

立法會
Legislative Council

LC Paper No. CB(1)1163/11-12
(These minutes have been seen
by the Administration)

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Panel on Public Service

**Minutes of meeting held on
Monday, 19 December 2011, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Dr Hon PAN Pey-chyou (Deputy Chairman)
Hon LEE Cheuk-yan
Dr Hon Margaret NG
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
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
- Member attending** : Hon WONG Kwok-hing, MH
- Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)
Hon LEUNG Kwok-hung
- Public officers attending** : Agenda item III
Mr Raymond H C WONG, JP
Permanent Secretary for the Civil Service

Mr Brian LO, JP
Deputy Secretary for the Civil Service 2

Agenda item IV

Mr Raymond H C WONG, JP
Permanent Secretary for the Civil Service

Ms Shirley LAM, JP
Deputy Secretary for the Civil Service 3

Clerk in attendance : Ms Annette LAM
Chief Council Secretary (1)7

Staff in attendance : Ms Diana WONG
Research Officer (1)1

Miss Lilian MOK
Council Secretary (1)7

Miss Iris CHEUNG
Legislative Assistant (1)7

Miss May KWONG
Clerical Assistant (1)7

Action

Deputy Chairman, Dr PAN Pey-chyou, chaired the meeting as the Chairman was unable to attend the meeting.

I Information papers issued since last meeting

(LC Paper No. CB(1)413/11-12(01) -- Letter from Dr Hon PAN
(*Chinese version only*) Pey-chyou and Hon IP Wai-ming
regarding the salaries and
employment terms of
government school teachers

LC Paper Nos. CB(1)420/11-12(01) -- Second letter sent by a member
and (02) of the public seeking

(English version only)

clarifications on the retirement arrangements in the Civil Service Regulations and the Administration's response
(Restricted to members)

LC Paper No. CB(1)522/11-12(01)
(English version only)

-- Administration's response to an email from a member of the public complaining about the posting arrangement for a supplies grade staff of the Government Logistics Department
(Restricted to members))

2. Members noted that the above papers had been issued since the last meeting.

II Date of next meeting and items for discussion

(LC Paper No. CB(1)534/11-12(01) -- List of outstanding items for discussion

LC Paper No. CB(1)534/11-12(02) -- List of follow-up actions)

3. Members noted that the next regular Panel meeting would be held on 16 January 2012 at 10:45 am to discuss the following items –

- (a) Conditioned hours of work of the civil service; and
- (b) 2012 Pay Level Survey and Starting Salaries Survey.

4. Members noted that staff unions/associations of different civil service grades would be invited to give views on the item on "Conditioned hours of work of the civil service". Depending on the number of deputations attending the meeting, members agreed that discussion on the item on "2012 Pay Level Survey and Starting Salaries Survey" could be deferred to the Panel's regular meeting in February 2012 if necessary. The Administration had no objection to the arrangement.

III Provision of paternity leave to government employees

(LC Paper No. CB(1)534/11-12(03) -- Administration's paper on provision of paternity leave to government employees

LC Paper No. FS08/11-12 -- Fact Sheet on "Paternity leave in selected places" prepared by the Legislative Council Secretariat

LC Paper No. CB(1)645/11-12(01) -- Submission from the HKSAR Government Employees General Union regarding the provision of paternity leave to government employees)
(*Chinese version only*)

5. The Permanent Secretary for the Civil Service (PSCS) briefed members on the broad framework and the key components of the proposal to provide paid paternity leave to government employees, which was a new initiative announced in the Chief Executive's 2011-2012 Policy Address. PSCS said that a consultation paper setting out the preliminary proposals was issued on 21 November 2011 to solicit views from government employees and civil service bodies through established channels. Views and comments received during the one-month consultation would be taken into account in finalizing the arrangements for the provision of paid paternity leave. PSCS highlighted that the guiding principle of the initiative was to strike an appropriate balance between the benefits of paternity leave on the one hand and the prudent use of public funds on the other. It was expected that the initiative would be implemented by mid 2012.

