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Panel on Public Service
Meeting on 16 February 2009

Updated background brief on
employment of non-civil service contract staff

Purpose

This paper provides background information on the policy on employment of non-civil service contract staff (NCSC) and summarizes the major concerns expressed by the Panel on Public Service (the Panel) on the subject in past discussions.

Background

2. The NCSC Staff Scheme was introduced in January 1999. According to the Administration, the Scheme provides Heads of Bureaux, Departments and Offices (hereafter referred to as HoDs) with a flexible means to employ staff on fixed term contracts outside the civil service establishment to meet service needs which are short-term, time-limited, seasonal or subject to market fluctuations; or which require staff to work on a part-time basis (i.e. less than the conditioned hours required of civil servants); or which require tapping the latest expertise in a given area in the market; or where the mode of delivery of the service is under review or likely to be changed through, e.g. contracting out. The Scheme is intended to enable HoDs to respond more promptly to changing operational and service needs.

Terms and conditions of employment

3. HoDs have full discretion in determining the appropriate employment package for their NCSC staff, including the pay level, the offer of an end-of-contract gratuity, and any pay adjustment during the contract period. In setting the employment terms for NCSC staff, HoDs have to comply with the guiding principles that the terms and conditions of services for NCSC staff should be no less favourable than those provided for under the Employment Ordinance (Cap. 57) (EO), and no more favourable than those applicable to civil servants in comparable civil service ranks or levels of responsibilities. NCSC staff are employed on fixed term contracts of up to

three years.

Statistics on NCSC staff

4. The numbers of full-time NCSC staff employed from 2001 to 2007 are as follows:

<u>Year</u> (as at 1 November)	<u>Number of full-time NCSC staff</u>
2001	11 244
2002	13 701
2003	16 147
2004	14 807
2005	15 687
2006	16 488
2007	16 960

Panel's discussions on the employment of NCSC staff in recent years

2006 review of the NCSC staff situation and their employment arrangements

5. At the Panel meeting on 20 March 2006, the Administration informed members that it would conduct a review of the NCSC staff situation on a department-by-department basis to better understand individual departments' manpower situation. Where it was established that civil servants instead of NCSC staff should be employed to meet specific service needs, the Administration would devise feasible measures with the concerned HoDs while ensuring the size of the overall civil service establishment would remain under control.

6. At its meeting on 18 December 2006, the Panel was briefed on the findings of the review. The Panel noted that as at 31 March 2006, there were 16 488 full-time NCSC staff employed in 68 bureaux/departments (B/Ds). The Administration intended to convert some 4 000 NCSC positions only to civil service posts. Members were disappointed with the outcome of the review. Some members considered that the NCSC staff should be given priority for consideration in the selection of appointees for filling relevant civil service posts. They suggested that in conducting open recruitment for the some 4 000 civil service posts converted from the NCSC positions, the Administration should consider stipulating in the relevant recruitment advertisements that priority would be given to those applicants who had previous relevant working experience in the Government.

7. At the same meeting, the Panel passed a motion expressing dissatisfaction that the findings of the review of the employment of NCSC had failed to treat the NCSC staff who had been employed for a long period of time fairly, and requested that:

- (a) departments should conduct a review again to ensure the conversion of the NCSC staff employed to fill the posts created to meet long-term needs to civil servants; and
- (b) serving NCSC staff should be converted to civil servants by "through train".

8. At its meeting on 15 January 2007, the Panel further met with representatives from the management of the eight main user B/Ds¹ of the NCSC Staff Scheme and staff associations concerned so as to better understand the employment situation of NCSC staff in these B/Ds. The Panel discussed the guiding principles and basic framework for the employment of NCSC staff as well as their employment package. When the Panel further discussed review of employment situation of NCSC staff on 15 March 2007, some members criticized the Administration for being unfair to the NCSC staff, as they could not be converted to civil servants and were not given the opportunity to apply for civil service posts through internal recruitment exercise. Instead, NCSC staff, including those who had been employed by the Government on contract terms for a long time, had to apply for civil service vacancies through open recruitment. The Panel passed a motion urging the Administration to accord priority to NCSC staff with relevant working experience in conducting open recruitment for civil service posts.

