in the long run to deter impropriety in the post-service outside work pursued by directorate CSPF civil servants.

34. Dr Margaret NG also considered that protection of public interest should take precedence over an individual's right which, as she understood, referred to the right to pursuit of post-service employment in the present context. Mr LEUNG Kwok-hung and the Chairman expressed the same views. The Chairman added that civil servants not only received relatively generous remuneration while in the civil service but also enjoyed pensions upon retirement. Besides, the CSPF scheme was also more generous in terms of employers' contribution rate than the MPF schemes of other organizations. The Chairman considered that given their attractive pay and retirement benefits, civil servants' right to pursue post-service employment should not override the public interest. Mr ARCULLI responded that he personally agreed that protecting an individual's right to work after government service should not take precedence over protecting public interest, and believed that most civil servants would consider the same. The Review Committee's task was therefore to strike an appropriate balance between the two principles.

Suspicion or perception of "deferred reward"

35. The Chairman said that he did not agree with the considerations given in paragraph 5.19(b) in the consultation document which argued against making a specific reference to avoidance of suspicion or perception of "deferred reward" in the policy objective, namely, that such a specific reference might "subject applications to an unduly high degree of speculative

consideration in the assessment process". He considered if the logic was followed, it would suggest that nothing could be done in this regards.

36. The Chairman proposed that the control periods under the existing control regime governing post-service outside work of directorate civil servants should be lengthened to five years, during which a former directorate civil servant should be prohibited from taking up employment with commercial organizations, unless it could be ascertained that his taking up of such work definitely would not give rise to any conflict of interest or suspicion or perception of "deferred reward". The Chairman explained that this was aimed to enable the professional expertise of some former directorate civil servants to be usefully harnessed to the overall benefit of the community. The Chairman stressed that it was the public's expectation that the Review Committee would come up with recommendations on improvement measures to the existing control regime to specifically address the issue of "deferred reward".

37. In response, Mr ARCULLI said that the Review Committee would consider the suggestion. He also drew members' attention to the fact that all directorate civil servants, irrespective of their terms of appointment and the circumstances of their leaving the civil service, were subject to control. The total periods of restriction ranged from two to four years. No minimum sanitization period was prescribed for directorate civil servants leaving the civil service on grounds other than retirement (e.g. completion of an employment agreement or resignation), as each case would be considered on its own merits.

38. Mr LEUNG Kwok-hung pointed out that not only were directorate civil servants generously remunerated but they also wielded great power over important issues. As such, they should be subject to stringent post-service work restrictions. He suggested that in considering a civil servant for promotion to a senior position, the civil servant should be required to declare whether or not he would take up employment with commercial organizations after leaving the civil service and his future plan should be duly considered in deciding on his suitability for promotion. Mr LEUNG also suggested that the Administration could deduct the monthly pension payments of those former directorate civil servants who took up post-service outside work with commercial organizations and transfer the amount to staff welfare funds of the civil service. Mr ARCULLI said that he would convey this suggestion to the Review Committee.

Overseas control regimes

39. Referring to a report of a consultancy study on the control regimes governing post-service employment of senior civil servants in overseas jurisdictions available on the Review Committee's website, Dr Margaret NG pointed out that the major objective for France's control regime was to mitigate public concerns on suspicion about "delayed bribery" as set out in paragraph

2.4.4.2 of the consultancy report. She pointed out that the control regime of the United Kingdom (UK) also similarly aimed to "avoid any suspicion that the advice and decisions of a serving officer might be influenced by the hope or expectation of future employment with a particular firm or organization" (paragraph 2.4.7 of the consultancy report). She wondered whether the above concerns had been adequately addressed under the existing control regime of Hong Kong.

40. Referring to paragraph 4.3.6 of the consultancy report, Dr Margaret NG pointed out that the UK Civil Service Code 2006 had set out the standards of behaviour expected of civil servants based on the core values of "integrity", which was defined as putting the obligations of public service above one's own personal interests.

41. Dr Margaret NG maintained that the standard of behaviour expected of civil servants should be kept very high and, according to the submission on the control regimes of the UK and Hong Kong provided by Mr Ian SCOTT and Ms Joan LEUNG, professors of the Department of Public & Social Administration of the City University of Hong Kong, to the Review Committee, such a standard might be best achieved through enhancing a culture of integrity in the civil service. She requested the Review Committee to make reference to the submission. Mr ARCULLI responded that the Review Committee would study the submission in detail. He added that the Review Committee noted that amongst the jurisdictions covered in the consultancy study, Hong Kong's control regime was already amongst the top four in terms of stringency.

42. Referring to paragraph 4.87 of the consultation document, Mr CHEUNG Man-kwong pointed out that the control regime of the United States of America seemed to be the most stringent, under which a former employee of the Executive Branch was prohibited permanently from communicating with or appearing before any court or federal agency with the intent to influence on behalf of someone other than the United States on a particular matter involving specific parties in which he participated personally and substantially while with the Government and in which the United States was a party or had a direct and substantial interest. He urged the Review Committee to obtain more details of the above arrangements and explore applicability of the life-long ban to Hong Kong for special cases, such as where controversial issues were involved, or where the former civil servant concerned had been involved during government service in contractual or legal dealings to which his/her prospective employer was a party. Mr ARCULLI pointed out that the life-long ban under the United States' control regime was very restrictive and specific. The Review Committee would further study the relevant details.

43. Mr WONG Kwok-hing opined that the Review Committee should also map out incentives for encouraging former directorate civil servants to

provide public service on a voluntary basis or for notional remuneration. Mr ARCULLI responded that at present, directorate civil servants were normally not allowed to take up outside work during the final leave and the prescribed minimum sanitization period. However, blanket permission had been given for them to take up unpaid work throughout the final leave, minimum sanitization and control periods with specified non-commercial organizations, namely charitable, academic or other non-profit making organizations not primarily engaged in commercial operations, non-commercial regional/international organizations, or the central authorities of the Mainland.

44. In response to the Chairman's enquiry, Mr ARCULLI confirmed that the Review Committee would submit a report to the Chief Executive in mid-2009 and then brief the Panel on the findings. Meanwhile, members were welcome to render any further views and suggestions to the Review Committee for consideration.

VI Any other business

45. There being no other business, the meeting ended at 1:05 pm.

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Legislative Council Secretariat
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