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**Legislative Council**

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**Establishment Subcommittee of the Finance Committee**

**Minutes of the 3<sup>rd</sup> meeting**  
**held in Conference Room A of Legislative Council Building**  
**on Wednesday, 5 January 2011, at 9:00 am**

**Members present:**

Dr Hon Margaret NG (Chairman)  
Dr Hon PAN Pey-chyou (Deputy Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Dr Hon David LI Kwok-po, GBM, GBS, JP  
Hon CHEUNG Man-kwong  
Hon LAU Kong-wah, JP  
Hon LI Fung-ying, SBS, JP  
Hon WONG Ting-kwong, BBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon WONG Sing-chi  
Hon IP Wai-ming, MH  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon WONG Yuk-man

**Member absent:**

Hon WONG Yung-kan, SBS, JP

**Public Officers attending:**

Mrs Ingrid YEUNG, JP	Deputy Secretary for the Civil Service (1)
Ms Alice LAU, JP	Deputy Secretary for Financial Services and the Treasury (Treasury)1
Miss Susie HO, JP	Director of Administration and Development, Department of Justice
Mr Kevin ZERVOS, SC	Deputy Director of Public Prosecutions, Prosecutions Division, Department of Justice
Ms Christina CHEUNG	Deputy Law Officer (Civil Law), Civil Division, Department of Justice
Ms Adeline WAN	Senior Assistant Solicitor General, Legal Policy Division, Department of Justice
Mr Paul TANG, JP	Permanent Secretary for Labour and Welfare
Ms Irene YOUNG, JP	Deputy Secretary for Labour and Welfare (Welfare)2
Mr CHEUK Wing-hing, JP	Commissioner for Labour
Mr Alan WONG Kwok-lun, JP	Deputy Commissioner for Labour (Labour Administration)

**Clerk in attendance:**

Mr Stephen LAM	Chief Council Secretary (1)4
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**Staff in attendance:**

Mrs Constance LI	Assistant Secretary General 1
Mr Simon CHEUNG	Senior Council Secretary (1)1
Ms Alice CHEUNG	Senior Legislative Assistant (1)1
Ms Clara LO	Legislative Assistant (1)3

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The Chairman drew members' attention to the information paper provided by the Administration, i.e. ECI(2010-11)9, which set out the latest changes in terms of the Administration's directorate establishment approved since 2002.

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**EC(2010-11)12 Proposed creation of a new rank of Assistant Principal Government Counsel (DL1) and upgrading of 14 permanent posts of Senior Government Counsel (MPS 45-49) to Assistant Principal Government Counsel (DL1) in the Department of Justice and one permanent post of Senior Government Counsel (MPS 45-49) to Assistant Principal Government Counsel (DL1) in the Works Branch of Government Secretariat: Development Bureau to strengthen the staffing support at directorate level to cope with the pressing demand for legal service with effect from 1 March 2011**

2. The Chairman advised members that the Administration was proposing to create a new rank of Assistant Principal Government Counsel (APGC) at DL1 level in the Government Counsel (GC) grade, and to upgrade 14 permanent posts of Senior Government Counsel (SGC) in Department of Justice (DoJ) and one permanent post of SGC in the Works Branch of the Development Bureau to the new rank on 1 March 2011, to be offset by the deletion of 15 posts of SGC.

3. In her capacity as Chairman of the Panel on Administration of Justice and Legal Services, the Chairman reported that the Administration's proposal had been discussed at the Panel's meeting on 22 November 2010. Panel members agreed that in order to improve staff morale and service efficiency, especially in the delivery of legal advice, there was a pressing need to rationalise the structure of GC grade by bringing in a new directorate rank of APGC which was pegged at DL1 level. They also expressed concern about the increase in the number of legal advice sought by policy bureaux and government departments over the years. Since additional resources had been set aside for a directorate post to look after torture claims in early 2010, some members queried the need to create another directorate post for the same purpose. At the Panel's request, the Administration had provided additional information in its paper to the Establishment Subcommittee (ESC) on the workload statistics and cost calculation in connection with the staffing request.

New rank of Assistant Principal Government Counsel

4. Prof Patrick LAU enquired about the justifications for upgrading a large number of SGC posts to a new rank of APGC, and asked whether DoJ would recruit new staff to fill the consequential vacancies following the promotion of these SGCs.

