

立法會

Legislative Council

LC Paper No. CB(1)2019/08-09
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by the Administration)

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Panel on Public Service

Minutes of meeting held on Friday, 29 May 2009, at 5:00 pm in the Chamber of the Legislative Council Building

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

Members attending : Hon Frederick FUNG Kin-kee, SBS, JP
Hon WONG Kwok-hing, MH

Member absent : Dr Hon Margaret NG

**Public officers
attending** : **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

Ms Kitty CHOI
Head, Efficiency Unit

Mr Steve BARCLAY
Assistant Director, Efficiency Unit

Agenda item V

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

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

Ms Mimi LEE
Deputy Secretary for the Civil Service 3

**Attendance by
invitation** : **Agenda item IV**

Hong Kong Civil Servants General Union

Mr CHUNG Tak-cheung
Vice-chairman

Mr AU YEUNG Chun-kit
Vice-chairman

Hong Kong Federation of Civil Service Unions

Mr LEUNG Chau-ting
Chairman

Mr CHAN Wai-keung
Vice-chairman

**Civil Servants & Subsidized Organisations
Committee, The Federation of Hong Kong &
Kowloon Labour Unions**

Mr HUI Chi-sing
Executive Committee Member

Mr TSANG Ming-tat
Secretary

HKCTU Public Services Committee

Mr LAM Chun-ming
Chairperson

Miss CHUNG Wai-yan
Secretary

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

- I Confirmation of minutes of meeting**
(LC Paper No. CB(1)1690/08-09 - Minutes of meeting on
20 April 2009)

The minutes of the meeting held on 20 April 2009 were confirmed.

II Information papers issued since last meeting

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

- III Items for discussion at the next meeting scheduled for 15 June 2009**
(LC Paper No. CB(1)1646/08-09(01) - List of outstanding items
for discussion
LC Paper No. CB(1)1646/08-09(02) - List of follow-up actions)

3. In response to the Chairman's enquiry, the Secretary for the Civil Service (SCS) said that the Administration would need some more time to ascertain whether the item on "2009-2010 civil service pay adjustment" would be ready for discussion at the next regular meeting on 15 June 2009, as the

results of the Pay Trend Survey had yet to be validated by the Pay Trend Survey Committee. Members agreed to tentatively include this item on the agenda, and the Administration would confirm readiness of the item for discussion at the next regular meeting as soon as practicable. If necessary, the Panel would consider deferring the meeting to a later date. Members also agreed to include the item on "Review of performance pledges" on the agenda of the next meeting.

4. Members noted that the Administration was planning to brief the Panel in July 2009 on the report to be submitted by the Committee on Review of Post-service Outside Work for Directorate Civil Servants. The Chairman suggested that the Panel should hold a special meeting in July to discuss the report as well as the item on "Employment of non-civil service contract (NCSC) staff". No members raised objection.

5. As to the other items on the Panel's list of outstanding items for discussion, SCS advised that they would be ready for discussion in the next legislative session.

IV Government outsourcing

- (LC Paper No. CB(1)1646/08-09(03) - Administration's paper on use of outsourcing in the delivery of Government services
- LC Paper No. CB(1)1692/08-09 - Background brief prepared by the Legislative Council Secretariat)

Presentation of views by deputations

Hong Kong Civil Servants General Union
(LC Paper No. CB(1)1738/08-09(01))

6. 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. In gist, the General Union was opposed to further outsourcing of public services because in its view outsourcing might not serve its purpose and was controversial, and had indirectly led to the brain drain of experienced civil servants. The General Union stressed the need for a review of the cost-effectiveness of outsourced government services before further outsourcing public services, and urged the Administration to ensure that outsourcing would not affect the establishment of the civil service. In addition, proper communication channels should be established to ensure that civil servants affected would be made aware of the relevant outsourcing plans. He further highlighted the need to take into account the staffing costs incurred

in managing outsourcing contracts and rectifying problems if such arose. The Administration also had to address concerns about the implications of outsourcing tasks that involved law enforcement.

Hong Kong Federation of Civil Service Unions
(LC Paper No. CB(1)1796/08-09(05))

7. Mr LEUNG Chau-ting, Chairman of the Federation, said that outsourcing was appropriate only for tasks such as the construction works for infrastructure and building projects. However, it might not be appropriate to outsource public services. He cited the example that problems had arisen after theatre stage management had been outsourced, as the service should be provided by highly disciplined civil servants to ensure service reliability. Another example was the engagement of security guards provided under outsourcing contracts to perform the duties of court ushers, which had given rise to concerns about court security. The Efficiency Unit (EU) should not only focus on identifying new service areas for outsourcing regardless of the suitability of these services for outsourcing.

