

立法會

Legislative Council

LC Paper No. CB(4)228/13-14
(These minutes have been
seen by the Administration)

Ref : CB4/PL/PS

Panel on Public Service

**Minutes of meeting held on
Thursday, 18 November 2013, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)
Hon POON Siu-ping, BBS, MH (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon LEUNG Ka-lau
Hon LEUNG Kwok-hung
Hon Claudia MO
Hon LEUNG Che-cheung, BBS, MH, JP
Hon KWOK Wai-keung
Hon SIN Chung-kai, SBS, JP
Hon IP Kin-yuen
Hon Martin LIAO Cheung-kong, JP
Hon TANG Ka-piu
Hon Tony TSE Wai-chuen

**Public Officers
attending** : **Agenda item III**

Mr Paul TANG, JP
Secretary for the Civil Service

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

Ms Vivian SUM, JP
Deputy Secretary for the Civil Service 3
Mr Anthony MAK
Principal Assistant Secretary
(Training and Development)

Agenda item IV

Mr Paul TANG, JP
Secretary for the Civil Service

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

Ms Vivian SUM, JP
Deputy Secretary for the Civil Service 3

Ms Ivy LAW
Principal Assistant Secretary
(Conduct and Discipline)

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (4)1

Staff in attendance : Ms Wendy JAN
Senior Council Secretary (4)2

Ms Angela CHU
Council Secretary (4)1

Ms Linda MA
Legislative Assistant (4)1

Action

I. Confirmation of minutes

(LC Paper No. CB(4)66/13-14 -- Minutes of meeting on
10 October 2013)

The minutes of the meeting held on 10 October 2013 were confirmed.

II. Date of next meeting and items for discussion

(LC Paper No. CB(4)124/13-14(01) -- List of outstanding items for
discussion)

2. The Chairman referred members to a letter dated 15 November 2013 from Mr SIN Chung-kai, which was tabled at the meeting. She said that Mr SIN requested the Panel to discuss issues relating to the creation of the Regulatory Affairs Manager ("RAM") grade and its impact on the Telecommunications Engineer grade in the Office of the Communications Authority. She further said that previously Mr SIN, together with Mr Charles Peter MOK and Ir Dr LO Wai-kwok, had, in their letter dated 25 June 2013, requested the Panel to discuss the same issues. However, after considering the Administration's written reply of 5 August 2013, members decided not to follow up the issues. In fact, the issues had been discussed at the Panel on Information Technology and Broadcasting ("ITB Panel") in July 2013.

3. Secretary for the Civil Service ("SCS") advised that there was no general policy to disregard professional qualifications or replace professional grades in the civil service. The RAM proposal and related matters should be considered on their own merits and had no read-across implications within the civil service. Since the relevant issues had already been discussed at the ITB Panel, it would be more appropriate for the ITB Panel to continue to follow up this matter.

4. Mr SIN Chung-kai said that Mr Charles Peter MOK and Ir Dr LO Wai-kwok had tried to raise the issues for discussion at the ITB Panel, but were then advised to take up the issues with the Panel on Public Service instead. Mr SIN further said that he had no strong view as to which Panel should take up the issues, but was keen to ensure that there was a forum for further discussion of the issues with the Administration. The Chairman therefore requested and SCS agreed to liaise with the Commerce and Economic Development Bureau with a view to agreeing on the appropriate Panel to discuss the issues and to revert to members with the Administration's proposed arrangement.

Admin

(Post-meeting note: Subsequent to the meeting, members were informed vide LC Paper No. CB(4)186/13-14 dated 26 November 2013 of the advice of the Civil Service Bureau that the Commerce and Economic Development Bureau has agreed that the ITB Panel would be the appropriate Panel to discuss the issues.)

5. The Chairman said that the next regular Panel meeting would be held on 16 December 2013, and the Administration proposed that the following two items, which had been included in the Panel's "List of outstanding items for discussion", be discussed at the next meeting-

- (a) Employment situation of non-civil service contract ("NCSC") staff;
and
- (b) Manpower situation of the Hongkong Post.

