

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 2009-2010 legislative session. It will be tabled at the Council meeting on 14 July 2010 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 11 members, with Hon LEE Cheuk-yan and Dr Hon PAN Pey-chyou 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. Following the publication of the report of the Committee on Review of Post-service Outside Work for Directorate Civil Servants (the Review Committee) in July 2009, the Administration conducted a two-month consultation with all the serving directorate civil servants, the staff sides of the four central staff consultative councils and the departmental/grade management on the recommendations therein. The Panel discussed the outcome of the

staff consultation exercise at its meeting on 19 October 2009.

5. Regarding the view expressed by some respondents during the staff consultation exercise that they could hardly see the justifications for imposing further restrictions to limit the freedom of work by directorate civil servants after leaving the service, Panel members pointed out that some of the Review Committee's recommendations only sought to enhance vetting procedures during the application stage and lengthen the restriction period, and were not aimed at restricting senior civil servants' right to work after leaving the Government. Panel members considered that the reasons for the proposed tightened control should be clearly explained to the civil servants. Some members expressed the view that it was reasonable to restrict the right of directorate civil servants to pursue post-service outside work, in order to avoid suspicion of "deferred reward" for past favour given by former directorate civil servants in their official positions to an entity or individual in return for lucrative post-service employment.

6. The Panel noted that the Administration would obtain legal advice on the Review Committee's recommendations before formulating its stance on the recommendations for the consideration and decision of the Chief Executive-in-Council (CE-in-Council). The Administration proposed to make a progress report to the Panel in the next session.

Grade structure review

2007 grade structure reviews for directorate, disciplined services and selected non-directorate civilian grades

7. The three advisory bodies on civil service salaries and conditions of service¹ submitted their respective reviews on the directorate grades, the disciplined services and selected non-directorate civilian grades to the Chief Executive (CE) on 27 November 2008. The Civil Service Bureau (CSB) conducted extensive consultations with the stakeholders from December 2008 to June 2009. On 20 October 2009, CE-in-Council announced its decisions on the three GSR reports. The Panel held a meeting in November 2009 to discuss the three reports and received views from representatives of civil service bodies.

8. Panel members in general were pleased to note that the

¹ In end of 2007, the Government invited the Standing Committee on Directorate Salaries and Conditions of Service and the Standing Committee on Disciplined Services Salaries and Conditions of Services to conduct GSRs for the directorate and disciplined service grades respectively, and the Standing Commission on Civil Service Salaries and Conditions of Service to conduct GSRs for selected non-directorate civilian grades facing recruitment and retention difficulties, namely the Government Counsel grade and the Veterinary Officer grade.

recommendations relating to salary and increment as contained in the three GSR reports had been accepted for implementation with retrospective effect from 1 April 2009. Some members, however, expressed concern that CE-in-Council decided not to adhere to the recommendation of the Standing Committee on Disciplined Services Salaries and Conditions of Services (SCDS) that "the grade structure and pay levels of the disciplined services should be reviewed on a regular basis, say, on a six-yearly basis", but decided instead that GSR for the disciplined services in future "should be put to SCDS for advice and then submitted to the CE-in-Council for decision". Some members considered this new requirement too harsh and suggested that SCDS should be authorized to approve requests from the disciplined services for the conduct of GSRs. The Administration considered it fair to place the decision on requests for the conduct of GSRs in the hands of CE-in-Council, as all GSR reports were eventually subject to the approval of CE-in-Council. The Administration advised that CE-in-Council would also decide whether to accede to a request for the conduct of GSRs for the disciplined services in the light of SCDS's advice.