Civil Servants and Subsidized Organisations Committee, the Federation of Hong Kong & Kowloon Labour Unions
(LC Paper No. CB(1)1796/08-09(02))

8. Mr HUI Chi-sing, Executive Member of the Committee, pointed out that due to unsatisfactory planning and monitoring, not only was Government outsourcing ineffective but it had also exerted great pressure on civil servants and affected Government's image as a good employer. Government outsourcing had also led to exploitation of non-skilled workers, and the relevant remedial measures were ineffective. The fact that civil servants were held accountable for the mistakes committed by staff of government contractors had also affected the former's morale. As different from outsourcing, the civil service system could help accumulate experience and expertise to promote the development of Hong Kong.

HKCTU Public Services Committee
(LC Paper No. CB(1)1796/08-09(03))

9. Mr LAM Chun-ming, Chairperson of the Committee, pointed out that civil servants very often shouldered responsibility for the poor quality of outsourced services. They also had to spend time on monitoring the performance of the staff of contractors and to rectify problems arising from the latter's poor performance. The Committee was of the view that government outsourcing was bound to be problematic because the private sector was profit-oriented in running the outsourced services. Three outsourcing cases were highlighted in the Committee's submission to illustrate problems pertaining to outsourcing, e.g. high staff turnover, low service quality,

increased pressure on civil servants, law enforcement problems, misuse of government assets, wastage of efforts, low staff morale, tarnished image of the Government and civil servants, etc. The Committee urged the Administration to listen to civil servants' views and address their grievances.

10. Members noted that Model Scale 1 Staff Consultative Council (Staff Side), which did not send representatives to the meeting, had also provided a submission (LC Paper No. CB(1)1796/08-09(01)) for members' reference.

Administration's initial response to deputations' views

11. In response to the deputations' views, the Head, EU (H, EU) made the following points –

- (a) The Government had a long history of using the private sector to deliver public services where appropriate, in keeping with its economic and fiscal objectives of maintaining a small and efficient government, containing the size of the civil service, promoting business opportunities and jobs in the private sector, and increasing flexibility in service delivery;
- (b) EU assisted bureaux/departments (B/Ds) to enhance efficiency through various service transformation tools, and outsourcing was not the only means promoted. These service transformation tools might involve a variety of approaches including the better use of technology, business process re-engineering, and promoting a more customer-centric approach. In particular, EU also encouraged B/Ds to streamline various procedures so as to reduce workload and facilitate the public in their use of public services;
- (c) As to the role EU played in government outsourcing, EU would only provide advice and assistance to those B/Ds which might wish to consider outsourcing their services. EU was not in the position to determine whether B/Ds should launch outsourcing projects or not. Nor had it set any target or quantifiable objectives in this regard. It was entirely up to the Heads of B/Ds to decide on their respective outsourcing programmes having regard to public expectations and their service modes;
- (d) EU had been conducting surveys on government outsourcing activities on a biennial basis since 2000. According to the latest survey completed in 2008, there were 4 339 contracts valued at over \$216 billion in July 2008, with an annual expenditure of \$42 billion. Over 80% of the annual outsourcing expenditure was on capital works and construction, building and property

management, and environmental hygiene contracts. If information technology contracts were also included, the percentage would be 92%. The outsourcing profile was similar to that of 2006, and no new work stream had been outsourced in the past two years. In fact, the annual expenditure on outsourcing projects decreased sharply in 2004 and plateaued off thereafter;

- (e) On the effectiveness of outsourcing, according to the outsourcing survey, by and large B/Ds considered that they had achieved their objectives in using outsourcing. In fact, the customer feedback received by four major user departments which had outsourced their services showed that improvements had been found in the services outsourced. It was noted that the services provided by civil servants had also improved as a result of healthy competition; and
- (f) To address concerns about exploitation of non-skilled workers, contract management had been improved since 2005. For example, the terms of some contracts had been extended to enhance certainty and hence job security for contractors' staff. A price adjustment mechanism had been adopted in some contracts to allow for adjustments to contract payments in accordance with market fluctuations in the labour cost to minimize the incentive to cut cost by exploiting workers. A Demerit Point System had also been introduced to sanction unscrupulous contractors. As a result, the number of exploitation cases had significantly decreased since 2005.

