

立法會
Legislative Council

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**Report of the Panel on Public Service
for submission to the Legislative Council**

Purpose

This report gives an account of the work of the Panel on Public Service during the 2008-2009 legislative session. It will be tabled at the Council meeting on 8 July 2009 in accordance with Rule 77(14) of the Rules of Procedure.

The Panel

2. The Panel was formed by a resolution passed by the Legislative Council (LegCo) on 8 July 1998 and as amended on 20 December 2000, 9 October 2002, 11 July 2007 and 2 July 2008 for the purpose of monitoring and examining government policies and issues of public concern relating to civil service and government-funded public bodies, and other public service matters. The terms of reference of the Panel are in **Appendix I**.

3. The Panel comprises 10 members, with Hon LEE Cheuk-yan and Hon Mrs Regina IP LAU Suk-yea elected as Chairman and Deputy Chairman of the Panel respectively. The membership list of the Panel is in **Appendix II**.

Major Work

Control regime for post-service outside work for directorate civil servants

4. The announcement made by New World China Land Limited (NWCL) in August 2008 regarding the appointment of Mr LEUNG Chin-man (former Permanent Secretary for Housing, Planning and Lands and Director of Housing) as an Executive Director and Deputy Managing Director of the company had aroused wide public concern about the propriety of the approval given to Mr LEUNG's post-service employment and the control of post-service outside

work for directorate civil servants. The Panel had actively followed up the related issues and held a special meeting to discuss the approval process of Mr LEUNG's application and the enhancements for the existing control regime. Following the Chief Executive's appointment of the Committee on Review of Post-service outside Work for Directorate Civil Servants (Review Committee) in September 2008, the Panel discussed at two meetings the Review Committee's work progress and its consultation document with Mr Ronald ARCULLI, Chairman of the Review Committee.

5. Panel members were of the view that the incident of Mr LEUNG Chin-man had revealed the inadequacy of existing control arrangements in preventing directorate civil servants from taking up any work outside the Government which might constitute a real or potential conflict of interest with their former government duties or cause negative public perception. The wide public concern aroused had clearly demonstrated the need for strengthening the existing control regime. Some members suggested that to ensure impartiality, the approving authority should be an independent body rather than the Secretary for Civil Service (SCS). Some members suggested that the control periods under the existing control regime should be extended to five years, during which a former directorate civil servant could not take up employment with commercial organizations, while some suggested that a former directorate civil servant should not be allowed to take up post-service outside work which was related to his policy responsibilities in his last five years of government service.

6. Members considered that avoiding 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, as raised in the Review Committee's consultation document, was very important. They considered that it was the public expectation that the Review Committee would come up with improvement measures to specifically address the issue of "deferred reward". Some members were of the view that in considering the necessary enhancements to the existing control regime, the Review Committee should take note of the public expectation that the principle of protection of public interest was more important than that of protection of an individual's right to pursue post-service employment.

7. Members also expressed concern that since politically appointed officials had wider powers, it would be unreasonable if the control arrangements applied to directorate civil servants were even more stringent than those applied to politically appointed officials. The Chairman of the Review Committee undertook that the Review Committee would consider views expressed by the public and LegCo in this regard. The Panel will hold further meetings to discuss the Review Committee's report when available.

Grade Structure Review

8. The Standing Committee on Directorate Salaries and Conditions of Service, the Standing Committee on Disciplined Services Salaries and Conditions of Service (SCDS) and the Standing Commission on Civil Service Salaries and Conditions of Service submitted their respective Grade Structure Review (GSR) reports to Chief Executive on 27 November 2008. The Civil Service Bureau (CSB) was tasked to study the findings and recommendations of the three reports and consult relevant parties including the Panel.

9. The Panel discussed the three reports at two meetings and received views from representatives of 12 disciplined services' unions/staff associations. Members noted that there was strong dissatisfaction from various disciplined services over SCDS's Report, which fell short of their expectations and failed to address their strong demands for, e.g. extending the through scale arrangement to the Correctional Services, the Customs and Excise, the Immigration, the Government Flying Service and the Fire Services' Ambulance Stream, review of pay structure and the existing discrepancies in pay scales, and shortening of conditioned hours of work. Panel members considered that the disciplined services had made great contributions to Hong Kong and it was unfair that their many concerns about salaries and conditions of service had not been properly addressed in SCDS's Report.

