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Legislative Council

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Panel on Public Service
Meeting on 21 December 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 2008 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
2008*	14 608

(*as at 31 December 2008)

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

2006 review of the NCSC staff situation

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 HoDs concerned 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) but the Administration intended to convert only some 4 000 NCSC positions to civil service posts. Members were disappointed at the outcome of the review. Some members considered that NCSC staff should be given priority for consideration in the selection of appointees for filling these 4 000 odd civil service posts, and suggested that 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 also passed a motion expressing dissatisfaction that the findings of the review had failed to treat the NCSC staff who

had been employed for a long period of time fairly, and requested that NCSC staff being employed to fill posts created to meet long-term needs should be converted to civil servants by "through train" arrangement.

8. In February 2009, the Administration informed the Panel that as at 31 December 2008, about 2 330 out of the 4 000-odd NCSC positions mentioned in paragraph 6 above had already been phased out upon the end-dates of the employment contracts of the NCSC staff concerned. The work involved was then undertaken by civil servants. The remaining NCSC positions were expected to be phased out in the coming two financial years having regard to the end-dates of the existing employment contracts of the NCSC staff concerned and the lead-time for filling the replacement civil service posts.

The guiding principles and basic framework for the employment of NCSC staff

9. At its meeting on 15 January 2007, the Panel 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 the review of the employment situation of NCSC staff on 15 March 2007, some members criticized the Administration for being unfair to NCSC staff as they could not be directly 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.

10. 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 concern that this group of staff might lose their jobs if they were not allowed to be transferred to the civil service by the "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.

11. The Administration responded that NCSC staff were employed on a time-specific contract basis. When the work a NCSC staff member was employed to do was completed or phased out, or was to be undertaken by a civil servant, his employment

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.

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.

12. At the Panel meeting on 20 October 2008, a member pointed out that even when NCSC staff could successfully apply 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 considered the arrangement unfair and demoralizing, and 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.

Pay adjustments for NCSC staff

13. 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 above. Pay increases for civil servants did not apply automatically to NCSC staff.

14. 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 explained 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, the 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

15. 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.

16. 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.

17. The Administration further 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 SCSC, namely, the Hong Kong Chinese Civil Servants' Association, (the other two being the Hong Kong Senior Government Officers Association and the Association of Expatriate Civil Servants of Hong Kong), also opens 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.

Position on employment of NCSC staff as at 31 December 2008

18. At the Panel meeting on 16 February 2009, members noted that as at 31 December 2008, there were about 14 600 full-time NCSC staff employed by B/Ds and most of them were employed on contracts of less than two years, and received monthly pay in the range of \$8,000 to \$15,999. Members considered that as the largest employer, the Government should properly deal with these NCSC staff to avoid aggravating the unemployment problem amidst the economic downturn. Some members also repeated calls for the introduction of 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.

19. The Administration reiterated 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. The Administration also advised that a mechanism was in place to inform serving NCSC staff of any civil service openings. The Administration considered that since NCSC staff had working experience in the Government, they should enjoy a competitive edge over other applicants for civil service jobs.

20. At the meeting, some members reiterated that the NCSC Staff Scheme was 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. The Administration advised that the Civil Service Bureau had not restricted these departments from employing civil servants. The Panel requested the Administration to provide the reasons for employing NCSC staff by the eight largest NCSC-user B/Ds. The supplementary information provided by the Administration was issued vide LC Paper No. CB(1)2235/08-09 on 10 July 2009. The relevant figures are attached in **Appendix I** for members' easy reference.

Latest developments

21. As members are concerned about the difficulty encountered by NCSC staff in securing civil service appointment and the grievances of NCSC staff about the employment arrangements applicable to them, the Panel has scheduled to further discuss the subject at its meeting on 21 December 2009.

