

LEGISLATIVE COUNCIL BRIEF

THE GRADE STRUCTURE REVIEW REPORT ON SPECIFIC CIVILIAN GRADES

INTRODUCTION

At the meeting of the Executive Council on 20 October 2009, the Council ADVISED and the Chief Executive (CE) ORDERED that –

- (a) the recommendations in *Report No. 43* of the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission) should be accepted in full (paragraph 14); and
- (b) subject to the approval of the Finance Committee of Legislative Council,
 - (i) the pay-related recommendations should be implemented with retrospective effect from 1 April 2009 (paragraph 17);
 - (ii) a special arrangement should be put in place for calculating the pension benefits of those civil servants in the Veterinary Officer and non-directorate legal grades who retired/resigned or who passed away with death gratuity with their last day of service (pre-retirement leave included) falling within the period of 27 November 2008 to 31 March 2009, or who were injured/died on duty with additional/ dependant pension during the same aforesaid period of time (paragraph 18); and
 - (iii) the normal conversion arrangement should be adopted for affected serving staff in the concerned grades (paragraph 19).

2. *Report No. 43* of the Standing Commission is attached to Legislative Council Panel on Public Service Paper No. CB(1)310/08-09(01) issued on 27 November 2008. It can also be downloaded at:

JUSTIFICATIONS

(A) Considerations of the Standing Commission

3. At the invitation of the Administration, the Standing Commission conducted a GSR on the Veterinary Officer (VO) grade and one on the legal grades¹ (namely Government Counsel (GC), Legal Aid Counsel (LAC) and Solicitor) in view of the recruitment and retention difficulties encountered by these grades. Its findings and recommendations are set out in its *Report No. 43*.

4. In drawing up its recommendations, the Standing Commission had regard to the following key considerations –

- (a) the Government's pay policy for the civil service is to offer sufficient remuneration to recruit, retain and motivate staff of a suitable calibre to provide the public with an effective and efficient service; and to ensure that civil service remuneration is regarded as fair by both civil servants and the public they serve;
- (b) the identified grades are an integral part of the civil service of the Hong Kong Special Administrative Region;
- (c) the established pay principles (such as the qualification benchmark system for determining entry pay and the 'broad-banding' principle² for determining the pay scale of higher ranks), the previous reviews of the concerned grades; changes and developments in the work nature, job duties, responsibilities and workload of the concerned grades since the last review; and the public expectation of these grades consequential upon the changing social, economic and political landscape;
- (d) the recruitment, morale, retention and career progression situation of concerned grades;
- (e) the submissions and views from staff and

¹ In accordance with its terms of reference, the Standing Commission's GSR on the legal grades focused only on their non-directorate ranks. The existing structure of the VO grade does not have a directorate rank.

² Under the 'broad-banding' principle, the pay and rank structure of senior professional ranks are 'broad-banded' with a common pay scale, irrespective of the particular type of qualifications associated with individual grades.

departmental/grade management; and

- (f) the wider community interest, including financial and economic considerations.

(B) Recommendations of the Standing Commission

5. The Standing Commission makes the following pay-related recommendations –

For the VO grade

- (a) the starting pay for the VO rank should be increased by two pay points, from Point 29 (currently at \$40,290) of the Master Pay Scale (MPS) to MPS 31 (currently at \$44,155), while its maximum pay point should remain unchanged at MPS 44 (currently at \$77,675);
- (b) the existing three omitted points at MPS 31, 35 and 38 on the pay scale of the VO rank should correspondingly be repositioned to MPS 33, 37 and 40; and
- (c) the pay scale of the Senior VO (SVO) rank should remain unchanged at MPS 45 to 49 (currently from \$80,485 to \$92,720);

For the legal grades

- (d) the starting and maximum pay points of the GC, LAC and Solicitor ranks should remain unchanged at MPS 32 (currently at \$46,230) and 44 (currently at \$77,675) respectively;
- (e) the existing omitted point at MPS 37 on the pay scales of the GC, LAC and Solicitor ranks should be repositioned to MPS 36 and an additional omitted point at MPS 40 should be introduced for these ranks, subject to a review of the continued need for the additional omitted point three years after implementation³; and
- (f) the pay scale of the Senior GC (SGC), Senior LAC and Senior Solicitor ranks should remain unchanged at MPS 45 to 49 (currently from \$80,485 to \$92,720).

³ This recommendation would increase the number of omitted points for these ranks from three (MPS 34, 37 and 38) to four (MPS 34, 36, 38 and 40). As a related issue, the Standing Commission also reminds the Administration to keep under regular review the continued need for omitted points in all non-directorate civilian grades having regard to the changing recruitment and retention situation of individual grades.

6. The Standing Commission also recommends that the normal conversion arrangement⁴ should be adopted for affected serving staff where the starting salary of a rank has been increased, and that a suitable conversion arrangement should be put in place in respect of the re-positioning and/or addition of omitted points having regard to the established practice.