10. Members shared the disciplined services' view that SCDS's Report had failed to address the staff's grave concerns over their pay structure, career progression and conditioned hours of work, etc. Members highlighted the importance of the current GSR of the disciplined services considering that GSR had not been conducted for almost 20 years. Members urged the Administration to engage in direct dialogue with the disciplined services and carefully consider all the views received.

11. SCS informed the Panel that she had been meeting with civil service consultative councils on the GSR reports since their publication, and she would continue to study and consider carefully the views received. The Administration would formulate a position on the recommendations of the GSR reports after it had examined all the views received during the consultation exercise.

12. Members noted that upon the release of the GSR reports, SCS had stated that, in recognition of Hong Kong's rapidly worsening economy amidst the global financial crisis, when the Administration submitted to Chief Executive-in-Council its recommendations on the GSR reports, it would propose to defer the implementation of those recommendations supported by the Administration and involving additional financial implications until the

local economy returned to a steady state. While some members expressed support for the "deferral" proposal in view of the stringent economic environment, some considered that to be fair to the disciplined services, implementation of recommendations involving additional financial implications should not be deferred for too long, and that their implementation with retrospective effect should be considered.

13. Members also questioned the approach to be adopted to assess whether the economy had returned to a steady state. SCS advised that the Administration would specifically collect views on the issue during the consultation exercise. In view of the grave concern expressed by civil servants in the disciplined services about the deferred implementation of the recommendations in the GRS report of the Disciplined Services, the Panel will further discuss GRS in July 2009.

Draft Civil Service Code

14. In connection with the development of the Political Appointment System, CSB has committed to issuing a Civil Service Code (the Code) that sets out the values and standards of conduct which civil servants are expected to uphold, and the framework within which civil servants are expected to work with politically appointed officials under the expanded Political Appointment System. The draft Code was published for consultation in December 2008.

15. The Panel discussed the draft Code at two meetings and received views from civil service staff unions/associations. Some members considered that the draft Code failed to define the division of roles and responsibilities between permanent secretaries and the under secretaries/political assistants, since both permanent secretaries and under secretaries were to assist in explaining proposed policy initiatives or government policies to LegCo and the community/the media.

16. SCS explained that as there were only some 30 politically appointed officials, they were unable to discharge the role of explaining the whole spectrum of government policies to LegCo and all relevant stakeholders without civil servants' assistance. One of the purposes of the Code was to specify that civil servants were responsible for implementation of policies and Government decisions and to bear responsibility for administrative decisions and actions, while politically appointed officials had to bear political responsibility for policy decisions.

17. Some Panel members were of the view that under the Political Appointment System, the definitions of political accountability and administrative responsibility were unclear. SCS advised that the Administration well recognized the existence of grey areas in the delineation of roles and responsibilities between civil servants and politically appointed

officials. In order to ease civil servants' concern, the draft Code specified that politically appointed officials were primarily responsible for undertaking political work, whereas civil servants were to assist in the policy formulation under the charge of principal officials by providing necessary support. The grey areas in the division of work could also be sorted out by the respective principal officials where necessary. In addition, the communication/complaint/redress mechanism under section 7 of the draft Code was proposed with a view to addressing such concerns from civil servants.

18. Some members expressed concern that the draft Code did not address the issue of unclear supervising/subordinating relationship between under secretaries and civil servants. Members noted that under secretaries might, on behalf of principal officials, convey to civil servants the views and work priorities of principal officials, and that the views of under secretaries might be sought for the performance appraisals of civil servants who had close working relationship with them. Members considered that under these arrangements, an implied supervisor/subordinate relationship existed between civil servants and under secretaries

19. SCS explained that the draft Code already specified that working contacts between under secretaries/political assistants and civil servants should not be perceived as a supervisor/subordinate relationship. To address civil servants' concern, it was spelt out in the draft Code that the permanent secretaries and the appropriate civil servants in the relevant line of command were to be kept informed as far as possible of the communication between under secretaries/political assistants and civil servants concerned. SCS also explained that it had been an established practice well before the introduction of the Political Appointment System that input from parties concerned with close working relationship with a civil servant might be sought for the performance appraisal report of the civil servant.

20. While some members suggested shelving the implementation of the Code in view of civil servants' concerns, SCS advised that there was a need to issue the Code to provide guidelines on the division of roles and responsibilities between civil servants and politically appointed officials under the Political Appointment System. CSB would take into account all the views received during the consultation period when finalizing the Code.