Relevant papers

22. A list of relevant papers is in **Appendix II**.

Council Business Division 1
Legislative Council Secretariat
16 December 2009

Hongkong Post

Reasons of employment		No. of NCSC staff as at 31.12.2008 with length of continuous service		Total
		Less than five years	Five years or more	
(1)	To meet service needs that require staff to work less than the conditioned hours required of civil servants	624	488	1112
(2)	To meet service needs that are subject to market fluctuation	914	360	1274
Total :		1538	848	2386

Electrical and Mechanical Services Department

Reasons of employment		No. of NCSC staff as at 31.12.2008 with		Total
		Less than five years	Five years or more	
(1)	To meet service needs that are time-limited, short-	195	3	198
(2)	To meet service needs that are subject to market	670	629	1299
(3)	To tap the latest expertise in the market	3	1	4
Total :		868	633	1501

Leisure and Cultural Services Department

Reasons of employment		No. of NCSC staff as at 31.12.2008 with		Total
		Less than five years	Five years or more	
(1)	To meet service needs that are time-limited, short-	98	76	174
(2)	To meet service needs where the mode of delivery of	394	447	841
(3)	To tap the latest expertise in the market	11	13	24
(4)	NCSC staff engaged in work that should more	37	228	265
Total :		540	764	1304

Note: The NCSC positions concerned will be phased out having regard to the end-date of the existing employment contracts and the lead-time for filling the replacement civil service posts.

Education Bureau

Reasons of employment		No. of NCSC staff as at 31.12.2008 with length of continuous service		Total
		Less than five years	Five years or more	
(1)	To meet service needs that are time-limited, short-term or seasonal in nature	248	27	275
(2)	To meet service needs that require staff to work less than the conditioned hours required of civil servants	2	4	6
(3)	To meet service needs where the mode of delivery of the service is under review or likely to be changed	42	5	47
(4)	To tap the latest expertise in the market	4	1	5
(5)	To meet the unique operational needs in government schools under school-based management initiatives	652	116	768
(6)	NCSC staff engaged in work that should more appropriately be performed by civil servants as identified in the 2006 Special Review ^(Note)	25	9	34
Total :		973	162	1135

Note: The NCSC positions concerned will be phased out having regard to the end-date of the existing employment contracts and the lead-time for filling the replacement civil service posts.

Department of Health

Reasons of employment		No. of NCSC staff as at 31.12.2008 with		Total
		Less than five years	Five years or more	
(1)	To meet service needs that are time-limited, short-	677	33	710
(2)	To meet service needs that require staff to work less	12	-	12
(3)	To meet service needs where the mode of delivery of	71	13	84
(4)	NCSC staff engaged in work that should more	146	117	263
Total :		906	163	1069

Note: The NCSC positions concerned will be phased out having regard to the end-date of the existing employment contracts and the lead-time for filling the replacement civil service posts.

Buildings Department

Reasons of employment		No. of NCSC staff as at 31.12.2008 with		Total
		Less than five years	Five years or more	
(1)	To meet service needs that are time-limited, short-	602	139	741
Total :		602	139	741

Food and Environmental Hygiene Department

Reasons of employment		No. of NCSC staff as at 31.12.2008 with length of continuous service		Total
		Less than five years	Five years or more	
(1)	To meet service needs that are time-limited, short-term or seasonal in nature	145	4	149
(2)	To meet service needs that require staff to work less than the conditioned hours required of civil servants	2	-	2
(3)	To meet service needs where the mode of delivery of the service is under review or likely to be changed	72	138	210
(4)	To tap the latest expertise in the market	1	2	3
(5)	NCSC staff engaged in work that should more appropriately be performed by civil servants as identified in the 2006 Special Review ^(Note)	254	50	304
Total :		474	194	668

Note: The NCSC positions concerned will be phased out having regard to the end-date of the existing employment contracts and the lead-time for filling the replacement civil service posts.

Student Financial Assistance Agency

Reasons of employment		No. of NCSC staff as at 31.12.2008 with		Total
		Less than five years	Five years or more	
(1)	To meet service needs that are time-limited, short-	135	14	149
(2)	To meet service needs where the mode of delivery of	310	72	382
(3)	NCSC staff engaged in work that should more	27	2	29
Total :		472	88	560

Note: The NCSC positions concerned will be phased out having regard to the end-date of the existing employment contracts and the lead-time for filling the replacement civil service posts.