Date of implementation and duration of paternity leave

6. Mr WONG Kwok-hing welcomed the initiative and called for a full implementation of paid paternity leave in Hong Kong. He urged the Administration to seriously consider the views of some civil servants as solicited by The Hong Kong Federation of Trade Unions to advance the implementation date to 1 January 2012 so that eligible male government employees whose spouses would give birth in the first half of 2012 could enjoy the benefit. He also suggested that the duration of the paid paternity leave should be seven working days as no significant financial and staffing implications were expected to be incurred. Sharing a same view, Mr LEE Cheuk-yan called on the Administration to provide seven working days of paternity leave to eligible male government employees and to expedite the provision of paid paternity leave to all

employees in Hong Kong. While expressing support for the initiative, Mr IP Wai-ming called for an early implementation and urged the Administration to extend the benefit to all employees in Hong Kong.

7. Mr TAM Yiu-chung echoed the views that the Administration should speed up the implementation of paid paternity leave in the civil service to allow more eligible male government employees to enjoy the benefit. He said that a minimum of five working days' leave should be provided and noted that some labour unions had requested extending the duration of the leave to seven days.

8. PSCS replied that in view of the time required for analyzing the views collected during staff consultation and finalizing the operational arrangements, it would not be practicable to implement the initiative from 1 January 2012. The Administration would try its best to work out details of the proposal with a view to implementing it by mid 2012. As regards the duration of the paternity leave, PSCS said that having made reference to the current practices of some local private enterprises and public bodies as well as some neighbouring economies, and taking into account the resource and staffing implications involved, a period of three to five working days of paid paternity leave was considered appropriate. The Administration, however, would take note of members' suggestions as well as other relevant views received during the consultation before finalizing the proposals.

9. The Deputy Chairman enquired whether paternity leave would be granted in respect of childbirth shortly before the effective date of the initiative. Deputy Secretary for the Civil Service 2 (DSCS 2) advised that eligible male government employees whose infants within marriage were expected to be born or actually born on or after the implementation date could enjoy paid paternity leave. The Deputy Chairman asked the Administration to consider extending the eligibility period so that its male employees whose infants were expected to be born or actually born within eight weeks before the implementation date could also enjoy the benefit.

Eligibility criteria for paternity leave

Minimum period of continuous service in the Government

10. Whilst welcoming that all government employees including non-civil service contract (NCSC) staff with no less than 40 weeks' continuous service immediately before the expected or actual date of childbirth within marriage would be eligible for paid paternity leave, Mr WONG Kwok-hing expressed concern that some NCSC staff whose employment contract did not run continuously for over 40 weeks would be excluded. He strongly urged the

Administration to exercise discretion in a sympathetic and flexible manner to grant the leave to those NCSC staff who were unable to meet the required qualifying employment period due to short duration of their contracts. Ms LI Fung-ying shared the same concern and said that some NCSC staff might be unfairly deprived of the benefit if the duration of their service was calculated on discrete contract basis and each individual contract duration was less than the minimum period of continuous service to qualify for the leave. Mr IP Wai-ming pointed out that the contract duration for NCSC staff were usually not very long and hence most of them would not be eligible for paid paternity leave. He raised concern whether bureaux/departments (B/Ds) would refrain from renewing the contracts of NCSC staff in order to save the cost on the provision of paid paternity leave. He also asked whether the Administration would consider making payment in lieu of paternity leave.

11. PSCS said that in general, each employment contract offered to a government employee was deemed to be separate and independent. However, having regard to the practice on the provision of paid maternity leave to female government employees, the Administration was prepared to take into account the NCSC staff's total employment period working under consecutive contracts in assessing their eligibility for paid paternity leave. He stressed that the provision of paternity leave would not be a factor to be taken into consideration in deciding whether an NCSC staff's contract would be renewed. There was no plan at this stage to make any form of payment to eligible male government employees in lieu of paternity leave.

12. Mr LEE Cheuk-yan objected to drawing a parallel with the maternity leave arrangement when deciding the qualifying employment period for paid paternity leave. He said that according to the Employment Ordinance, an employee under a continuous contract for not less than three months would be entitled to paid annual leave on a pro rata basis as well as to statutory holidays irrespective of his/her length of service. It was therefore reasonable for an employee who had worked for an employer for not less than three months to be eligible for paid paternity leave. Mr TAM Yiu-chung opined that reference to the maternity leave arrangements might not be necessary as unlike maternity leave, paternity leave was of a short period lasting for a few days only. He hoped that the Government would adopt relatively flexible criteria to enable more of its male employees to enjoy the benefits of paternity leave.