12. SCS pointed out that the history of using the private sector to deliver public services could in fact be dated back to the pre-1997 days with the primary objectives of achieving value for money and ensuring quality service delivery, and not cost cutting or reducing the establishment of the civil service. However, outsourcing might necessitate redeployment of the civil servants affected and subsequent deletion of the relevant vacant civil service posts. SCS highlighted that the major considerations of outsourcing included the suitability of the service concerned for outsourcing, legal and law enforcement considerations, whether outsourcing could enhance cost-effectiveness, etc. She added that the Civil Service Bureau (CSB) and the relevant department(s) would seriously follow up concerns regarding any adverse impact of outsourcing on individual civil servants.

Discussion

Impacts of outsourcing on the labour market

13. Mr WONG Kwok-hing pointed out that the effect of government outsourcing was not as positive as the Administration's paper had presented. As shown in the cases highlighted by the deputations in their submissions, government outsourcing had given rise to middle-man exploitation, e.g. cleansing services, such as street sweeping and toilet cleaning, were now performed by outsourced workers whose monthly wages were as low as \$3,000 or \$4,000. The same was true with security services and, due to the short-term nature of outsourcing contracts, the outsourced staff had no prospects of promotion or salary increase or job security. With these services being outsourced, non-skilled workers could no longer join the civil service which offered a high degree of job security and reasonable pay. Mr WONG criticized EU for aggravating exploitation by promoting government outsourcing. He requested EU to provide the number of workers employed under the some 4 000 contracts for the delivery of public services awarded to the private sector over the past eleven years, and information on the wages of workers concerned.

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14. H, EU responded that as evaluation of outsourcing focused on the outcomes, government outsourcing contracts only specified the level of service standard to be achieved by the contractors, rather than the number of staff to be employed. The Administration did not maintain statistics on the number of staff employed by contractors undertaking government outsourcing contracts. She further assured members that with the adoption of a fair two-envelope system, under which both tender price and technical proposal would be given due consideration in procuring contracts, lowest-priced tenders but involving exploitation of staff would not be considered.

15. H, EU also highlighted that the Administration had promulgated a mandatory requirement on wage rates for government service contracts for tender assessment. Under the mandatory requirement, a tender offer would not be considered if the monthly wage rates offered by the tenderer to their 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. In March 2005, the Administration further proposed a new standard employment contract for non-skilled workers for use by contractors of government service contracts.

16. Mr WONG Kwok-hing reiterated his concern that workers employed under government service contracts, which were normally short-term contracts, were deprived of wage increase and career prospects. Mr IP Wai-ming added that middle-man exploitation was in fact rampant and not under control as H, EU claimed. He questioned why such problems were not mentioned in the paper under discussion. H, EU responded that the Labour Department (LD) would follow up any complaints of exploitation of non-skilled workers. She informed members that in 2008, LD received 21 such complaints, and prosecuted four contractors for breaching the Employment Ordinance (Cap. 57).

17. Mr LEUNG Kwok-hung pointed out that contractors tended to cut staff salaries in order to minimize cost and to secure government service contracts by quoting lower tender price. He also pointed out insufficient labour protection legislation was in place to prevent staff exploitation. H, EU pointed out that measures were in place to ensure that outsourcing contracts were awarded through a fair and transparent tendering system and to prevent staff exploitation under the outsourcing system.

18. The Chairman opined that outsourcing had not only led to middle-man exploitation but also deprived non-skilled workers of opportunities of working for a stable job. He also highlighted the growing trend in the engagement of agency workers by B/Ds, such as the Housing Department and the Leisure and Cultural Services Department. He expressed disappointment at the lack of details in this regard in the Administration's paper. SCS responded that neither CSB nor EU had regularly collected information on the engagement of agency workers by B/Ds. As such, the Administration had to make special efforts to collate the information from B/Ds and would submit it to the Panel in due course.

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Impacts of outsourcing on civil servants

19. Ms LI Fung-ying and Mr IP Wai-ming considered it misleading that the Administration's paper only highlighted the benefits of government outsourcing but not any adverse impacts. In particular, civil servants would have to make extra efforts to monitor outsourcing contracts and to rectify problems arising from the unsatisfactory performance of outsourced staff as mentioned in the submission from the Civil Servants and Subsidized Organisations Committee, The Federation of Hong Kong & Kowloon Labour Unions (LC Paper No. CB(1)1796/08-09(02)). This in turn had affected civil servants' morale. Ms LI requested the Administration to provide a paper on the performance problems of outsourced staff with details of cases where civil servants had to make extra efforts to remedy such problems, and the cost implications. Mr LEUNG Kwok-hung also considered that when evaluating whether cost-effectiveness could be achieved through outsourcing,

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the staff cost incurred in monitoring the performance of outsourced staff and in helping to resolve problems arising from any poor performance of these staff should also be taken into account.