9. During discussion on "Civil service-related issues featuring in the 2008 Budget Speech" at the Panel meeting on 11 March 2008, some members expressed concern about the prospect of contract renewal of a group of NCSC staff working in public libraries. They raised that this group of staff might lose their jobs if they were not allowed to be transferred to the civil service by "through train" arrangement. The Panel further passed a motion urging that, given the huge fiscal surplus, the Administration should make its best endeavour to offer appointment to NCSC staff who had not been converted to civil servants so as to prevent them from becoming jobless.

10. The Administration responded that NCSC staff were employed on a time-specific contract basis. When the work a NCSC staff was employed to do was completed or phased out, or was to be undertaken by a civil servant, his employment contract would not be renewed. When new work of a temporary nature needed to be undertaken, the B/D concerned would recruit staff on NCSC terms and on a time-specific contract basis. Where necessary, B/Ds would endeavour to provide outgoing NCSC staff with appropriate employment assistance.

¹ The eight main user B/Ds of the NCSC Staff Scheme are the Leisure and Cultural Services Department, Hongkong Post, Education Bureau, Electrical and Mechanical Services Department, Department of Health, Food and Environmental Hygiene Department, Buildings Department and Social Welfare Department.

Pay adjustments for NCSC staff

11. Under the established annual civil service pay adjustment mechanism, the Government decides on the annual adjustment having regard to various factors: net pay trend indicators derived from an independent private sector pay trend survey, the state of the economy, changes in the cost of living, the Government's fiscal position, the staff sides' pay claims and civil service morale.

12. On 12 June 2007, the Chief Executive in Council ordered that the pay adjustment offer, i.e. a pay increase of 4.96% for the directorate and civil servants in the upper salary band and 4.62% for civil servants in the middle and the lower salary band with effect from 1 April 2007, should be adopted. Some Panel members asked whether the same pay increase rates would apply to NCSC staff. The Administration pointed out that NCSC staff were not civil servants and their terms and conditions of employment were different from those of civil servants, as explained in paragraph 3 above. Pay increases for civil servants did not apply automatically to NCSC staff.

13. When the Panel discussed the "Employment of NCSC staff" on 17 December 2007, some members expressed concern that the rates of pay adjustment for NCSC staff and civil servants were different. The Administration pointed out that it was inappropriate to mechanically apply the pay adjustment mechanism for the civil service to NCSC staff. By adjusting the pay of NCSC staff according to the market situation, pay increases for some NCSC staff in the Food and Environmental Hygiene Department, the Department of Health and the Leisure and Cultural Services Department in 2007 even exceeded that of the civil service. The pay level of NCSC staff in Hongkong Post also kept up with the market level. The Administration considered that the current mechanism provided HoDs with the necessary flexibility to set, and where appropriate adjust, the pay of their NCSC staff.

Need for enhancement of the communication with NCSC staff

14. At the Panel meeting on 17 December 2007, some members expressed concern that NCSC staff were not provided with an official platform to collectively negotiate with the management in respect of their employment terms and conditions. They were also not provided with a redress channel for handling their grievances. At the meeting, the Panel passed a motion urging the Government to consider setting up an inter-departmental platform to enhance the communication with NCSC staff, so as to improve employee-employer and staff-management relations and to boost the morale of NCSC staff.

15. The Administration responded that an established consultative machinery was in place within the civil service which was built on three levels: central, departmental and individual. Through this machinery, the management communicated with individual staff members (including NCSC staff), as well as staff unions/associations and staff consultative bodies in which NCSC staff were also represented, on a wide

range of subjects.

16. The Administration pointed out that members of the Staff Sides in the two Central Consultative Councils, namely, the Model Scale 1 Staff Consultative Council (MOD 1 Council) and the Senior Civil Service Council (SCSC), were all nominated by recognized staff associations/unions in accordance with the constitutions of the respective Councils. All the eight constituent staff associations/unions of the MOD 1 Council open their membership to NCSC staff. The largest of the three constituent staff associations of the SCSC, namely, the Hong Kong Chinese Civil Servants' Association, the Hong Kong Senior Government Officers Association and the Association of Expatriate Civil Servants of Hong Kong, also open its membership to NCSC staff. Issues relating to the engagement of NCSC staff had also been raised by the Staff Sides for discussion in both Councils. At the departmental level, all staff, including NCSC staff, were represented on the Departmental Consultative Committees.