Employment of non-civil service contract staff

List of relevant papers

Date of meeting of Panel on Public Service	Minutes/ Paper	LC Paper No.
18.1.1999	<p>Administration's paper on "Employment of NCSC Staff"</p> <p>Minutes of meeting</p>	<p>CB(2)924/98-99</p> <p>http://www.legco.gov.hk/yr98-99/english/panels/ps/papers/ps1801_5.htm</p> <p>CB(2)1466/98-99</p> <p>http://www.legco.gov.hk/yr98-99/english/panels/ps/minutes/ps180199.htm</p>
18.3.2002	<p>Administration's paper on "Civil Service-relating issues featuring in the 2002-03 Budget"</p> <p>Supplementary information provided by the Administration</p> <p>Minutes of meeting</p>	<p>CB(1)1284/01-02(03)</p> <p>http://www.legco.gov.hk/yr01-02/english/panels/ps/papers/ps0318cb1-1284-3e.pdf</p> <p>CB(1)1474/01-02</p> <p>http://www.legco.gov.hk/yr01-02/english/panels/ps/papers/ps0318cb1-1474-e.pdf</p> <p>CB(1)1445/01-02</p> <p>http://www.legco.gov.hk/yr01-02/english/panels/ps/minutes/ps020318.pdf</p>
19.4.2004	<p>Administration's paper on "Employment of NCSC Staff"</p> <p>Administration's paper on "Employment of NCSC Staff"</p>	<p>CB(1)1505/03-04(04)</p> <p>http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0419cb1-1505-4e.pdf</p> <p>CB(1)1568/03-04(02)</p> <p>http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0419cb1-1568-2e.pdf</p>

Date of meeting of Panel on Public Service	Minutes/ Paper	LC Paper No.
	<p>Administration's paper on "Employment of NCSC Staff"</p> <p>Administration's paper on "Employment of NCSC Staff"</p> <p>Administration's paper on "Employment of NCSC Staff"</p> <p>Minutes of meeting</p>	<p>CB(1)1813/03-04(01)</p> <p>http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0419cb1-1813-1e.pdf</p> <p>CB(1)2346/03-04(01)</p> <p>http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/pscb1-2346-1e.pdf</p> <p>CB(1)93/04-05(01)</p> <p>http://www.legco.gov.hk/yr03-04/english/panels/ps/papers/ps0419cb1-93-1e.pdf</p> <p>CB(1)1787/03-04</p> <p>http://www.legco.gov.hk/yr03-04/english/panels/ps/minutes/ps040419.pdf</p>
17.1.2005	<p>Administration's paper on "Policy Initiatives of the Civil Service Bureau"</p> <p>Minutes of meeting</p>	<p>CB(1)684/04-05(03)</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0117cb1-684-3e.pdf</p> <p>CB(1)901/04-05</p> <p>http://www.legco.gov.hk/yr04-05/english/panels/ps/minutes/ps050117.pdf</p>
18.4.2005	<p>Administration's paper on "Employment of NCSC Staff"</p> <p>The Administration's response to the motion passed at the Panel meeting</p> <p>Minutes of meeting</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>