5. Director of Administration and Development (DAD) advised that the Standing Commission on Civil Service Salaries and Conditions of Service (the Standing Commission) conducted a Grade Structure Review for the non-directorate GC grade in 2007. The report published by the Standing Commission in 2008 recognized that the roles and responsibilities of the grade had increased substantially over the years. As the core rank of the grade, SGC were bearing the hardest brunt. To address the staff recruitment and retention problem of the GC grade, the Standing Commission recommended the creation of a directorate rank at DL1 level to accommodate SGC positions which were justified for upgrading. Through aligning the GC grade structure with other professional grades, the new rank would help DoJ to retain experienced and competent officers to handle important and complicated legal work. The upgrading of a number of SGC posts would require no corresponding efforts in staff recruitment. An internal promotion board would be set up by DoJ to select suitable SGC for promotion to the new APGC rank. Depending on the nature of their posts, the new APGC would be responsible for looking after either highly complicated cases and/or assuming wider and higher management responsibilities. The Chairman commented that with the present proposal to rationalise the ranking structure of GC in that by creating a DL1 rank, the GC grade would be more in par with other professional grades in the Government.

6. Ir Dr Raymond HO remarked that some other departments also faced similar problems as DoJ such as heavy workload and staff retention difficulties. He asked if the creation of a new rank of APGC in DoJ would set a precedent for other departments.

7. Deputy Secretary for the Civil Service (1) explained that DoJ had a genuine cause to create a new DL1 rank of APGC to address its recruitment and retention problem which was more serious in DoJ than some other departments. She pointed out that D1 ranks already existed in most professional grades, and the creation of the APGC rank in DoJ was only to rationalise the ranking structure of the GC grade to bring it on par with other professional grades. The new APGCs would be performing responsibilities in accordance with the ranking requirements set for directorate officers.

#### Staff recruitment and retention problems

8. Mrs Regina IP expressed support for the Administration's proposal, but doubted its effectiveness in alleviating the staff recruitment and retention problems, since there were great disparities in the monetary rewards between working in DoJ and in the private sector. She enquired whether the new DL1 rank would be able to attract capable lawyers from the private sector to join DoJ.

9. DAD said that DoJ had encountered genuine difficulties in recruiting sufficient capable officers for the basic GC rank over the years, with an alarming vacancy rate exceeding 20% in the worst years. The department also had staff retention problem. In the past three years, unnatural wastage of non-directorate officers of the GC grade was 2.3%, which compared unfavourably with the civil service wide average of 0.5%. Enquiries with departing SGC revealed that most of them were heading for higher positions with attractive pay and service conditions. With 67% SGC serving on maximum salary points, she believed that the new rank of APGC would boost up staff morale and reduce wastage. The APGC posts would be filled by internal promotion, and open recruitment would be conducted if there were insufficient officers suitable for promotion.

10. Mr LAU Kong-wah asked whether the Administration had studied the causes of serious staff wastage in DoJ. He knew there were cases where some GCs or SGCs had changed to work in other settings with lower remuneration or less favourable working conditions. To effectively address the problem of staff wastage, the Administration should look into the causes and work out effective measures.

11. DAD said that DoJ had conducted exit interviews to find out the causes of staff resignations in the GC grade. There were a number of reasons for staff wastage, and some looked for better promotion prospects or further development. Apart from improving the promotion prospect of the GC grade, job rotation and professional training were conducted to enhance the development and job satisfaction of serving staff.

12. Dr PAN Pey-chyou said that Members belonging to the Hong Kong Federation of Trade Unions supported the creation of the APGC rank in the GC grade. To retain capable staff, he asked whether DoJ would implement other measures to boost staff morale.

13. DAD advised that DoJ management would meet staff of GC grade regularly to understand the difficulties they were facing and would try its best to provide assistance. In addition, provision of more local and overseas professional and management training opportunities would enhance staff development and boost staff morale of GCs.

#### Support for GC grade

14. Mr IP Wai-ming expressed concern about the bulk upgrading of the SGC posts, and asked if this would bring about manpower improvement in the support ranks. He also asked if there were measures to improve the attractiveness of the remuneration of the GC grade officers and enhance their job satisfaction. DAD responded that the management had all along attached

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great importance to enhancing staff morale in DoJ. As for the support staff, additional resources would be sought other than internal deployment.