7. The Standing Commission considers that improvements to pay and conditions of service could not, and should not, be the only solution to tackle recruitment and retention problems. Specifically, it –

- (a) invites the Administration to review whether it is functionally justified to create a new tier beyond the SVO rank (i.e. a new rank at Point 1 of the Directorate Pay Scale, or commonly known as a D1 rank);
- (b) considers that there is a *prima facie* case for reviewing some of the SGC posts to determine whether they should be upgraded on a functional basis to the next higher rank beyond the senior professional rank (i.e. a new rank at Point 1 of the Directorate (Legal) Pay Scale, or commonly known as a DL1 rank);
- (c) invites the management of the Intellectual Property Department (IPD) to consider whether some of its Senior Solicitor posts should be upgraded on a functional basis to the DL1 rank⁵; and
- (d) makes suggestions on a number of management issues, including training, recruitment and manpower planning.

(C) Views of Departmental Management and Staff

8. Upon receipt of *Report No. 43* of the Standing Commission on 27 November 2008, we invited views and comments from the four central consultative councils, the four major service-wide staff unions and the departmental management concerned. We also requested the latter to consult the relevant staff associations when drawing up their views on the

⁴ The normal conversion arrangement provides that where the minimum salary of a rank is raised, serving staff who are paid below the new minimum pay point should have their pay increased to the new minimum, and those who are paid on or higher than the new minimum pay point should be remunerated on the next higher pay point, subject to the maximum pay point of the rank concerned.

⁵ The structure of the Solicitor grade includes an existing rank pitched at DL1 level. Under the current approved establishment of the Intellectual Property Department, there is no post in this rank.

recommendations. Details of their views are summarized in the ensuing paragraphs.

9. The management of Agriculture, Fisheries and Conservation Department, after consulting members of the VO grade, welcomes the recommendations on the VO grade. It further advises that there are functional justifications to create a Principal VO rank to be pitched at the D1 rank.

10. The management and staff side of the Department of Justice consider that the Standing Commission's recommendations on the GC grade fall short of their expectations. They are disappointed that the Standing Commission does not support the introduction of a separate pay scale for the legal grades; makes no recommendation to increase the entry pay and/or maximum pay of the GC rank beyond the current level; does not consider it justified to extend the pay scale of the SGC rank beyond MPS 49 (which is the top pay point on the MPS); and does not consider it appropriate to allow for overlapping pay scales across ranks. They also express disagreement over the Standing Commission's insistence on adhering to the 'broad-banding' principle (see footnote 2 above) when reviewing the pay scale for senior professional ranks. Some staff also request that the pay-related recommendations should be implemented with retrospective effect. The departmental management advises that there are functional justifications to create a DL1 rank⁶ and upgrade some SGC posts to this rank; and that the recruitment and retention difficulties of the GC grade may only be addressed with an adequate number of DL1 posts. It will give further consideration to the matter.

11. The departmental management of Legal Aid Department, after consulting members of the concerned staff, makes no substantive comments on the Standing Commission's recommendations on the LAC grade.

12. The departmental management of the Official Receiver's Office and IPD, after consulting the relevant staff, welcome the Standing Commission's recommendations on the Solicitor grade. The management of IPD will consider whether there are functional justifications to upgrade some of its Senior Solicitor posts to the DL1 level.

13. The Hong Kong Senior Government Officers Association (HKSGOA) welcomes the recommendations in *Report No. 43*, and considers they should be implemented with retrospective effect.

(D) Decision

14. The CE-in-Council has decided that all the recommendations

⁶ There is no DL1 rank in DoJ. SGCs are promoted directly to the Deputy Principal Government Counsel rank at DL2.

in *Report No.43* of the Standing Commission should be accepted because –

- (a) the recommendations are well-justified. They are modest and targeted at addressing the proven recruitment and retention difficulties faced by the VO and legal grades;
- (b) the recommendations would not give rise to read-across implications for the rest of the civilian grades since the ‘broad-banding’ principle has been strictly upheld; and
- (c) it would preserve the credibility of the Standing Commission whose recommendations in the past were seldom rejected by the Administration.

15. On the proposed creation of a D1 rank for the VO grade and a DL1 rank for the GC grade, we have obtained the in-principle agreement of the Standing Committee on Directorate Salaries and Conditions of Service (hereafter referred to as the “Directorate Committee”) on a without-prejudice basis. The actual creation of these ranks and the posts concerned will be pursued in accordance with the established mechanism.

16. The CE-in-Council has also decided that the departmental management concerned should take follow-up action as appropriate on the management-related suggestions made by the Standing Commission (see paragraph 7(d) above).

17. Subject to the approval of the Finance Committee (FC) of Legislative Council (LegCo), the CE-in-Council has decided that the pay-related recommendations of the Standing Commission (see paragraph 5 above) should take retrospective effect from 1 April 2009. The same decision has been made by the CE-in-Council in respect of the pay and increment recommendations in two other GSR Reports, namely the GSR Report on the civilian directorate and the *Report on the Grade Structure Review of the Disciplined Services* (please also see separate LegCo brief on “The Two Grade Structure Review Reports on the Civilian Directorate and the Disciplined Services”).