9. At the request of the Panel, the Administration undertook to follow up the request from the Fire Services Department (FSD) Ambulancemen's Union for incorporating the paramedic allowance into the pay scale of the Ambulancemen grade, which had not been adopted by SCDS in its GSR report on the disciplined services. Some members called on the Administration to attend to the unresolved requests from the disciplined services grades, i.e. standardizing the pay and grade structures across the disciplined services, reducing the conditioned hours of work for the five general disciplined services, and extending the "through scale arrangement" to the officer grades in the Correctional Services Department, the Customs and Excise Department, the Immigration Department, the Government Flying Service and the Ambulance Officer grade in FSD. The Administration pointed out that SCDS had considered the requests thoroughly and made its position clear with justifications in the relevant GSR report. The Administration advised that it would continue to discuss with staff associations to address their concerns under the existing staff consultation mechanism.

Criteria for assessing requests from non-directorate civilian grades for the conduct of grade structure reviews

10. The Panel noted that the Administration had not acceded to the requests of some non-directorate civilian grades for the conduct of GSRs. The Panel discussed with the Administration in June 2010 the criteria for assessing such requests. The Administration advised that one criterion should be whether there were proven and persistent recruitment and retention difficulties encountered by the grade seeking the conduct of a GSR. Another criterion should be whether there were fundamental changes in the job nature,

level of responsibilities and job complexity of a grade. The Administration explained that it was important to set objective criteria for the assessment of GSR requests, as the conduct of a GSR on a particular grade with the possibilities of changes to its structure or pay scale was likely to trigger demands for the conduct of GSRs on comparable grades as well. Some members, however, queried how the Administration assessed "whether there are fundamental changes in the job nature" of a grade, and pointed out that some requests for GSRs were not to seek pay adjustment but Government's recognition of the new challenges faced by the grades concerned. To address members' concerns, the Administration agreed to provide information on cases where the Administration had acceded to requests for GSRs in recognition that there were fundamental changes in the job nature of the grades concerned. The Panel would follow up the matter after the Administration had provided the information.

Entry system for the civil service

11. The Government implemented on 1 June 2000 a new civil service entry system under which recruits to the basic ranks in the civil service grades were appointed initially on three-year probationary terms, to be followed by three-year agreement terms, before they were considered for appointment on the prevailing permanent terms (commonly known as the "3+3" entry system). The Panel had all along been opposed to the "3+3" entry system and criticized the system for being too harsh and unfair to new recruits who had to be assessed for six years for consideration of appointment to the permanent establishment. The Panel considered that a "3+3" probation/agreement period was excessively long and not conducive to attracting and retaining quality staff. Panel members considered that the system had set a bad example for the private sector and suggested shortening the "3+3" probation/agreement period by half.

12. Having regard to members' views and the outcome of an internal review, the Administration decided in April 2010 to remove the three-year agreement period normally required of a new recruit to a basic rank (i.e. the second limb of the '3+3' system) before he could be considered for appointment to the civil service on permanent terms. It was proposed that from a specified date, a new recruit would normally be considered for appointment on permanent terms upon satisfactory completion of the three-year probation period. As and when the proposed change to the entry system was implemented, a transitional arrangement would be instituted for civil servants who were serving the three-year agreement period (i.e. the second limb of the '3+3' system) on the specified date. These officers would be allowed to opt for transfer to permanent terms either from the specified date or upon completion of their current agreements. For those who opted to be transferred to permanent terms on the specified date, pro-rata contract gratuity payments would be made to them.

13. The Panel welcomed the proposed revision to the entry system and urged the Administration to implement it as early as practicable. The Administration subsequently advised that implementation of the proposed revision would be advanced to 1 July 2010.

Employment of Non-Civil Service Contract staff

14. The Panel has been closely following up the employment of Non-Civil Service Contract (NCSC) staff and the problems associated with the NCSC Staff Scheme. Some members pointed out that unlike civil service posts, NCSC positions offered no job security, and NCSC staff did not have medical benefits, promotion prospect or incremental credits. These members urged the Administration to scrap the Scheme and convert the existing NCSC staff to civil servants. It was suggested that NCSC staff with relevant experience should be given priority for consideration in filling the civil service vacancies, or NCSC staff could be converted to civil servants under a "through train" arrangement.