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15. The Chairman commented that upgrading of posts alone could not alleviate the staff wastage problem. She requested the Administration to provide the information on the supporting staff in DoJ to ESC and the Panel on Administration of Justice and Legal Services for reference. The Administration agreed.

16. Ms LI Fung-ying expressed concern about the substantial increase in workload of DoJ and enquired what measures were taken to address the problem.

17. DAD referred members to paragraph 62 of the Administration's paper showing a steady increase of staff in both the directorate and non-directorate ranks since 1 April 2008. Between April 2008 and October 2010, the size of permanent establishment of DoJ had increased from 1 099 to 1 145. Whenever necessary, the Administration would bid for additional resources through the Annual Resource Allocation Exercise for creation of new posts to meet service needs.

#### Outsourcing of legal services

18. Mr WONG Ting-kwong expressed concern about the long queue of law drafting tasks in DoJ. He enquired about the proportion of the department's services which had been contracted out, and whether it was possible to assign more legal services to the private sector as a measure to relieve the work pressure on staff. The Chairman expressed a similar concern and urged the Administration to extend the scope of outsourced services to include law drafting. She believed that there was sufficient expertise in law drafting in the market.

19. DAD advised that DoJ was gradually extending the scope of outsourced legal services to different areas. As for law drafting, she pointed out that law drafting was a highly specialised work, and it took a long time for an officer to build up the expertise. At present, the Administration had no plan to contract out law drafting to the private sector.

20. The item was voted on. Members agree that the Subcommittee should recommend the item to the Finance Committee (FC) for approval.

**EC(2010-11)13 Proposed retention of one supernumerary post of Administrative Officer Staff Grade C (D2) in Government Secretariat: Labour and Welfare Bureau for a period of three years with effect from 10 March 2011 to continue providing dedicated support to the work of poverty alleviation**

21. The Chairman said that the Administration's proposal was to retain a supernumerary post of Administration Officer Staff Grade C (D2) in the Labour and Welfare Bureau (LWB) for three years with effect from 10 March 2011 to coordinate the Administration's efforts in poverty alleviation. The proposal had been discussed by the Panel on Welfare Services on 13 December 2010. Apart from Mr Albert CHAN who indicated that Members belonging to the League of Social Democrats did not support the Administration's proposal, Panel members generally raised no objection to the proposal. As a major responsibility of the post of Principal Assistant Secretary (Poverty) (PAS(P)) was to support the Community Care Fund (CCF), Panel members urged that the post-holder should review the anti-poverty initiatives from a policy perspective and that the approved projects under CCF should be included in the list of regular welfare services provided under LWB. The Panel also requested additional information on the strategic roles played by PAS(P) in poverty alleviation in its submission to ESC.

Community Care Fund

22. Mr WONG Yuk-man objected to the Administration's proposal to create a post to serve CCF. He criticised the Administration for making poor efforts in tackling poverty and for establishing CCF which counted heavily on private donations. He pointed out that most rich people in Hong Kong had set up their own charitable foundations, and they would prefer deciding on philanthropic contributions in their own ways. In view of the sound financial position of the Government, he considered that more should be done to alleviate the problem of poverty in the community. In his view, the Administration should consider increasing the rates of the Comprehensive Social Security Assistance Scheme instead.

23. Permanent Secretary for Labour and Welfare (PSLW) clarified that the supernumerary PAS(P) post was not needed for supporting CCF alone. PAS(P) would be heavily engaged in a wide spectrum of poverty alleviation initiatives across the Government.

24. Mr WONG Sing-chi considered that the Administration should not use CCF to finance those services or projects which should be provided for as part of the regular programmes. PSLW explained that CCF served to take care of people who either had needs that were not met by existing public

services or assistance, or were not eligible for these services or assistance due to special circumstances. He assured members that PAS(P), being the subject officer in LWB coordinating the bureau's work on CCF, would review relevant services/support provided under CCF to see if any of the assistance rendered could be incorporated into the existing welfare services.

25. Mrs Regina IP commented that all the justifications provided by the Administration were only smoke screen, as the main reason for prompting the Administration to retain the D2 post was to service CCF. She said that she could not understand why the Administration had decided to establish CCF in the presence of a huge fiscal reserve, which was causing repercussions from the community.