- Admin 6. Regarding the item on the employment situation of NCSC staff, Mr TANG Ka-piu requested the Administration to provide a breakdown by posts and bureaux/departments of the end-of-contract gratuities disbursed to NCSC staff, and the number and details of cases where the severance and long service payments for NCSC staff were offset by the employers' Mandatory Provident Fund contributions.
7. In reply to members' enquiries, SCS advised that the civil service establishment was expected to increase in the next financial year but the position could only be firmed in the context of the 2014/2015 Budget. Hence, the Administration planned to update members on the overall situation of the civil service establishment and strength etc. in the second quarter of 2014. As regards the retirement situation of civil servants, Civil Service Bureau ("CSB") would complete the relevant study by the end of 2013 or early 2014, and thereafter would seek the views of civil service associations/unions on the proposals. CSB planned to brief this Panel on the results of the study in the second quarter of 2014.
8. Taking note of SCS's advice and citing recent incidents of some civil service associations/unions expressing discontent with the manpower situation of their respective departments, Mr LEE Cheuk-yan suggested that the Panel should hold public hearings to receive views from civil service associations/unions on the manpower situation of the civil service in December 2013 and the retirement age of civil servants in January 2014.
9. Mr SIN Chung-kai suggested that the Panel should also invite members of the public to attend the public hearings and give views on the issues. He considered that the public hearings should be held in January 2014 or after the Chinese New Year, so that the civil service associations/unions could have more time to prepare for the hearing.
10. Pointing out that there were voices of discontent from civil servants on the shortage of manpower in various Government departments, Ms Emily LAU requested the Administration to grasp and report to members the full picture of the manpower shortage situation in the Government, in particular the shortage of frontline civil servants, with proposed solutions to alleviate the shortage situation.
11. SCS reiterated that the Administration could brief Members on both issues when more details were available. He thought it would be premature to discuss the issues in the coming two months or so.
12. After discussion, members agreed that the Panel would hold a public hearing in January 2014 to receive views from civil service associations/unions

and members of the public on the manpower situation of the civil service and the retirement age of civil servants.

III. The Civil Service Outstanding Service Award and other commendation schemes for civil servants

(LC Paper No. CB(4)124/13-14(02) -- Paper provided by the Administration

LC Paper No. CB(4)124/13-14(03) -- Updated background brief prepared by the Legislative Council Secretariat)

13. At the invitation of the Chairman, SCS briefed members on the Civil Service Outstanding Service Award Scheme 2013 ("the Scheme") and other commendation schemes for civil servants, details of which were set out in the Administration's paper (LC Paper No. CB(4)124/13-14(02)).

Discussion

14. Noting that both the number of entries and participating bureaux/departments ("B/Ds") for the 2013 Scheme had dropped as compared to the level in 2007, Mr IP Kin-yuen enquired whether the decrease was attributable to a decline in the morale of civil servants and a reduction in the attractiveness of the Scheme. He further commented that the participating B/Ds and award winners of the Scheme were very similar over the years, and most of them were involved in providing direct services to the public. He asked what measures CSB had taken to encourage participation of more B/Ds.

15. SCS responded that the Scheme had elicited positive response and participation from different B/Ds over the years. The Administration had introduced different categories of awards to recognize commendable achievements of B/Ds in different aspects. Permanent Secretary for the Civil Service ("PSCS") added that the Scheme was organized on a biennial basis and each time a post-event review would be conducted. In response to the comments made by civil servants and members of the Panel on Public Service in the past, awards such as the Regulatory/Enforcement Service Award, the Special Citation for Integrity Management for the General Public Service Award, and the Regulatory/Enforcement Service Award had been introduced to recognize exemplary performance of B/Ds involved in law enforcement work, and to meet the rising public expectation for integrity management. The Administration was keen to further improve the Scheme and would continue to listen to views/suggestions of civil servants and members of the Panel on Public Service for improvement.

16. With regard to the number of entries and participating B/Ds, Deputy Secretary for Civil Service 3 ("DSCS3") pointed out that the number of entries for a particular year would depend on, amongst other things, the number of departmental initiatives being rolled out in the respective years. For instance, there were entries for the inter-departmental Partnership Award in 2011 that involved collaboration among many departments, and hence a higher number of participating B/Ds in the Award in that year.

17. Mr SIN Chung-kai said that most of the service initiatives were initiated by the participating B/Ds. He enquired whether the Administration would consider introducing awards to recognize service initiatives that responded to public demands and to actively engage the public in the adjudication process. Echoing Mr SIN's view, Ms Emily LAU said that the Scheme should give due recognition to those B/Ds which had responded positively to public demands in improving their services.

18. In reply, SCS said that the Scheme placed strong emphasis on the participation of different quarters of the community in the adjudication process. The Service Enhancement Award was introduced to recognize those B/Ds which had endeavoured to provide quality services to the public. In determining award winners under the Scheme, enhancement in public service provision was one of the major factors the adjudication panels would consider. However, adjudication purely from the angle of serving public demands would render some B/Ds, particularly those not involved in delivering services directly to the public, less advantageous in competing for the awards. Nevertheless, the Administration would consider requesting participating B/Ds to provide specific information on how they had responded to public demand for quality services in the future. PSCS added that many of the award winning projects were initiated by B/Ds to improve their service provision after listening to the public's views.