15. The Administration explained that the NCSC Staff Scheme allowed flexibility in the operation of bureaux and departments (B/Ds), enabling them to respond more promptly to changing service needs. Generally speaking, NCSC staff, unlike civil servants employed to meet long-term service needs, were not part of the permanent civil service establishment. It was therefore inappropriate to compare the employment terms and conditions of service of the NCSC staff with those of civil servants. In determining the employment package for their NCSC staff, Heads of Departments (HoDs) would give due regard to the job nature, the employment market, as well as management and operational considerations; and the terms of employment of NCSC staff were generally no less favourable than those provided for under the Employment Ordinance (EO) (Cap. 57).

16. Some members considered that the terms and conditions of service provided for under EO were only the minimum standards, and should not be based on as the only criterion for determining the employment package for NCSC staff. Regarding the low success rate for NCSC staff appointed to fill civil service posts, some members urged the Administration to review the recruitment arrangements, such as adjusting the weightings accorded to "relevant work experience" so that NCSC staff with relevant working experience would have a competitive edge over other candidates in open recruitment exercises.

Use of agency workers

17. The Panel noted the recent trend of the Administration engaging workers supplied by employment agencies (hereafter referred to as agency

workers) to deliver services such as general office support and customer service, publicity and promotion, research-related work, etc. As at the end of September 2009, there were some 2 400 agency workers in B/Ds assisting to deliver services in these areas. Some members pointed out that these staff were generally underpaid and enjoyed almost no fringe benefits. There were also cases that the same agency workers had been engaged up to five years through repeated renewal of contracts, reflecting that the service needs concerned were rather long-term. The Panel urged the Administration to enhance the transparency of the procurement of such service to prevent abuses and middle-man exploitation. In response to the Panel's concern, the Administration proposed to draw up guidelines for the use of agency workers in these areas for general reference by B/Ds.

18. Having regard to the practical needs of B/Ds and policy considerations, the Administration proposed to advise B/Ds that use of agency workers might be considered under specific circumstances only, such as meeting urgent or unforeseen service needs or unexpected surge in service demands for the short-term. As regards the meaning of "short-term", the Administration explained that short-term service demands which entailed the use of agency workers should generally be taken as service needs which lasted for a continuous period of not more than 12 months. In addition, B/Ds would be advised that every proposal to procure the service of employment agencies to supply agency workers would have to be approved personally by a directorate officer at Directorate Pay Scale D2 or above.

19. Panel members expressed concern that the wages of some agency workers had been reduced substantially following a re-letting of the concerned service contracts. To address this concern, the Administration proposed to introduce a new measure to safeguard the wage level of agency workers. Bidders of contracts to provide agency workers would be advised that their bids would not be considered if the quoted wages were less than the average monthly salary of miscellaneous non-production workers in all selected industries (as published in the latest Census and Statistics Department's Quarterly Report on Wage and Payroll Statistics) at the time when the bids were invited.

20. Some members considered that the Administration should cease the employment of NCSC staff and use of agency workers to rectify problems associated such as complaints about "different pay for the same job" and middle-man exploitation. The Administration pointed out that the use of agency workers was a form of private sector participation in the provision of government services. It was an established policy that the private sector should be engaged in the delivery of public services as far as possible unless the tasks concerned should more appropriately be performed by civil servants. The Administration explained that differences in employment terms and

conditions among civil servants, NCSC staff and agency workers were inevitable as the latter two were not part of the permanent civil service establishment.

Civil service establishment and succession problem

21. The Panel noted that the 2010-2011 Draft Estimates of Expenditure projected a 0.6% increase (about 1 050 posts) in the civil service establishment. The civil service establishment was estimated to stand at 166 625 posts by end-March 2011. In response to some members' concern about whether a pre-set ceiling had been imposed on the civil service establishment, the Administration advised that, while the Government was committed to continuing to keep the civil service establishment under control, a moderate increase in the civil service establishment each year had been allowed since end-March 2007 to facilitate the delivery of new policy initiatives and to meet service demands. The Administration's policy was that new civil service posts would only be created when the operational need was fully justified, when the work involved could not be undertaken by re-deployment of existing staff, and when alternative modes of service delivery (e.g. outsourcing) were considered inappropriate.