13. PSCS explained that it was common for local enterprises and public bodies providing paid paternity leave to stipulate some minimum service requirements as an eligibility criterion. Taking into account this prevalent practice and having regard to the qualifying employment period for paid maternity leave, the Administration considered it reasonable to stipulate a

minimum period of 40 weeks of continuous service as an eligibility criterion for paternity leave. He reiterated that the Administration would consider taking into account the total employment period under consecutive contracts of NCSC staff in assessing their eligibility for paid paternity leave.

Childbirth outside marriage

14. Mr LEE Cheuk-yan noted that cohabitation without marriage registration was a common relationship pattern amongst the younger generation nowadays in Hong Kong. Given that paid paternity leave was a family-friendly practice with an objective of promoting child-bearing, and that cohabitation relationship would constitute "de facto marriage" under certain circumstances, he said that the scope of paternity leave should be extended to cover infants born to cohabitation relationship. If necessary, DNA testing could be used to establish genetic relationship between a newborn and an employee applying for the leave. As for infants born to extra-marital relationship, he was of the view that paternity leave should not be provided.

15. Dr Margaret NG commented on the Chinese translation of some of the key terms such as "family-friendly practice" in the consultation paper and opined that the meaning and substance of the English text should be clearly borne out and expressed in its Chinese rendition. Agreeing with Mr LEE Cheuk-yan, Dr NG said that infants born within/outside marriage had been enjoying the same rights and privileges under legislation and that to uphold the principle of equality, the same should apply to paid paternity leave. Considering that the concept of "household" (persons with close ties living together to form a family) was adopted in different pieces of legislation, e.g. the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189), and that the objective of paternity leave was to promote family-friendly practice, she opined that the initiative should be considered on a "family" basis to allow a father/father-to-be to take paternity leave irrespective of whether he was legally married to his partner giving birth and whether the child was born within/outside marriage. Dr NG raised concern about whether restricting the provision of paternity leave to childbirth within marriage would constitute a discrimination against infants born outside marriage.

16. PSCS noted that the provision of paternity leave to childbirth out of wedlock was a controversial issue. He said that the objective of paternity leave was to enable a father/father-to-be to take some time off from work to take care of his spouse and the newborn. It was a family-friendly practice closely linked to the core value of family harmony. Taking into account that marital relationship was commonly accepted as the foundation of a family, the Administration considered it more appropriate to provide paternity leave to

childbirth within marriage at the initial stage of the implementation of the proposal. The Administration would take into account feedback received to further refining the proposed arrangements. Legal advice would be sought if necessary. On DNA tests, PSCS said that the Administration preferred to put in place simple administrative arrangements for handling applications for paternity leave and was not inclined to introduce such tests.

17. Mr TAM Yiu-chung acknowledged the possible contention over the eligibility for childbirth outside marriage and expressed reservation about the use of DNA tests to establish genetic relationship between a male employee and a newborn. He said that the charges for genetic tests might be high and the conduct of such tests might infringe on the applicants' privacy.

18. Mr WONG Sing-chi said that Members belonging to the Democratic Party supported legislation for providing paternity leave to childbirth within marriage but had reservation in extending it to childbirth outside marriage as it might encourage people to pursue extra-marital relationships, which could be disruptive to social harmony. He maintained that fidelity and commitment to marriage should be upheld.

Admin

19. Mr IP Wai-ming sought explanation from the Administration as to why female employees were eligible for maternity leave irrespective of whether or not their infants were born within marriage while paternity leave would be restricted to childbirth within marriage. He asked the Administration to seek the Equal Opportunities Commission's advice on whether excluding childbirth outside marriage would violate the spirit of equality and constitute discrimination against infants not born within marriage. Mr LEE Cheuk-yan also expressed concern about possible discrimination against cohabiting couples and their newborns.

