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14 January 2011

Ms Sarah YUEN
Clerk to Panel on Public Service
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Ms YUEN,

**Panel on Public Service
Legal assistance**

Thank you for your letter dated 24 December 2010. As requested, we provide below some information on the Administration's decision to discontinue the Private Solicitors Scheme ("PSS") of the Food and Environmental Hygiene Department ("FEHD").

Service-wide legal assistance scheme

We have put in place since 1965 a service-wide scheme for all civil servants (including civil servants in FEHD) to provide them with legal assistance if they are involved in criminal or civil proceedings arising from their performance of duties. The service-wide legal assistance scheme has been operating smoothly. Applications are also processed expeditiously, generally within the performance target of nine working days counting from the point when all the requested information is available. For the past six years from 2005 to 2010, we received about 285 applications under the scheme. Over 90% of applications were approved. Applications were rejected mainly because they fell outside the purview of the scheme, for example, the legal proceedings did not arise out of the discharge of official duties.

Discontinuation of PSS

FEHD was the only government department operating its own legal assistance scheme, known as PSS. Under PSS, the staff of Hawker Control Officer Grade and those of the Health Inspector and the Foreman Grades performing frontline environmental hygiene-related duties were provided with legal assistance when they were involved in criminal investigations arising from their discharge of enforcement duties. For the past six years from 2005 to 2010, there were 11 cases in which the staff concerned were provided with legal assistance under PSS.

Since the affected staff in FEHD are eligible to apply for legal assistance under the service-wide scheme and that all other government departments do not operate their own legal assistance schemes for staff (including both disciplined service grades and civilian grades) involved in various law enforcement duties, we consider that there are no strong justifications for the continuation of PSS. FEHD management had been in discussion with the affected staff over our view on PSS. Having considered the views expressed by relevant staff associations, we decided that PSS should be discontinued. PSS ceased operation on 1 January 2011.

Some of the affected staff associations are concerned that under the service-wide legal assistance scheme, legal assistance is only provided after the concerned staff has been charged with a criminal offence whereas PSS would provide legal assistance at the pre-charge stage, i.e., when the staff is required to assist in investigation by law enforcement bodies. Nevertheless, we expect a civil servant subject to duty-related investigation to cooperate fully and disclose all relevant facts during the investigation process. Legal assistance at taxpayers' expense would therefore be unnecessary at this stage.

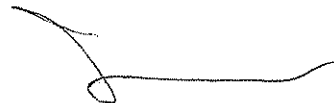
Some of the affected staff associations have claimed that the continued provision of PSS was a condition for the re-grading of the Foreman Grade to the Hawker Control Officer Grade in the re-grading exercise in 1994 and that there was a promise that PSS would remain unchanged with the establishment of FEHD in 2000. We have confirmed with FEHD management that the continued provision of PSS was not included as a condition of service in the re-grading exercise in 1994 of the then Urban Services Department/Regional Services Department. It was also unlikely that any promise was made at the time of the establishment of FEHD that the provision of PSS would remain unchanged and that there would not be any change to it.

To prepare the affected staff for the cessation of PSS, FEHD management have held a total of 67 briefing/training sessions to familiarise them with the service-wide legal assistance scheme and other related information. The briefing/training materials were distributed to the affected staff for handy reference and were also uploaded to FEHD departmental portal for easy access by staff concerned. The department has also incorporated the contents about the service-wide legal assistance scheme into all induction training for newly appointed staff and refresher training for serving staff.

Separately, at the request of the Hon WONG Kwok-hing and the Dr Hon PAN Pey-chyou, we have arranged to meet with them and representatives of the relevant staff associations to discuss their concerns over the cessation of PSS. The meeting with the Dr Hon PAN and representatives of the Food and Environmental Hygiene Department Employees Association was held on 6 January 2011 while the meeting with the Hon WONG and representatives of the relevant staff associations has been scheduled for 18 January 2011.

Please let us know if you need further information.

Yours sincerely,



(Ms Ivy LAW)
for Secretary for the Civil Service

c.c. Director of Food and Environmental Hygiene