22. The Panel also noted with concern the projected significant increase in the number of retiring civil servants from the annual average of around 3 200 in the past five years to around 6 700 in the five-year period of 2019-2024. The Administration explained that the relative aging profile of the civil service was mainly attributed to the expansion of the civil service in the 1980s in response to new policy initiatives such as district administration. With the resumption of open recruitment since April 2007, the Government had been recruiting civil servants to fill vacancies arising from retirement. B/Ds had also stepped up their training efforts at all levels to prepare staff to take up responsibilities at the next higher rank. In addition, the Secretary for the Civil Service met with the Heads of B/Ds at least once every year to discuss the succession situation at the senior level to ensure that timely actions were taken to address problems in this regard. The Administration was confident that this three-pronged approach should forestall succession problems in the long run.

Medical and dental benefits to civil service eligible persons

23. The Administration briefed the Panel on the progress of implementation of the improvement measures for provision of medical and dental benefits to civil service eligible persons and those planned for implementation in 2010-2011. The Administration planned to increase the provision for reimbursement of medical expenses from \$219.2 million in 2009-2010 to \$335.4 million in 2010-2011 to meet the anticipated increase in applications from civil service eligible persons. The increase in provision was

mainly caused by an increase in the number of serving and retired civil servants and their eligible dependents, and the emergence of new medical treatment and drugs, which were classified as self-financed items in the Drug Formulary of the Hospital Authority (HA).

24. While members welcomed the implementation of the direct payment arrangement for certain medical items and treatment provided by HA to save civil service eligible persons the trouble of applying for reimbursement, they requested that the arrangement be extended to cover all reimbursement expenditures instead of covering only 63% of the current reimbursement expenditures. The Administration explained that given the large number of hospitals and clinics under HA, substantial time and manpower resources were required to effect the modification of all computer systems to enable that the direct payment arrangement could cover all reimbursement expenditures. The Administration advised that while it would continue to liaise with HA to progressively extend the arrangement, priority was given to cancer drugs first, as they were the most expensive drug items and constituted a significant proportion of the self-financed drugs required by civil service eligible persons.

25. Panel members expressed concern that Chinese medicine was not covered within the scope of civil service medical benefits although the certification given by registered Chinese medicine practitioners was also recognized for taking sick leave.

26. The Administration explained that Chinese medicine was outside the scope of civil service medical benefits as defined in the relevant civil service regulations and circulars because the service provided by the Chinese medicine clinics under HA could not be regarded as a standard general outpatient service of HA. Nevertheless, medical certificates issued by registered Chinese medicine practitioners were recognized for the grant of sick leave and maternity leave to civil servants as required under EO. Civil servants who had sustained injury on duty/occupational disease were also eligible to claim reimbursement for medical expenses incurred for treatment given by registered Chinese medicine practitioners up to the statutory limit in accordance with the Employees' Compensation Ordinance (Cap. 282).

Language proficiency requirements for civil service appointments

27. The Panel noted that some Hong Kong permanent residents who were ethnic minorities queried whether there was a genuine occupational need for imposing a high level of Chinese language proficiency requirements (LPRs), particularly in written Chinese, for appointments to almost all civil service posts. Such a requirement had made it very difficult for the ethnic minority residents to meet relevant appointment requirements. To follow up on the concerns, the Panel held a meeting with deputations from ethnic minority

persons, Hong Kong Unison, the Equal Opportunities Commission (EOC) and the Administration to discuss the LPRs for appointments to the civil service.