20. In response, PSCS explained that unlike maternity leave which was primarily enabling the female staff to get pregnant and recuperate after confinement, paternity leave was provided to enable a male employee to have some time off to take care of the newborn and his spouse before/after her confinement as a family-friendly measure. The purposes of these leaves were different.

Employees of contractors and service providers to the Government

21. Ms LI Fung-ying supported the provision of paternity leave to government employees as a family-friendly employment practice. Noting that employees of contractors and service providers to the Government would not be eligible for the benefit, Ms LI expressed concern on the disparity treatment

between civil servants/NCSC staff and employees of contractors/service providers, the latter of whom too had been providing services to the Government. Likewise, granting paternity leave to government employees only was unfair to employees in the private sector and would undermine social harmony. In this connection, Ms LI urged the Government to speed up the legislation of the provision of paternity leave to all employees in Hong Kong. She suggested that the Government should make the provision of paternity leave as one of the criteria in awarding contracts to service providers and encourage subvented organizations/public bodies to introduce paternity leave to their male employees. Mr LEE Cheuk-yan shared a similar view and said that the Government should implement paternity leave in all subvented organizations/public bodies.

22. PSCS responded that paternity leave, being part of civil service benefits, would not apply to employees of contractors and service providers to the Government as they were not government employees. While the Government sought to take the lead in providing paternity leave for its employees to promote family-friendly practices, the Labour and Welfare Bureau would separately conduct a study on the provision of paternity leave to all employees in Hong Kong and consult the relevant Panel as well as the Labour Advisory Board in the first quarter of 2012. PSCS further said that subvented organizations and public bodies had the autonomy to decide whether to determine to adopt any family-friendly employment practice in the employment terms of their staff having regard to their own circumstances. Indeed, some subvented organizations and public bodies had already been providing paternity leave to their employees.

Period for taking paternity leave

23. Dr LEUNG Ka-lau noted that the timeframe for taking paid paternity leave provided by some local private enterprises and public bodies ranged from a short period around childbirth to within 6 months from the expected date of confinement. He proposed that an eligible government employee should be allowed to take the leave during the period from four weeks before the expected date of childbirth to six months, instead of eight weeks, after the actual date of childbirth. PSCS reiterated that the objective of paternity leave was to enable a father/father-to-be to take some time off from work to take care of the newborn and his spouse around the time of the birth of his child and immediately before/after his spouse's confinement. Taking into account the objective of paternity leave and the maternity leave arrangement, the proposal that paid paternity leave should be taken within a period from four weeks before the expected date of childbirth within marriage to eight weeks after the actual date of childbirth was considered appropriate.

Resource implications arising from the provision of paid paternity leave

24. Mr LEE Cheuk-yan expressed grave reservation on the Administration's claim that no significant staffing and financial implications would be incurred for the provision of paternity leave. He was worried that this could possibly give private enterprises an excuse that they could not afford to provide paid paternity leave on the pretext that for them additional resources were required. He doubted whether no additional civil service posts would be required, and questioned whether the additional expenditure arising in the form of overtime allowance or expenses in engaging temporary staff could all be absorbed from within the existing resources of the B/Ds concerned. He considered that additional resources should be allocated to ensure the efficient provision of public services when some government employees were on paternity leave. Ms LI Fung-ying shared the same view.

25. PSCS explained that according to the Administration's assessment, the provision of three to five working days of paternity leave to eligible government employees would not give rise to significant financial and staffing implications. In response to Mr TAM Yiu-chung's enquiry about the estimated number of male civil servants who would be eligible to enjoy the benefits of paternity leave, PSCS advised that in the past three years, the number of babies born to male civil servants was around 2 700 per year, i.e. a birth rate of around 2.7%.

Other pregnancy complications

26. Mr TAM Yiu-chung enquired whether paternity leave would be granted in the case of miscarriage or newborns with health problems. PSCS replied that while paternity leave would be provided in the case of stillbirth upon the issue of delivery certificates by registered medical practitioners, paternity leave would not apply to cases of miscarriage or abortion. Government employees could consider taking their annual leave to take care of their spouses in the case of miscarriage and newborns having health problems.