Date of meeting of Panel on Public Service	Minutes/ Paper	LC Paper No.
	Administration's paper on "Employment of NCSC Staff"	CB(1)2316/04-05(01) http://www.legco.gov.hk/yr04-05/english/panels/ps/papers/ps0418cb1-2316-1e.pdf
20.3.2006	Administration's paper on "Employment of NCSC Staff" Minutes of meeting	CB(1)1067/05-06(03) http://www.legco.gov.hk/yr05-06/english/panels/ps/papers/ps0320cb1-1067-3e.pdf CB(1)1745/05-06 http://www.legco.gov.hk/yr05-06/english/panels/ps/minutes/ps060320.pdf
18.12.2006	Administration's paper on "Review of Employment Situation of NCSC Staff" Minutes of meeting	CB(1)471/06-07(03) http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps1218cb1-471-3-e.pdf CB(1)621/06-07 http://www.legco.gov.hk/yr06-07/english/panels/ps/minutes/ps061218.pdf
15.1.2007	Administration's paper on "Follow-up on Review of Employment Situation of NCSC Staff" Minutes of meeting	CB(1)623/06-07(03) http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps0115cb1-623-3-e.pdf CB(1)876/06-07 http://www.legco.gov.hk/yr06-07/english/panels/ps/minutes/ps070115.pdf
8.2.2007	Administration's paper on "Follow-up on Review of Employment Situation of NCSC Staff"	CB(1)843/06-07(03) http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps0208cb1-843-3-e.pdf

Date of meeting of Panel on Public Service	Minutes/ Paper	LC Paper No.
	Minutes of meeting	CB(1)1245/06-07 http://www.legco.gov.hk/yr06-07/english/panels/ps/minutes/ps070208.pdf
15.3.2007	Administration's paper on "Follow-up on Review of Employment Situation of NCSC Staff" Administration's paper responding to the motion on "Employment Situation of NCSC Staff" Minutes of meeting	CB(1)1108/06-07(01) http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps0208cb1-1108-1-e.pdf CB(1)1321/06-07(01) http://www.legco.gov.hk/yr06-07/english/panels/ps/papers/ps0315cb1-1321-1-e.pdf CB(1)1322/06-07 http://www.legco.gov.hk/yr06-07/english/panels/ps/minutes/ps070315.pdf
17.12.2007	Administration's paper on "Employment of NCSC Staff" Administration's paper on "Employment of NCSC Staff" Administration's paper on "Employment of NCSC Staff" Minutes of meeting	CB(1)377/07-08(03) http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/ps1217cb1-377-3-e.pdf CB(1)597/07-08(01) http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/ps1217cb1-597-1-e.pdf CB(1)794/07-08(01) http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/ps1217cb1-794-1-e.pdf CB(1)565/07-08 http://www.legco.gov.hk/yr07-08/english/panels/ps/minutes/ps071217.pdf

Date of meeting of Panel on Public Service	Minutes/ Paper	LC Paper No.
11.3.2008	<p>Administration's paper responding to the motion on the employment opportunities for NCSC staff</p> <p>Minutes of meeting</p>	<p>CB(1)1262/07-08(01)</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/papers/ps0311cb1-1262-1-e.pdf</p> <p>CB(1)1239/07-08</p> <p>http://www.legco.gov.hk/yr07-08/english/panels/ps/minutes/ps080311.pdf</p>
16.2.2009	<p>Administration's paper on "Employment of NCSC Staff"</p> <p>Submission on employment of NCSC staff (Chinese version only)</p> <p>Paper on Employment of NCSC Staff prepared by the Legislative Council Secretariat (Background brief)</p> <p>Hon LEE Cheuk-yan's questions on employment of NCSC staff (Chinese version only)</p> <p>The Administration's reply to Hon LEE Cheuk-yan's questions</p>	<p>CB(1) 747/08-09(06)</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0216cb1-747-6-e.pdf</p> <p>CB(1)781/08-09(03)</p> <p>CB(1)748/08-09</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0216cb1-748-e.pdf</p> <p>CB(1)815/08-09(01)</p> <p>CB(1)815/08-09(02)</p> <p>http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/ps0216cb1-815-2-e.pdf</p>

Date of meeting of Panel on Public Service	Minutes/ Paper	LC Paper No.
	Minutes of meeting Administration's paper on "Employment of NCSC Staff"	CB(1)1647/08-09 http://www.legco.gov.hk/yr08-09/english/panels/ps/minutes/ps20090216.pdf CB(1)2235/08-09(01) http://www.legco.gov.hk/yr08-09/english/panels/ps/papers/pscb1-2235-1-e.pdf