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20. H. EU responded that the paper had reflected the outcome of the outsourcing surveys conducted by EU. At Ms LI Fung-ying's request, she undertook to prepare a paper to set out the difficulties encountered by government departments as revealed in past surveys. She would also consider including questions on any problems encountered and additional workload borne by civil servants arising from outsourcing in future outsourcing surveys. She informed members that to mitigate such outsourcing problems, training in outsourcing techniques such as contract preparation, market analysis, contract implementation and monitoring, etc. had already been strengthened. She added that the Government noted that in general, cost in the range of 5% to 10% of the contract price would be incurred in contract management.

Other impacts of outsourcing

21. Dr PAN Pey-chyou opined that government outsourcing, together with other measures of the Government such as arbitrary control of the civil service establishment and various efficiency enhancement measures, had seriously affected civil servants' morale and the quality of public services. Dr PAN considered that government outsourcing would also aggravate the problem of wealth polarization and set a very bad example of achieving cost-savings through outsourcing. Highlighting the Government's social responsibility, Dr PAN urged the Administration to conduct a comprehensive review of government outsourcing and to critically review its cost-effectiveness. He hoped that the Administration would cease outsourcing any more public services in due course.

22. SCS reiterated that the Government had a long history of using the private sector to deliver public services and, while there was room for improvements, the benefits of the policy should not be totally denied. She stressed that there was a need to ensure cost-effectiveness in the provision of public services because taxpayers' money was involved. As for additional measures to safeguard the livelihood of non-skilled workers, SCS pointed out that the Government was already working on the drafting of legislation on statutory minimum wages.

Concerns about the suitability of certain services for outsourcing

23. The Deputy Chairman opined that although civil service staff unions/associations had not called for a total ban of government outsourcing, the work of some work streams should not be outsourced. In this regard, she highlighted the submission from the Land Inspectors Union expressing concern about the outsourcing of land resumption tasks and surveys of short-term

tenancies as such duties involved law enforcement. The Union considered it unfair if land inspectors were held accountable for any problems created by staff of the contractors concerned. She further pointed out that according to the Administration's paper, the above services should be outside the scope of outsourcing.

(Post-meeting note: The above submission was tabled at the meeting and issued to members vide LC Paper No. CB(1) 1796/08-09(04) on 2 June 2009.)

24. At the Chairman's invitation, Mr AU YEUNG Chun-kit, Vice-chairman of the Hong Kong Civil Servants General Union and the Chairman of the Land Inspectors Union, provided more details on the above case. Members noted that the land resumption work related to the Guangzhou-Shenzhen-Hong Kong Express Rail Link had been outsourced to MTR Corporation Limited (MTRCL), which had been commissioned to take forward the project. Since there had been complaints about trespass by MTRCL staff who were not authorized to enter private premises, Lands Department staff had to accompany the outsourced staff when they performed the relevant duties, and be held accountable for their work. There were also concerns that the outsourced staff could gain access to the personal data of individuals. He considered that there was a need to specify the work streams that could be outsourced and those that could not.

25. H, EU agreed to follow up and provide a written response to the above case after ascertaining its details. H, EU further explained that outsourcing of public services would be pursued only if such was permitted under the law. She added that where necessary, legal advice would be sought from the Department of Justice. SCS explained that different aspects of work might be involved in a law enforcement action and that some aspects of the work could be performed by parties other than the enforcement officers. For example, in the demolition of unauthorized building structures, while the relevant demolition orders could only be issued by staff of the Buildings Department (BD), BD could engage service providers in the private sector to help identify unauthorized building structures.

The way forward

26. Mr WONG Kwok-hing said that at a special meeting of the Finance Committee held in April 2009, H, EU had stated that EU had no information of any B/Ds planning to launch outsourcing projects in 2009-2010, and Mr WONG had requested EU to consult LegCo before implementing outsourcing projects in future. He also suggested that the Panel should follow up the matter.

27. The Chairman suggested that EU should provide channels for gauging civil servants' views in the course of conducting the biennial reviews, such as by consulting civil service staff unions/associations and Departmental Consultative Committees, so as to ensure that civil servants' views on outsourcing could be properly heeded. H, EU agreed to consider the Chairman's proposal and explore the best way to take it forward in the next biennial review. She also agreed to provide a written response to the Panel in due course. In response to Mr LEUNG Kwok-hung and the Chairman, the Administration also agreed to provide a sample of the questionnaire used for conducting the outsourcing surveys, and written responses to the following cases –

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- (a) The case highlighted in the submission from the Land Inspectors Union;
- (b) The case regarding use of security guards employed by contractors to perform the duties of court ushers as highlighted in the submission from the Hong Kong Federation of Civil Service Unions. In particular, the response should explain how concerns about court security so arising would be addressed; and
- (c) The two cases regarding the Lands Department and the Marine Department respectively as elaborated in the submission from the HKCTU Public Services Committee.