27. Mr IP Wai-ming disagreed that paternity leave would not be granted in respect of miscarriage. He maintained that male government employees whose spouse had miscarriage should be granted paternity leave so that they could better support their partners through the difficult time. In response, PSCS said that sick leave would be granted to female government employees in case of miscarriage or abortion. Paternity leave would be granted where delivery had taken place as affirmed by medical practitioners, even in the unfortunate event of stillbirth. He assured members that the Administration would adopt a sympathetic and flexible approach in handling such cases.

28. Citing a hypothetical situation, Dr LEUNG Ka-lau enquired whether a male government employee would be eligible for paternity leave if his wife got pregnant after he had worked for the Government but had a pre-term delivery before the qualifying period of 40 weeks of continuous service. DSCS 2 replied that taking into account views received during the consultation period, the Administration would draw up administrative arrangements to handle applications for paternity leave under various special circumstances on an individual case-by-case basis.

Admin

29. Referring to the health problems associated with pre-term delivery, Mr WONG Sing-chi asked whether the Administration would consider allowing its male employees to take no-pay leave to take care of their spouses and pre-term infants after they had exhausted their paid leave. He also requested the Administration to consider co-ordinating different Government departments, e.g. Department of Health, to provide training programmes or courses on care of infants for male government employees eligible for paid paternity leave so as to equip them with knowledge and skills to support their spouses during the prenatal and postnatal period.

30. PSCS reiterated that bureau/departmental management had been encouraged to accord priority to leave applications on family care grounds. In the event that an employee's paid leave had been exhausted, granting of advance leave might be considered where circumstances warranted.

IV An overview of training and development for civil servants

(LC Paper No. CB(1)534/11-12(04) -- Administration's paper on training and development for civil servants

LC Paper No. CB(1)534/11-12(05) -- Paper on training and development for civil servants prepared by the Legislative Council Secretariat (Background brief)

31. PSCS briefed members on the training and development programmes (other than the national studies and the Basic law programmes) provided for civil servants of different grades and ranks by the Civil Service Bureau (CSB).

National studies training

32. In response to Mr LEE Cheuk-yan's enquiry about the training programmes related to national studies for civil servants, PSCS noted that the subject had been discussed at the last Panel meeting in November 2011 and that a summary of the national studies and the Basic Law programmes provided by CSB was set out in LC Paper No. CB(1)321/11-12(03) for members' information. In brief, the training initiatives included a study-cum-visit advanced national studies course for senior directorate officers at the Chinese Academy of Governance, study programmes at the Tsinghua University/the Peking University, foreign affairs studies programme, thematic study programmes, exchange programmes with the Mainland, and local national studies programmes for new recruits, etc. Around 6 000 civil servants, including Administrative Officers and departmental directorate officers, attended various national studies programmes in 2011. Of these, over 5 000 civil servants attended courses and seminars in Hong Kong while less than 1 000 participated in programmes organized in the Mainland.

33. As regards the financial provision for the training and development for the civil service, PSCS said that in the financial year 2010-2011, around \$950 million were spent by B/Ds to provide various training programmes to civil servants of different levels, grades and disciplines. The total trainee number was about 542 000.

34. Referring to the Administration's paper, the Chairman noted that most of the overseas training programmes focused mainly on general topics such as human resource management and public administration while those organized on the Mainland aimed to enhance civil servants' understanding of and exposure to the systems and developments in the Mainland. PSCS explained that the Administration aimed to provide a wide range of training opportunities to its staff taking into account their operational needs.

Specific training programmes for Government bureaux/departments

35. The Chairman referred to acts of violence in recent public assemblies and processions, and asked whether the Administration would consider strengthening training for frontline civil servants to equip them with the necessary skills and knowledge in handling violence. PSCS responded that individual B/Ds had been providing work related training courses for their staff to meet work requirements and job-specific needs. Apart from providing civil service-wide training programmes to meet common training needs of all civil servants, CSB, through the Civil Service Training and Development Institute, would continue to work closely with B/Ds to provide consultancy services and targeted support such as conducting training needs analysis, developing departmental training plans, as

well as designing and organizing tailor-made classes to meet specific departmental training needs.

V Any other business

36. There being no other business, the meeting ended at 12:25 pm.

Council Business Division 1
Legislative Council Secretariat
27 February 2012