Latest developments

17. At the Panel meeting on 20 October 2008, Dr Hon PAN Pey-chyou considered it unfair and demoralizing that when NCSC staff successfully applied for civil service posts, their periods of employment with the Government on contract terms were not taken into account for the provision of incremental credits, and they would only receive pay at the starting salary point of the relevant ranks. Members requested the Administration to review the employment of NCSC staff, including their terms and conditions of employment, arrangements for recruitment of NCSC staff to fill civil service posts, and the applicability of employment protection provisions under EO to NCSC staff, and to provide a paper on the review for discussion by the Panel at its meeting on 16 February 2009.

Relevant papers

18. A list of relevant papers is in the **Appendix**.

Appendix

Employment of non-civil service contract staff

List of relevant papers

Date of meeting	Committee	Minutes/ Paper	LC Paper No.
18.1.1999	Panel on Public Service (PS Panel)	Administration's paper on "Employment of Non-Civil Service Contract Staff" Minutes of meeting	CB(2)924/98-99 http://www.legco.gov.hk/yr98-99/english/panels/ps/papers/ps1801_5.htm CB(2)1466/98-99 http://www.legco.gov.hk/yr98-99/english/panels/ps/minutes/ps180199.htm
18.3.2002	PS Panel	Administration's paper on "Civil Service-relating issues featuring in the 2002-03 Budget" Supplementary information provided by the Administration Minutes of meeting	CB(1)1284/01-02(03) http://www.legco.gov.hk/yr01-02/english/panels/ps/papers/ps0318cb1-1284-3e.pdf CB(1)1474/01-02 http://www.legco.gov.hk/yr01-02/english/panels/ps/papers/ps0318cb1-1474-e.pdf CB(1)1445/01-02 http://www.legco.gov.hk/yr01-02/english/panels/ps/minutes/ps020318.pdf

Date of meeting	Committee	Minutes/ Paper	LC Paper No.
19.4.2004	PS Panel	Administration's paper on "Employment of Non-Civil Service Contract Staff"	CB(1)1505/03-04(04) http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0419cb1-1505-4e.pdf
		Administration's paper on "Employment of Non-Civil Service Contract Staff"	CB(1)1568/03-04(02) http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0419cb1-1568-2e.pdf
		Administration's paper on "Employment of Non-Civil Service Contract Staff"	CB(1)1813/03-04(01) http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0419cb1-1813-1e.pdf
		Administration's paper on "Employment of non-civil service contract staff"	CB(1)2346/03-04(01) http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/pscb1-2346-1e.pdf
		Administration's paper on "Employment of Non-Civil Service Contract Staff"	CB(1)93/04-05(01) http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0419cb1-93-1e.pdf
		Minutes of the meeting	CB(1)1787/03-04 http://www.legco.gov.hk/yr03-04/english/panels/ps/minutes/ps040419.pdf

Date of meeting	Committee	Minutes/ Paper	LC Paper No.
5.5.2004	Council meeting	Written question raised by Hon CHAN Yuen-han on remuneration and benefits for Non-civil Service Contract Staff	Hansard — Question number 9 http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm0505ti-translate-e.pdf
2.6.2004	Council meeting	Motion moved by Hon LEUNG Fu-wah as amended by Hon Andrew CHENG on safeguarding the rights and benefits of public servants and staff of outsourced government services	Hansard — Second motion http://www.legco.gov.hk/yr03-04/english/counmtg/hansard/cm0602ti-translate-e.pdf
15.12.2004	Council meeting	Written question raised by Hon KWONG Chi-kin on Non-civil Service Contract Staff	Hansard — Question number 15 http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm1215ti-translate-e.pdf
17.1.2005	PS Panel	Administration's paper on "Policy Initiatives of the Civil Service Bureau" Minutes of meeting	CB(1)684/04-05(03) http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0117cb1-684-3e.pdf CB(1)901/04-05 http://www.legco.gov.hk/yr04-05/english/panels/ps/minutes/ps050117.pdf