26. PSLW reiterated that the post of PAS(P) had actually existed for three years taking care of poverty problems. He assured members that even with CCF as an added responsibility, PAS(P) would continue to coordinate the efforts in tackling poverty.

27. Mr LAU Kong-wah said that he did not agree with other members' comments on CCF, and considered that donations from private sources should not be seen as a problem. He added that suggestions could be put forward to the Administration on how best funds from CCF should be used.

#### Creation of a permanent post

28. Mr IP Wai-ming said that as poverty alleviation was an ongoing commitment, the post of PAS(P) should be made permanent in order to steer and coordinate the Administration's efforts in fighting poverty on a long-term basis. He warned that "cross-generation poverty" was taking roots in Hong Kong, and the Administration should act immediately to deal with the issue seriously. To map out a long-term strategy for the poverty problem, he urged the Administration to consider re-activating the Commission on Poverty which was dissolved some years ago.

29. PSLW agreed that poverty alleviation was a long-term commitment of the Government. Although the Commission on Poverty had completed its work in mid-2007, LWB continued to be responsible for monitoring poverty alleviation work, and had been coordinating the Administration's efforts in tackling poverty. LWB would continue to perform this role. Besides, it would continue to pursue poverty alleviation measures under its policy purview, which would be carried out by the relevant departments. By way of illustration, LWB provided policy input to the pilot one-stop training and employment service which was then implemented by the Labour Department. In due course, such pilot projects might become part of the departments' regular services, and the need for policy input would be reduced. It would

therefore be more flexible for LWB to retain the PAS(P) post as a time-limited supernumerary post.

30. Mr LAU Kong-wah expressed support for the proposal and added that the post should be made permanent as poverty alleviation should be an ongoing commitment.

#### Utilisation of funds

31. Mr WONG Sing-chi said that Members belonging to the Democratic Party had not yet taken a position on the Administration's proposal. However, he expressed disappointment at the unimpressive work done to implement recommendations of the former Commission on Poverty. Although \$300 million had been set aside for the Child Development Fund (CDF), only a very small proportion of the Fund had been utilised. The same also happened to the Administration's work on single parents and cross-generation poverty, etc. He believed that clear performance indicators should be drawn up for each of the poverty-alleviation initiatives, while far more efforts should be made to actively address the poverty problem of old people and new arrival families from the Mainland.

32. Sharing the views of other members, Mrs Regina IP urged the Administration to speed up the use of CDF and other funds such as the Lotteries Fund to improve the conditions of poor and deprived members of the community.

33. PSLW responded that due to the need to recruit a sufficient number of suitable mentors, the Administration could not roll out CDF projects more quickly. Nevertheless, the Administration had good track records in the allocation of funds for services in different fields over the years. In this regard, he would be happy to share with members on the allocation of the Lotteries Fund in recent years.

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34. The Chairman recalled that the creation of the PAS(P) post some years ago was to support the Commission on Poverty led directly by the Financial Secretary to coordinate poverty alleviation efforts across the Government. Nonetheless, the Administration's work in this area had failed to live up to the community expectation. With the dissolution of the Commission on Poverty, the coordination responsibility had been transferred to LWB. She commented that this could be a wrong policy decision, as it was not possible for LWB alone to press ahead poverty alleviation work within the Administration. To monitor the progress of work in the area of poverty alleviation, she suggested that the House Committee could be invited to consider re-appointing the previous Subcommittee on Poverty Alleviation so that Members could follow up on the various issues involved.

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35. Mr LAU Kong-wah considered that the problem actually lied with the Administration's failure to make good use of the various funds in a timely and effective manner. He opined that the Administration should listen more to views from districts. For instance, more assistance should be given for the aged people to undergo cataract surgery and dental care. On the Chairman's suggestion of requesting the House Committee to re-appoint a subcommittee on poverty alleviation, he considered that the Panel on Welfare Services should be invited to consider the matter in the first instance. He supported taking out this item for separate discussion at FC.

36. Regarding the suggestion of re-activating the LegCo subcommittee on poverty alleviation, the Chairman advised that as the policy issues involved straddled across a number of policy bureaux, it would be more appropriate for the subcommittee to be set up under the House Committee rather than the Panel on Welfare Services. She said that with members' support, she would report to House Committee seeking its view on the appropriate way forward. She further advised that the issue under consideration by ESC was whether it supported the proposed retention of the supernumerary PAS(P) post under this item.