Disciplinary mechanism and related procedures for disciplined services and civilian grades

21. The Administration consulted the Panel on its proposals on the disciplinary framework for civil servants whose retirement benefits were provided under the Civil Service Provident Fund (CSPF) Scheme and other related proposals on 20 October 2008. The Panel also met with representatives of disciplined services' unions at its meeting on 17 November

2008. After consulting the Panel, the Administration introduced the relevant Bill into LegCo on 13 February 2009.

22. At present, civil servants appointed on new entry terms on or after 1 June 2000 are eligible to join the CSPF Scheme when they progress onto new permanent terms upon completion of probation and/or agreement. Based on the removal punishments in use for civil servants on pensionable terms, the Administration proposed that forfeiture of full accrued benefits attributable to Government's Voluntary Contribution (GVC benefits) would apply to CSPF civil servants.

23. Panel members were mostly concerned that for the compulsory retirement with reduced GVC benefits cases, the level of forfeiture would be pitched at up to 25% of a CSPF civil servant's accrued GVC benefits and that any investment returns generated from the GVC benefits would also be included in determining the amount of the accrued GVC benefits. As investment returns depended on the performance of the investment portfolios for which the staff concerned had opted, this could give rise to different forfeiture amounts for civil servants of the same grade, with the same years of service and having committed the same offences. Some members suggested capping the forfeiture amount at 25% of the GVC benefits and any gains generated from investment returns be disregarded in calculating the amount.

24. The Administration explained that it would be difficult to have a proposal which could take into account the differences in investment returns arising from individual CSPF civil servants' personal choice of investment portfolios. The current proposal was broadly comparable to the arrangements for pensionable civil servants, and the staff side generally found the proposal acceptable.

25. Representatives of the staff sides of the disciplined services had also expressed concern about the existing discrepancies in the disciplinary proceedings of civil servants subject to the disciplined services legislation (DSL), particularly that some disciplined services were allowed to make video or audio recordings while others were not.

26. In response to the Panel's request, the Administration has set up a task group with the management of the various disciplined services to examine the recording (in written and tape form) of disciplinary hearings undertaken under the relevant DSL, the leave arrangements for serving civil servants attending disciplinary hearings as defence representatives/witnesses for the accused officers, the processing time for investigation of alleged misconduct of staff, and whether the different disciplinary practices currently adopted by the different disciplined services under their respective DSL should be standardized.

27. As regards the concerns of the staff sides of the disciplined services about the lack of progress in formulating the operational details of the "review board" provided under section 20(2) of the Public Service (Administration) Order (PS(A)O) to replace the appeal channel that existed prior to the Reunification, Panel members urged the Administration to follow up the matter and address staff sides' concerns. The Administration advised that the matter was under consideration, and it would continue to keep the staff sides closely informed of the progress made and consult them on the review findings.

28. In the light of the Court of First Instance's judgment handed down in July 2008 in Mr Mike Rowse's application for judicial review and with a view to ensuring the continued effective and efficient handling of representations made under section 20(1) of PS(A)O, the Administration consulted the Panel in November 2008 on an amendment to section 19 of PS(A)O. The amendment was subsequently made by the Chief Executive-in-Council to expressly provide that the Chief Executive might delegate his power under section 20(1) to other public officers to consider and act on representations.

29. In March 2009, a judgment was handed down by the Court of Final Appeal (CFA) concerning the denial of legal representation for a civil servant during a disciplinary proceeding conducted under DSL. The Panel discussed with the Administration and representatives of the staff sides of the disciplined services about the necessary remedial actions required, such as whether legislative amendments should be made to repeal those provisions in the relevant DSL which had been ruled unconstitutional, and how requests for legal representation at disciplinary hearings conducted under the relevant DSL should be handled.

30. According to the Administration, the processing of disciplinary cases had already been suspended insofar as cases involving disciplinary hearings conducted under the relevant provisions of four DSL (including those under the Police (Discipline) Regulations which had been ruled unconstitutional by CFA) were concerned. The Administration was currently drawing up guidelines for the disciplinary authority to consider applications for legal representation from civil servants and to conduct disciplinary hearings with legal representation. For these suspended cases, the civil servants concerned would be invited to consider whether they would wish to apply for legal representation.

31. In response to the Panel's concern about the need for a comprehensive review to examine whether any more provisions under the existing DSL might also be unconstitutional, SCS advised that the Administration's plan was to give priority to urgent matters such as the legal representation issue. The Administration would also keep the civil service disciplinary system under regular review to identify areas for improvements.