Date of meeting	Committee	Minutes/ Paper	LC Paper No.
18.4.2005	PS Panel	<p>Administration's paper on "Employment of Non-Civil Service Contract Staff"</p> <p>The Administration's response to the motion passed at the Panel meeting</p> <p>Minutes of meeting</p> <p>Administration's paper on "Employment of Non-Civil Service Contract Staff"</p>	<p>CB(1)1248/04-05(03)</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0418cb1-1248-3e.pdf</p> <p>CB(1)1976/04-05(01)</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0418cb1-1976-1e.pdf</p> <p>CB(1)1521/04-05</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/minutes/ps050418.pdf</p> <p>CB(1)2316/04-05(01)</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0418cb1-2316-1e.pdf</p>
14.12.2005	Council meeting	Oral question raised by Hon LAU Chin-shek on the government's control and management measures at different levels regarding Non-civil Service Contract Staff Scheme	<p>Hansard — Question number 2</p> <p>http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1214ti-translate-e.pdf</p>

Date of meeting	Committee	Minutes/ Paper	LC Paper No.
20.3.2006	PS Panel	<p>Administration's paper on "Employment of Non-civil Service Contract Staff"</p> <p>Minutes of meeting</p>	<p>CB(1)1067/05-06(03)</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/papers/ps0320cb1-1067-3e.pdf</p> <p>CB(1)1745/05-06</p> <p>http://www.legco.gov.hk/yr05-06/english/panels/ps/minutes/ps060320.pdf</p>
10.5.2006	Council meeting	Hon Leung Yiu-chung raised a question relating to NCSC staff	<p>Hansard – Question number 16</p> <p>http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm0510ti-translate-e.pdf</p>
18.10.2006	Council meeting	Hon Leung Yiu-chung raised a question relating to NCSC staff	<p>Hansard – Question number 3</p> <p>http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm1018-translate-e.pdf</p>
18.12.2006	PS Panel	<p>Administration's paper on "Review of Employment Situation of Non-Civil Service Contract Staff"</p> <p>Minutes of meeting</p>	<p>CB(1)471/06-07(03)</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps1218cb1-471-3-e.pdf</p> <p>CB(1)621/06-07</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/minutes/ps061218.pdf</p>

Date of meeting	Committee	Minutes/ Paper	LC Paper No.
15.1.2007	PS Panel	<p>Administration's paper on "Follow-up on Review of Employment Situation of Non-Civil Service Contract Staff"</p> <p>Minutes of meeting</p>	<p>CB(1)623/06-07(03)</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps0115cb1-623-3-e.pdf</p> <p>CB(1)876/06-07</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/minutes/ps070115.pdf</p>
8.2.2007	PS Panel	<p>Administration's paper on "Follow-up on Review of Employment Situation of Non-Civil Service Contract Staff"</p> <p>Minutes of meeting</p>	<p>CB(1)843/06-07(03)</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps0208cb1-843-3-e.pdf</p> <p>CB(1)1245/06-07</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/minutes/ps070208.pdf</p>

Date of meeting	Committee	Minutes/ Paper	LC Paper No.
15.3.2007	PS Panel	<p>Administration's paper on "Follow-up on Review of Employment Situation of Non-Civil Service Contract Staff"</p> <p>Administration's paper responding to the motion on "Employment Situation of Non-Civil Service Contract Staff"</p> <p>Minutes of meeting</p>	<p>CB(1)1108/06-07(01)</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps0208cb1-1108-1-e.pdf</p> <p>CB(1)1321/06-07(01)</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps0315cb1-1321-1-e.pdf</p> <p>CB(1)1322/06-07</p> <p>http://www.legco.gov.hk/yr06-07/english/panels/ps/minutes/ps070315.pdf</p>
17.12.2007	PS Panel	<p>Administration's paper on "Employment of non-civil service contract staff"</p> <p>Administration's paper on "Employment of non-civil service contract staff"</p> <p>Administration's paper on "Employment of non-civil service contract staff"</p>	<p>CB(1)377/07-08(03)</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/ps1217cb1-377-3-e.pdf</p> <p>CB(1)597/07-08(01)</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/ps1217cb1-597-1-e.pdf</p> <p>CB(1)794/07-08(01)</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/ps1217cb1-794-1-e.pdf</p>

Date of meeting	Committee	Minutes/ Paper	LC Paper No.
		Minutes of meeting	CB(1)565/07-08 http://www.legco.gov.hk/yr07-08/english/panels/ps/minutes/ps071217.pdf
11.3.2008	PS Panel	Administration's paper responding to the motion on the employment opportunities for non-civil service contract staff	CB(1)1262/07-08(01) http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/ps0311cb1-1262-1-e.pdf