

FACT SHEET

Administration's undertaking to provide benefits to staff of the two former municipal services departments

1. Background

1.1 At the meeting of the Panel on Public Service held on 16 March 2011, members raised concerns about the cessation of the provision of a legal assistance scheme for the frontline enforcement staff of the Food and Environmental Hygiene Department (FEHD), known as the "Private Solicitors Scheme". The Scheme was implemented for staff responsible for hawker control duties in the late 1980s by the two former municipal services departments (i.e. the Urban Services Department and the Regional Services Department), which were dissolved at the end of 1999, and continued to be provided by FEHD for eligible staff upon its establishment in 2000. The Panel requested the Research Division to provide information on the following issues:

- (a) whether, during discussion on the *Provision of Municipal Services (Reorganization) Bill* (the "Bill") in 1999, the Administration had given any undertaking that the provision of the above legal assistance scheme to the frontline staff of FEHD was to remain unchanged; and
- (b) whether the Administration had given any undertaking that the conditions of service and benefits received by the staff of the two former municipal services departments, who were redeployed to other departments after reorganization (including those transferred to departments taking over similar responsibilities discharged by the two former municipal services departments¹), were to remain unchanged.

¹ Two new departments – FEHD and the Leisure and Cultural Services Department, were established in 2000 to deliver the services in place of the Urban Services Department and the Regional Services Department.

Undertaking on the provision of legal assistance to frontline enforcement staff responsible for hawker control duties

1.2 In 1999, a Bills Committee was established to scrutinize the Bill. The Bills Committee held 29 meetings between May and November 1999. Based on written records, during those meetings, while there was discussion on the transfer of liabilities of the two former Provisional Municipal Councils to the Government upon their dissolution, issues specifically related to legal assistance provided to frontline enforcement staff responsible for hawker control duties were not raised or discussed.

Undertaking on matters concerning the conditions of service and benefits of staff of the two former municipal services departments upon redeployment

Civil servants

1.3 At a meeting of the Bills Committee held on 26 October 1999, an undertaking to redeploy surplus staff of general and common grades² (510 staff in total)³ with the same conditions of appointment was given by the Administration. At the meeting, in response to a concern regarding whether the surplus staff would be laid off after reorganization, the Administration stated that there was no difficulty in transferring them to other departments. These general and common grades staff would retain their salaries and benefits on redeployment to other posts.⁴

² There are three major grades under FEHD, namely Health Inspectors, Hawker Control Officers and Foremen. Hawker Control Officer is classified as a departmental grade post, whereas Health Inspector and Foreman belong to the general grade and the common grade respectively. The other general grade posts in FEHD include Accounting Officer, Administrative Officer, Clerical Assistant, Clerical Officer, Computer Operator, Confidential Assistant, Executive Officer, Field Officer, Information Officer, Management Services Officer, Motor Driver, Office Assistant, Official Languages Officer, Personal Secretary, Special Driver, Supplies Assistant, Supplies Officer, Supplies Supervisor, Transport Services Officer, Treasury Accountant and Veterinary Officer. The other common grade posts in FEHD include Artisan, Chemist, Field Assistant, Ganger, Laboratory Attendant, Medical and Health Officer, Registered Nurse, Science Laboratory Technician, Scientific Officer (Medical), Workman I, Workman II and Works Supervisor.

³ A breakdown by post of the surplus staff was not provided.

⁴ See *Minutes of Meeting of the Bills Committee on Provision of Municipal Services (Reorganization) Bill of the Legislative Council (26 October 1999)*, paras. 30 to 32.

1.4 In addition, written records did not indicate that the Bills Committee had discussed specific issues related to the conditions of service of those staff being transferred to the new departments substituting the two former municipal services departments (i.e. FEHD and the Leisure and Cultural Services Department).⁵

Contract staff

1.5 In response to a query raised by the Bills Committee vide their letter dated 29 June 1999 concerning the employment contracts signed by the two former Provisional Municipal Councils⁶, the Administration confirmed that under clauses 4 and 5(1) of the Bill, the validity of the contracts would be preserved after reorganization.⁷ According to the Administration, as from the appointed day, these contracts had "effect as if they were entered into with the Government. Any liabilities of the Councils under the contracts are recoverable from the Government. The fact that the Government would have been immune from liability in a similar situation is irrelevant. The terms and conditions of those employees whose service is still needed will be no less favourable than those provided for under the *Employment Ordinance* and *Employees Compensation Ordinance*."⁸

⁵ At its meeting on 26 October 1999, the Bills Committee took note of a written submission from the Joint Conference on the Reorganization of the two Municipal Services Departments ("關注市政兩署改組工會聯席會"), requesting the Administration to consult the staff on staff redeployment and make no change to their position, rank and terms of employment after reorganization. See *Minutes of Meeting of the Bills Committee on Provision of Municipal Services (Reorganization) Bill of the Legislative Council* (26 October 1999), para. 44.

⁶ See *Administration's response to concerns raised at the Bills Committee meeting on 25 June 1999* (Constitutional Affairs Bureau, 1999).

⁷ It is noted that the Government is not bound by the *Employment Ordinance*.

⁸ Also see *Report of the Bills Committee on Provision of Municipal Services (Reorganization) Bill* (Legislative Council Secretariat, 1999), para. 18.

1.6 At a Council meeting held on 16 February 2000, the Administration provided further information that FEHD and the Leisure and Cultural Services Department continued to employ 682 of the 688 contract staff of the secretariats of the two former Provisional Municipal Councils and the two former municipal services departments. The remaining six staff left their posts upon the expiry of their contracts as there was no operational need to retain them. For 656 of the 682 contract staff who were retained to meet operational needs, their remuneration and conditions of service had remained unchanged during the term of their new contracts. Regarding the remaining 26 staff, while the original functions performed by them were not required upon reorganization, the relevant Departments had employed them to meet new operational requirements. Accordingly, their employment terms depended on the nature of the new duties.

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21 April 2011
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References

1. Constitutional Affairs Bureau. (1999) *The Administration's response to concerns raised at the Bills Committee meeting on 25 June 1999*. LC Paper No. CB(2)2522/98-99(02).
2. Legislative Council. (1999) *Bills Committee on Provision of Municipal Services (Reorganization) Bill*. Available from: <http://www.legco.gov.hk/yr98-99/english/bc/bc73/general/ebc73.htm> [Accessed April 2011].
3. Legislative Council Secretariat. (1999) *Report of the Bills Committee on Provision of Municipal Services (Reorganization) Bill*. LC Paper No. CB(2)462/99-00.
4. *Minutes of Meeting of the Bills Committee on Provision of Municipal Services (Reorganization) Bill of the Legislative Council*. (1999) 26 October. LC Paper No. CB(2)2476/99-00.
5. 《關注市政兩署改組工會聯席會》，1999年10月26日，為關注市政兩署改組工會聯席會提交的意見書，立法會CB(2)234/99-00號文件，網址：<http://www.legco.gov.hk/yr98-99/chinese/bc/bc73/papers/234c.pdf>。