28. The Administration advised that it was necessary to specify the appropriate Chinese and English LPRs as part of the entry requirements for appointment to each grade, having regard to the job requirements of the concerned grade. HoDs/Heads of Grade (HoGs) were responsible for stipulating the LPRs for each of the grades under them, as they were best placed to know the work and operational needs of the grades under their charge. The Administration stressed that all the candidates in an open recruitment exercise to fill vacancies in a particular grade were assessed consistently on the basis of merit and having regard to the stipulated entry requirements, including LPRs, set with regard to the job requirements of the grade concerned.

29. Panel members expressed the view that ethnic minorities, with their proficiency in languages such as Nepali and Urdu, could provide useful input to the liaison and communication work between government departments and the ethnic minorities in Hong Kong. Members also shared the view expressed by EOC that, given that the civil service consisted of a few hundred grades, it was doubtful whether the same high level of Chinese LPRs should be imposed across-the-board. Members considered that there should be room for exercising some flexibility in Chinese LPRs so that the ethnic minority residents could also have the opportunity to be employed as civil servants. The Panel requested the Administration to follow up on concerns raised by the ethnic minorities that the Police had required applicants for the post of Police Constable to pass an internal written Chinese examination, even though the applicants concerned had obtained UK General Certificate of Secondary Education (GCSE) Chinese language qualification.

30. In response to the Panel's concerns, the Administration undertook to issue a circular to remind HoDs/HoGs of the need to strictly adhere to the policy that since 8 August 2007, Chinese Language results in International General Certificate of Secondary Education (IGCSE), GCSE and General Certificate of Education 'Ordinary' Level (GCE 'O' Level) were accepted for civil service appointment purpose. HoDs/HoGs would be reminded to be more sensitive about the difficulties encountered by ethnic minorities in applying for civil service posts. Consideration would be given to collecting information regarding the composition of the civil service by racial group for analysis purpose. Besides, as a pilot project, the Police planned to recruit community liaison assistants who must know a language of the ethnic minorities in the second half of 2010 to assist the Police.

Disciplinary mechanism and proposed amendments to disciplined services legislation

31. 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 the Disciplined Services Legislation (DSL). The Panel discussed in April 2009 the necessary remedial actions, 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. To follow up on the progress of the remedial actions, the Panel discussed in June 2010 the Administration's plan to introduce amendments to the related subsidiary regulations pursuant to the above CFA judgment, and the latest status of disciplinary cases suspended as a result of the CFA judgment. The Panel noted that it was also the Administration's plan to harmonize the disciplinary practices among different disciplined services and between civil servants of disciplined services grades and those of civilian grades. In this connection, the Administration would work with the parties concerned on the proposed improvements to the disciplinary proceedings under DSL, with a view to defining the scope of amendments for the legislative amendment exercise. The Administration would report the progress to the Panel in the fourth quarter of 2010.

32. Members noted that as at 31 May 2010, 105 applications were received for legal or other forms of representation at disciplinary hearings, of which 38 were approved, 52 were rejected, and the remaining 15 were still being processed. The Panel considered that such applications should be approved as far as possible and requested information on the reasons for rejection of those 52 applications. The Administration agreed to follow up the request to facilitate the Panel's further discussion on the matter.

Civil Service Pay

2009 Starting Salaries Survey findings

33. Civil service starting salaries surveys (SSSs) are conducted to ascertain the broad comparability of civil service entry pay with that in the private sector. The last SSS was conducted using 1 April 2006² as the reference date. The Administration invited the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission) in October 2008 to conduct the 2009 SSS using 1 April 2009 as the reference date. On 15 March 2010, the

² Revisions to the starting salaries of affected civil service basic ranks following the application of the results of the 2006 SSS took effect from 1 August 2007 after obtaining the approval of the Finance Committee in July 2007.

Administration briefed the Panel on the findings and recommendations of the Standing Commission's Report No. 46 on the Civil Service SSS 2009. The Panel noted that the Standing Commission recommended that the benchmark for Qualification Group (QG) 9 (degree and related grades) should be adjusted downwards by two pay points, as it was significantly higher than the P75 level³ of market entry pay.