37. Ms LI Fung-ying said that she found it difficult to make a decision on the proposed post. She was disappointed that despite the hard work of the Subcommittee on Poverty Alleviation, the Administration had not seriously responded to the 100 or so recommendations put forth by the Subcommittee. Nonetheless, she was worried that the situation would be even worse if the supernumerary post concerned was not retained. She urged the Administration to provide more information on its future poverty alleviation work for members' reference. She supported taking out this item for separate discussion at FC.

38. Dr PAN Pey-chyou said that while he had no particular view on the supernumerary PAS(P) post, he was concerned that due to rigidity of the government procedures, CCF might fail in providing timely assistance to needy people who were outside the present social security system.

39. PSLW reiterated that poverty alleviation would continue to be a long-term commitment of the whole Government. While the overall coordination work was taken up by LWB, other bureaux/departments also contributed by introducing a wide range of poverty alleviation measures. As PAS(P) would be playing a very important role coordinating poverty alleviation efforts across the Government, he appealed to members for their support of the Administration's proposal. He added that for a number of reasons, progress of the Administration's work in tackling poverty in different areas could vary substantially. The Administration would provide updates to

the Panel on Welfare Services on the progress of poverty alleviation work from time to time. As regards CCF, he advised that the Steering Committee on the Community Care Fund formed in November 2010 would start work shortly. With a large proportion of its members coming from non-government sectors, CCF would act in a non-traditional way with greater flexibility in the use of its funds.

40. The item was voted on. Members agreed that the Administration's staffing proposal should be recommended to FC for discussion and separate voting.

**EC(2010-11)14      Proposed creation of two permanent posts of one Assistant Commissioner for Labour (D2) and one Chief Labour Officer (D1) to be offset by deletion of one supernumerary post of Chief Labour Officer (D1) in the Labour Department to take forward the planning and implementation of new and expanded portfolios and initiatives in labour administration including the statutory minimum wage regime and the Work Incentive Transport Subsidy Scheme**

41. The Chairman informed members that the Administration was proposing to create with immediate effect one permanent post of Assistant Commissioner for Labour (ACL) (D2) and one permanent post of Chief Labour Officer (D1), to be offset by the deletion of one supernumerary post of Chief Labour Officer. The proposal had been discussed by the Panel on Manpower on 18 November 2010. Panel members supported the proposal and believed that the posts would enhance directorate support for the work of the Labour Department (LD) in different areas including those of statutory minimum wage (SMW) and the Work Incentive Transport Subsidy (WITS) Scheme. Panel members were also concerned about the adequacy of support for LD's non-directorate and frontline staff such as the Labour Inspectors. They urged that the Administration should strive to ensure that LD also had sufficient manpower at non-directorate ranks to cope with the increasing workload.

#### New post of Assistant Commissioner for Labour

42. Mr IP Wai-ming enquired about the responsibilities of the proposed ACL, and asked whether posts of the same rank would be created when LD embarked on the major labour-related schemes such as the standard working hours (SWH). He was worried that with the creation of the new ACL post, the Labour Inspection Division (LID) might be under dual-leadership of two ACLs. He also asked whether there would be sufficient resources to enforce

the new SMW.

43. PSLW advised that the new ACL post would be engaged in policy formulation in certain areas including SMW. Work on the studying of SWH was already underway, and the Administration might consider seeking additional manpower for the new work if necessary. Commission for Labour added that the new ACL would probably spend 40% of his time on SMW policy, 40% on the WITS Scheme and 20% on international labour and related issues. The new post would relieve the workload of the existing four ACLs, and rationalize the division of responsibilities amongst them. It would not lead to dual-leadership problem for LID which was under the supervision of one ACL. As for the staffing of LID, LD would seek additional resources to cope with the increased workload due to SMW.

Labour disputes cases involving domestic helpers

44. Mrs Regina IP said that she supported the Administration's proposal. Nonetheless, she believed that LD should address the needs of the middleclass by providing better support to them in dealing with dispute cases involving foreign domestic helpers. PSLW took note of Mrs IP's view and said that LD would handle all labour disputes in an objective and impartial manner.

45. The item was voted on. Members agreed that the Subcommittee should recommend the item to FC for approval.

46. There being no other business, the meeting ended at 10:40 am.