19. Noting that the Hong Kong Police Force ("the Police") had won a number of awards, Ms Emily LAU enquired about the reasons. She said that cases of confrontation between the Police and the public had been on the rise, and urged SCS to relay to the Commissioner of Police the need to further improve the Police's community relations. Ms LAU also opined that the Administration should foster greater collaboration among B/Ds.

20. Mr TAM Yiu-chung said that it was inevitable for those B/Ds involved in law enforcement work to encounter disputes when discharging their duties. Their commitment and efforts made in excelling their service should not be undermined. He expressed support to the Scheme which in his view was conducive to motivating proactive and exemplary performance from civil servants, and urged the Administration to continue to encourage participation from B/Ds.

21. SCS said that the awards given out to the Police were to recognize their outstanding work performance and efficiency. Among these awards, the Best Public Image Award was determined based on the votes of a random sample of more than 2 400 members of the public as well as District Councillors and LegCo Members. He added that the Police placed great emphasis on community relations and was devoted to serving the public. The Administration would further promote and publicize the Scheme to emulate good practices of award-winners among B/Ds and encourage their participation.

22. In response to Ms LAU's enquiry, SCS said that there was no winner for the silver prize of Crisis/Incident Support Service Award because there were dual winners for the gold prize of the Award.

23. Mr TANG Ka-piu asked whether apart from the Scheme, there were other ways the Administration would give commendation to civil servants who were committed to serving the public under adverse circumstances, such as disasters. SCS replied that the HKSAR Honours and Awards system recognized members of the public and public officers, including civil servants, who had made exceptional contribution to Hong Kong and the community. For instance, civil servants who were engaged in the salvage operation in the 2012 Lamma Island ferry collision incident received the Chief Executive's Commendation for Government/Public Service.

24. Mr TANG Ka-piu enquired whether the publicity efforts made by the Administration, such as inviting the media to cover the stories of award recipients, had achieved the desired effect of disseminating the outstanding achievement of award recipients and enhance the community's understanding of the work of civil servants. The Deputy Chairman also asked for the details about the School Promotion Programme and its publicity effect. SCS replied that positive messages about the award winners had been publicized in the media, which helped to enhance the public's knowledge of the work of civil servants. In addition, the Administration had invited Radio Television Hong Kong to produce a one-hour television documentary on the award winners and their services so as to publicize their outstanding work. DSCS3 added that over 200 school talks or visits to government facilities were organized for students to enable them to understand more about the services provided by the Government under the School Promotion Programme.

IV. An overview of civil service disciplinary matters

(LC Paper No. CB(4)124/13-14(04) -- Paper provided by the Administration

LC Paper No. CB(4)124/13-14(05) -- Updated background brief prepared by the Legislative Council Secretariat)

25. SCS briefed members on the salient points of the Administration's paper on the overview of civil service disciplinary matters. He said that the Administration had endeavoured to ensure that each disciplinary case was processed in accordance with the principles of natural justice and with observance of procedural propriety. Safeguards were in place to ensure that a civil servant suspected of misconduct would be given a fair hearing and sufficient opportunities to defend himself/herself.

Punishments imposed on civil servants

26. Ms Claudia MO enquired about the types of financial penalties imposed on civil servants who were found guilty of misconduct. DSCS3 said that the financial penalties imposed on civil servants were mainly in the form of a fine of no more than one month's salary or reduction in salary of no more than two salary pay points.

27. Given that the disciplinary authority might impose performance of extra duties on civil servants in the disciplined services as punishment for misconduct, Ms Claudia MO asked how the Administration could ensure that the punishment was fair and proper, and what safeguards were available to prevent/check against abuse of authority. DSCS3 advised that the punishment of performing extra duties was unique to the disciplined services and was arranged having regard to the circumstances of individual departments. Civil servants who were aggrieved by the disciplinary decisions could always appeal against such decisions.

28. Ms Claudia MO expressed concern that civil servants might refrain from lodging appeals against disciplinary decisions for unfair punishment for fear of revenge. Being an ex-civil servant, the Chairman remarked that she had previously worked as Assistant Secretary (Discipline) from 1975 to 1977. During that period, there were a lot of appeals lodged by civil servants against the decisions of the disciplinary authority. DSCS3 added that there were still a lot of appeals against disciplinary decisions nowadays. As requested by Ms Admin MO, DSCS3 agreed to provide the Panel after the meeting with the number of appeals lodged by civil servants against the decisions of the disciplinary authority over the past five years and the results of such appeals.