34. Some members considered that the recommended reduction in the starting salaries of the basic ranks of degree grades would deter quality degree holders from aspiring to join the civil service. They pointed out that, if the starting salaries for QG9 were so adjusted, the difference in the starting salaries for QG9 and Group I of QG3 (higher diploma grades) would only be \$950. Such difference was unreasonable and would give the public the impression that university education had depreciated in value and was not worth the time or costs incurred. They also expressed grave concern about the impact of the proposed downward starting pay adjustment on the pay level of the private sector.

35. The Administration advised that the revised starting salaries would still be higher than the P75 level of market pay for new recruits with the same education qualification; and the maximum salaries would remain unchanged. In addition, unlike higher diploma grades most of which stopped short at below the directorate level, the structure of most degree grades extended to the directorate ranks and therefore staff members in these grades enjoyed better career prospects.

36. On 18 May 2010, the Standing Commission's recommendations were approved by CE-in-Council. Subject to the approval of the Finance Committee, the new starting salaries would apply to new recruits who were offered appointment on or after 1 October 2010.

2010-2011 Civil Service Pay Adjustment

37. CE-in-Council decided on 15 June 2010 that, with retrospective effect from 1 April 2010, civil service pay should be increased by 1.6% for civil servants in the directorate and upper salary band, and 0.56% for civil servants in the middle and lower salary bands. The Panel discussed the matter with the Administration at its meeting on 21 June 2010. Some members pointed out that the pay rise did not even keep pace with the overall inflation rate in April 2010, which had edged up to 2.4%. These members considered that civil

³ Having regard to the established practice and to the consideration that the Government should be a good employer, the Standing Commission considers that the third quartile level (P75) of the total cash compensation of private sector pay (i.e. the better paying private sector jobs) should continue to be adopted as the basis of comparison.

servants did not have any real pay rise under the current proposals as the proposed increases could not even offset inflation. These members expressed grave concern that the low pay rise would induce employers of the private sector to follow suit, and would have adverse impact on the staff morale.

38. The Administration advised that the 2010-2011 civil service pay adjustment, which broadly reflected the extent of general pay increase in the private sector over the 12-month period ended on 1 April 2010, was fair and reasonable. The Administration explained that under the established mechanism, CE-in-Council determined annual adjustment, if any, to civil service pay, having regard to the net pay trend indicators derived from the Pay Trend Survey, the state of the economy, changes in the cost of living, the Government's fiscal position, pay claims of the staff sides, and civil service morale. The Administration pointed out that while the anticipated inflation of the current year had been taken into consideration in deciding on the pay offers, the annual pay adjustments were not mechanically linked to the inflation rate of the prevailing year under the established mechanism.

Other issues

39. The Panel received briefings from the Administration on CSB's policy initiatives in 2010, and the progress for the national studies and Basic Law programmes and related training activities for civil servants. The Panel also discussed the biennial Civil Service Outstanding Service Award Scheme 2009 and CSB's work in integrity promotion in the civil service.

Meetings held

40. From October 2009 to June 2010, the Panel held a total of 10 meetings.

Council Business Division 1
Legislative Council Secretariat
7 July 2010

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 2009 – 2010 session

Chairman	Hon LEE Cheuk-yan
Deputy Chairman	Dr Hon PAN Pey-chyou
Members	Dr Hon Margaret NG Hon CHEUNG Man-kwong Hon TAM Yiu-chung, GBS, JP Hon LI Fung-ying, SBS, JP Dr Hon LEUNG Ka-lau Hon WONG Sing-chi Hon IP Wai-ming, MH Hon Mrs Regina IP LAU Suk-yee, GBS, JP Hon LEUNG Kwok-hung (up to 28 January 2010) (rejoined on 19 May 2010)
	(Total : 11 members)
Clerk	Ms Joanne MAK
Legal Adviser	Mr YICK Wing-kin
Date	7 July 2010