Employment of Non-Civil Service Contract staff

32. The Panel has been closely following up the policy on employment of Non-Civil Service Contract (NCSC) staff. At the request of the Panel, the Administration reported on the latest position of the NCSC Staff Scheme. Members noted that 9 602 NCSC staff were employed on contracts of only one to two years (as at 31 December 2008). They considered that as the largest employer, the Government should properly deal with the NCSC staff to avoid aggravating the unemployment problem. Some members suggested that, the Administration should introduce a system whereby NCSC staff with proven satisfactory performance and relevant working experience would be accorded priority for consideration in the selection of appointees for filling civil service posts. The Administration explained that to enable the civil service to attract good calibre candidates, appointment of civil servants should be through open recruitment, and NCSC staff would be considered alongside other candidates in filling civil service posts.

33. Some members considered the NCSC Staff Scheme unreasonable and had given rise to the problem of "different pay for the same job", and that the Scheme should be phased out. As the departments which employed NCSC staff with length of continuous service at five years or more were mostly operating in a Trading Fund mode, members queried whether the Government had required these departments to hire more NCSC staff even though there was a long-term service need for such posts.

34. The Administration advised that CSB had not restricted these departments from employing civil servants, and the departments could request to replace their NCSC positions with civil service posts as appropriate. The Administration pointed out that there was a need to employ NCSC staff to complement the civil service workforce to meet service needs which were time-limited, seasonal, or subject to market fluctuations; or which required staff on a part-time basis; or which required tapping the latest expertise in the market; or where the mode of delivery of the service was under review. The Panel will further discuss the issue in July 2009.

Entry system for the civil service

35. Under the new entry system for civil servants recruited from 1 June 2000 onwards, recruits to the basic ranks are appointed initially on three-year probationary terms, to be followed by three-year agreement terms, before they are considered for appointment on the prevailing permanent terms (commonly known as the "3+3" entry system).

36. The Panel has been gravely concerned about the new entry system, which members considered would only facilitate the dismissal of civil servants on agreement terms during economic downturn and had set a bad example for

the private sector. They also considered it unjustified to take as long as six years to assess a civil servant's suitability for appointment on permanent terms. Members were of the view that the "3+3" entry system was not conducive to attracting and retaining quality staff and exerted great pressure on the staff. Some members suggested shortening the "3+3" probation/agreement period by half.

37. The Administration advised that the Government had decided to adopt the new civil service entry system in 2000 after careful deliberation and thorough consultations including with the Panel. The Administration pointed out that based on statistical figures in the years of 1998 and 2008, there was no evidence suggestive of any adverse impact of the "3+3" entry system on the recruitment and retention of civil servants. However, given the general open recruitment freeze for the civil service from 2000 to 2007, the recruitment/resignation statistics gathered only reflected the situation for most grades for one to two years. The Administration, therefore, would continue to monitor the overall appointment and unnatural wastage of civil servants for a longer period of time to collect objective information and data, and consider whether there was any need to modify the system. SCS assured members that the Administration would consider a systemic change to the "3+3" entry system should circumstances warrant.

Recruitment of civil servants and impact of outsourcing on civil service establishment

38. In view of the serious impact of the global financial turmoil on the labour market, the Panel was concerned whether the civil service establishment in 2009-2010 would be increased. Members were disappointed that, although the Government was advancing the recruitment of 7 700 government vacancies between December 2008 and end-March 2009 in keeping with its pledge to create jobs, there would only be a moderate increase of about 0.9% (about 1 530 posts) in the civil service establishment to meet public service demands.

39. The Administration explained that in line with the principle of prudent management of public resources, the civil service establishment should not be increased in response to fluctuations in the economy. In a bid to protect the opportunities for the lower-skilled workers to join the civil service, some members requested the Administration to stop contracting out services delivered by Workman I or II posts under Model Scale 1 (MOD 1) grades. Panel members were also concerned that under the current economic climate, the Administration might outsource more of its services. In this connection, the Panel discussed government outsourcing with the Administration and representatives of civil service staff unions/associations. The Administration assured members that no civil servants would be made redundant as a result of outsourcing, as they could be redeployed to other posts.

40. The Administration further advised that CSB had proposed in March 2008 to allow serving MOD 1 staff (non-established offices) to opt to become civil servants in established office, as 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 bureaux/departments made such requests.

41. As civil servants in general had grave concerns about the impact of government outsourcing, the Panel considered that the Administration should provide channels for gauging civil servants' views in the course of conducting the biennial reviews on government outsourcing activities, such as by conducting consultation through Departmental Consultative Committees. The Administration agreed to follow up the Panel's request and undertook to work out the detailed consultation arrangements for the next biennial review.