V Integrity enhancement initiatives for civil servants

(LC Paper No. CB(1)1646/08-09(04) - Administration's paper on integrity enhancement initiatives for Civil Servants)

28. SCS briefed members on the work of CSB in integrity promotion in the civil service through a three-pronged approach, namely, prevention, education and sanction.

The trend and nature of misconduct in public office

29. Ms LI Fung-ying said that she was under the impression that there had been an increase in misconduct in public office recently, and asked whether the Administration was aware of any relationship between this and the economic climate, and whether publicity and education efforts would be enhanced to

check the rising trend. SCS responded that the Government monitored the number of bankruptcy cases involving civil servants and that these cases normally had a relationship with the economy. Apart from this, she did not see any direct relationship between the state of the economy and the integrity in the civil service. With joint efforts of the Independent Commission Against Corruption (ICAC), CSB and B/Ds, the number of cases involving corruption in the civil service had been on the decline in the recent years regardless of the economic situation. In this regard, Mr LEUNG Kwok-hung considered it unfair that bankruptcy should be regarded as an act of misconduct, pointing out that bankruptcy had no bearing on the integrity and probity of a person.

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30. The Chairman opined that, to enable the Panel to ascertain the trend and types of offences or misconduct related to abuse of official position, the Administration should provide a breakdown (by year and by the six acts of misconduct classified as cases of abuse of official position) of the 140 cases where civil servants had been subject to disciplinary action for offences or misconduct related to abuse of official position during the five-year period from April 2004 to March 2009. In response, SCS agreed to provide the requested breakdown during the above period, and the five-year period immediately before if the relevant data were available.

Preventive measures

31. Mr LEUNG Kwok-hung queried why certain civil servants should be granted discretionary power as there might be difficulty in monitoring the exercise of such power. He opined that to prevent abuse of discretionary power, proper checks and balances were required.

32. SCS advised that where the exercise of discretionary power by concerned officers would have significant implications, the B/Ds concerned would seek ICAC's assistance in conducting corruption prevention studies and putting in place the necessary checks and balances. She explained that it was necessary to allow designated officers to exercise discretionary power in justified circumstances to better serve the public. For example, the exercise of discretion by relevant officers, on compassionate or other justified grounds, to waive the stated years of residence requirement for public rental housing (PRH) or eligibility for Comprehensive Social Security Assistance, had enabled families in genuine need to have access to these services even though they could not meet the eligibility criteria.

33. Mr LEUNG Kwok-hung enquired whether training would be provided to civil servants to prepare them for likely changes in trade and corruption practices that might occur with the growing number of Mainland companies listed in Hong Kong. SCS responded that ICAC regularly conducted corruption prevention and integrity promotion talks and seminars for civil

servants. Through case studies, civil servants were also alerted to new trends in the overall corruption scene and how to deal with them.

34. Dr PAN Pey-chyou opined that the standards of integrity in Hong Kong's civil service were among the highest in the world, and CSB's and ICAC's efforts in this regard should be commended. There was however always room for improvement and, noting that in the three years ended 2008, only 66 700 civil servants attended corruption prevention and integrity training courses, he urged the Administration to organize more such courses. He also enquired whether integrity training would also be provided for NCSC staff and staff of Government contractors. SCS replied in the affirmative, quoting as an example the talks organized in collaboration with ICAC for contractors of the public works projects and their management staff. She further said that CSB and ICAC had also jointly launched the online Resource Centre on Civil Service Integrity Management (RCIM) for all civil servants in 2001, and had been uploading typical examples of misconduct cases onto RCIM to provide civil servants with up-to-date and handy reference materials.

35. Concluding the discussion, the Chairman enquired about the progress in investigating the case where an assistant director of the Environmental Protection Department was found to have spent more than half of his time at the office surfing obscene websites for at least a year as reported by the media. SCS responded that it was inappropriate for her to comment on individual cases. Highlighting the public concern about the case, the Chairman urged CSB to announce the outcomes of the investigation upon its completion.

VI Any other business

36. There being no other business, the meeting ended at 7:00 pm.