18. The CE-in-Council has further decided that subject to the approval of FC of LegCo, a special arrangement should be put in place for calculating the pension benefits of those civil servants in the Veterinary Officer and non-directorate legal grades who retired/resigned on grounds other than disciplinary reasons or who passed away with death gratuity with their last day of service (pre-retirement leave included) falling within the period of 27 November 2008 to 31 March 2009, or who were injured on duty with additional/dependant pension during the same aforesaid period of time, on the grounds that they have a reasonable expectation that their salaries will be improved in accordance with the Standing Commission’s recommendations. The CE-in-Council has taken the same decision for civil servants in similar circumstances and affected by the GSR Report on the civilian directorate and on the *Report on the Grade Structure Review of*

the Disciplined Services (please also see separate LegCo brief on “The Two Grade Structure Review Reports on the Civilian Directorate and the Disciplined Services”). The special arrangement would involve the granting, on the last day of service of the affected civil servants, of a one-day special allowance to their salaries of a value equivalent to the difference between what they would have received (in terms of salaries) had the pay-related recommendations in *Report No. 43* taken effect on that day and what they actually received (in terms of salaries) on the same day. The proposed special allowance would enable them to receive higher pension benefits.

19. In keeping with the Standing Commission’s recommendation (see paragraph 6 above), the CE-in-Council has decided that subject to the approval of FC of LegCo, on the implementation date, –

- (a) for affected serving staff in the VO rank:
 - (i) where their existing salary is lower than the new starting pay, their pay should be brought up to the new starting pay, and
 - (ii) where their existing salary is equal to or higher than the new starting pay, they should be paid on the next higher pay point of the revised pay scale with the re-positioned omitted points incorporated, subject to the maximum pay point of the VO rank; and
- (b) for affected serving staff in the GC, LAC and Solicitor ranks, their pay point should be re-calculated on the basis of the revised pay scale with the additional and re-positioned omitted points incorporated as if the revised pay scale had been in place when they were first appointed to the rank concerned, subject to the maximum pay point of the relevant rank.

20. The above conversion rules are expressed in the form of conversion tables, one for the VO grade and another for the GC, LAC and Solicitor grades, at Annex.

CONSULTATION

21. We have consulted the relevant stakeholders including the management and the staff sides on the findings and recommendations of *Report No. 43* of the Standing Commission (please refer to paragraphs 8 - 13 above). The LegCo Panel on Public Service discussed *Report No. 43* of the Standing Commission (together with the other two reports on directorate GSR and disciplined services GSR) on three occasions (namely, 15 December 2008, 19 January 2009 and 7 July 2009).

IMPLICATIONS OF THE DECISION

22. The implementation of the recommendations of *Report No. 43* of the Standing Commission is in conformity with the Basic Law including the provisions concerning human rights. They have no sustainability implications.

23. The financial implications of the proposals (excluding the creation and upgrading of posts) in the form of additional payroll cost to the civil service per year would be around \$2 million⁷.

PUBLICITY

24. We will inform the Standing Commission, the Panel on Public Service of LegCo, the civil service heads of bureaux and departments, the staff sides of the four central consultative councils, the four major service-wide staff unions, and concerned civil servants of the decision. A press release will be issued and a spokesman will be available to answer media enquiries.

SUBJECT OFFICER

25. Enquiries on this brief should be addressed to Mr. Chris Sun, Principal Assistant Secretary for the Civil Service (Tel. 2810 3112).

Civil Service Bureau
20 October 2009

⁷ This estimate has not included the increase in pension payments, allowances pegged with monthly salary, and the additional cost arising from the possible creation or re-ranking of posts.

Conversion Tables

Veterinary Officer grade

<u>Current Pay Scale</u>		<u>Recommended Pay Scale</u>
MPS 29	→	MPS 31
MPS 30	→	MPS 32
MPS 31 (omitted point)	→	MPS 33 (omitted point)
MPS 32	→	MPS 34
MPS 33	→	MPS 35
MPS 34	→	MPS 36
MPS 35 (omitted point)	→	MPS 37 (omitted point)
MPS 36	→	MPS 38
MPS 37	→	MPS 39
MPS 38 (omitted point)	→	MPS 40 (omitted point)
MPS 39	→	MPS 41
MPS 40	→	MPS 42
MPS 41	→	MPS 43
MPS 42	→	MPS 44
MPS 43	→	
MPS 44	→	

Government Counsel, Legal Aid Counsel and Solicitor grades

<u>Current Pay Scale</u>		<u>Recommended Pay Scale</u>
MPS 32	→	MPS 32
MPS 33	→	MPS 33
MPS 34 (omitted point)	→	MPS 34 (omitted point)
MPS 35	→	MPS 35
MPS 36	→	MPS 36 (omitted point)
MPS 37 (omitted point)	→	MPS 37
MPS 38 (omitted point)	→	MPS 38 (omitted point)
MPS 39	→	MPS 39
MPS 40	→	MPS 40 (omitted point)
MPS 41	→	MPS 41
MPS 42	→	MPS 42
MPS 43	→	MPS 43
MPS 44	→	MPS 44

Note: In line with the usual practice, if the pay after conversion is higher than the pay before conversion by **two** pay points or more (omitted points inclusive), the incremental date of the staff concerned will be realigned to the effective date of implementing the new pay scales.