Medical and dental benefits to civil service eligible persons

42. The Panel noted that the staff sides had expressed dissatisfaction with the general difficulties encountered in seeking medical consultation and treatment under the existing system of provision of civil service medical and dental benefits (hereafter collectively referred to as "civil service medical benefits"). The Panel noted the withdrawal in September 2008 of the Police Force Council Staff Associations (PFC SA) from the Standing Committee on Medical and Dental Facilities for Civil Servants (SCMDF)¹ in view of the latter's failure to make improvement to the provision of civil service medical benefits. The Panel held a meeting to discuss the issue with the Administration and representatives of civil service staff unions/associations.

43. SCS advised that there was an 18% increase in the 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 would be about \$60 million more than the revised estimate for 2008-2009. One more Families Clinic would be opened in the New Territories in 2009-2010, two consultation rooms would be added to the existing Chai Wan Families Clinic and two additional orthodontic surgeries would be provided.

44. As regards the staff sides' concern about the long waiting time for consultation under the present system, members urged the Administration to study the staff sides' proposal to provide civil service medical benefits outside

¹ SCMDF was established in 1979 by CSB to provide a forum to discuss matters on civil service medical benefits. SCMDF comprises membership from the official sides and the staff sides. Official members include representatives from CSB, the Food and Health Bureau, the Hospital Authority (HA) and the Department of Health.

the public healthcare system, such as taking out medical insurance. SCS undertook that the Administration would discuss the proposal with the staff sides taking into account the Government's financial capability and the cost-effectiveness of relevant proposals.

45. Concerning the inclusion of Chinese medicine within the scope of civil service medical benefits as requested by the staff sides, SCS explained that 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. As 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.

46. Members were generally dissatisfied with the Administration's response to the concerns about medical and dental services for civil servants. The Panel passed a motion at the meeting on 16 March 2009 urging the Government to expeditiously improve the existing medical services for civil servants by including Chinese medicine within the scope of civil service medical benefits and to explore the provision of medical benefits to civil servants by other better means, such as taking out medical insurance. The Panel requested the Administration to report the improvements made in the next legislative session.

2009-2010 civil service pay adjustment

47. The Chief Executive-in-Council decided on 23 June 2009 that civil servants in the lower and middle salary bands should have a pay freeze, while a pay cut of 5.38% would be imposed on civil servants in the upper salary band and above. The Panel discussed the matter with the Administration at its meeting on 29 June 2009. Some members expressed opposition to the proposed pay cut for the upper salary band and above, as they considered that this might trigger off a spate of wage cut in the community, which would dampen consumption desire and adversely affect the economy. These members suggested a pay freeze for civil servants in the upper salary band, or carrying forward the proposed pay cut to future years and offsetting it against future pay increases. The Administration advised that the CE-in-Council had decided on the proposed pay adjustment having regard to all the relevant considerations. Under the existing mechanism, there was no "carry forward" arrangement as each year's pay adjustment was a separate exercise and decided upon having regard to all the relevant factors.

48. Noting that some of the representatives of the staff sides of the central consultative councils had expressed concerns about the results of the 2009 Pay Trend Survey (PTS) and the inclusion of two certain companies in the survey field, the Panel requested the Administration to provide information on the

criteria for the selection of companies for inclusion in the survey field and other relevant information for further discussion of the issue at a special meeting to be held on 7 July 2009. The Chairman of the PTS Committee and its other representatives were also invited to attend the meeting to provide information on the PTS mechanism.

Other issues

49. The Panel received briefings from the Administration on Chief Executive's Policy Address in 2008 as well as on progress reports on the implementation of the five-day week initiative in the Government and CSB's work in integrity promotion in the civil service. The Panel also discussed a staffing proposal on retention of one supernumerary post of Administrative Officer Staff Grade C in the Secretariat to the Commission on Strategic Development and the outcome of the Administration's review of performance pledges.

Meetings held

50. From October 2008 to June 2009, the Panel held a total of 11 meetings.

Council Business Division 1
Legislative Council Secretariat
3 July 2009

Legislative Council

Panel on Public Service

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to the civil service and Government-funded public bodies, and other public service organizations.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Public Service**

Membership list for 2008 – 2009 session

Chairman	Hon LEE Cheuk-yan
Deputy Chairman	Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Members	Dr Hon Margaret NG 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
	(Total : 10 members)
Clerk	Ms Joanne MAK
Legal Adviser	Ms Connie FUNG
Date	13 November 2008