29. Referring to the 66 dismissal cases arising from criminal conviction of civil servants from 2008-09 to 2012-13, Mr TANG Ka-piu enquired about the criteria adopted by the Administration for determining the punishments, such as dismissal or reduction in rank, to be imposed on civil servants found guilty of

criminal offences. SCS advised that when deciding on the level of punishment, the disciplinary authority would take into account a host of factors including the gravity of the criminal offences, whether the offences were committed in the job context, the rank of the civil servants concerned, etc. The disciplinary authority would seek the independent advice from the Public Service Commission on the appropriate punishment in accordance with the Public Service Commission Ordinance, Cap 93.

Admin 30. Noting that there were 10 dismissal cases for sexual offences in the past five years, Mr TANG Ka-piu asked whether the offences were committed in the job context, and if so, the relevant grades of the civil servants concerned. In response, DSCS3 undertook to provide the Panel with the information after the meeting.

31. Mr TANG Ka-piu enquired whether a civil servant would be punished because of indebtedness. DSCS3 advised that a civil servant would not be punished merely because of indebtedness. However, the civil servant would be liable to disciplinary punishment if his/her financial problems had led to misconduct or criminal conviction.

32. Mr SIN Chung-kai remarked that considering the size of the civil service, the number of civil servants dismissed was relatively small. He asked whether the Administration had benchmarked the dismissal rate in the civil service against that in the private sector. SCS said that it would be difficult to compare the dismissal rate in the civil service with that in the private sector. However, the Administration had done a lot of preventive work, including education and training to civil servants. The efforts of the Administration might have contributed to the relatively low dismissal rate in the civil service.

33. Referring to paragraph 12 of the Administration's paper which stated that a higher-ranking civil servant would normally receive a heavier punishment than a junior civil servant found guilty of the same misconduct or criminal offence, Ms Emily LAU asked the Administration to explain how this principle was applied in practice.

Admin 34. SCS explained that the Administration would take into account a number of factors, including the level of punishment in past similar cases, when deciding on the punishment in each case. Given more senior officers were expected to set an example, for similar misconduct or criminal offence, they would receive a heavier punishment than junior officer. As no disciplinary cases were strictly identical, it would be difficult to illustrate how the principle referred to by Ms Emily LAU was applied to individual cases. Upon the request of Ms LAU, PSCS agreed to provide the Panel after the meeting with details of the 11 dismissal cases processed under the Public Service (Administration Order) ("PS(A)O") for civil servants at MPS Pt. 14 to 49 or equivalent from 2008-09 to 2012-13.

35. In response to Ms Emily LAU's enquiry, SCS advised that on account of personal privacy, the Administration would not release the names of the civil servants punished by the Administration.

Performance management of the civil service

36. Mr SIN Chung-kai enquired about the actions taken by the Administration against civil servants with "unsatisfactory performance", as distinct from "misconduct". SCS advised that the Administrative ways encouraged supervisors to truly reflect the unsatisfactory performance of their subordinates in the latter's performance appraisals, which might affect the latter's promotion opportunities and/or entitlement of salary increments. PSCS added that there were also mechanisms in place to issue verbal or written advice to civil servants who performed unsatisfactorily and to compulsorily retire those with substandard performance in the public interest.

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37. Mr SIN Chung-kai requested the Administration to report regularly to the Panel on the performance management of the civil service. SCS agreed to consider Mr SIN's request.

Legal representation at disciplinary hearings

38. The Deputy Chairman expressed concern that the Administration had rejected a large number of applications for legal representation from civil servants who were subject to disciplinary proceedings under the relevant disciplined services legislation. DSCS3 advised that the Administration had approved all the applications for legal representation from civil servants if the misconduct or criminal offences concerned might lead to dismissal or compulsory retirement or reduction in rank.

39. Mr Martin LIAO commented that it was unfair for the Administration to reject applications for legal representation from civil servants who were subject to disciplinary proceedings, as the results of such proceedings might adversely affect the reputation of the accused civil servants and be recorded in their personal files. He therefore asked if the Administration would consider allowing legal representation as a matter of right in future.

40. SCS replied that in considering an application for legal representation, the disciplinary authority would take into account the seriousness of the misconduct, the potential penalty, whether any point of law would likely arise, the capacity of the civil servant concerned to present his own case, etc. He also pointed out the need to give due regard to the Court of Final Appeal's judgment on *Lam Siu Po v. Commissioner of Police* (FACV 9/2008), which held that legal representation was a matter for the disciplinary authority to consider under its discretion in accordance with the principle of fairness in common

law. Nevertheless, the Administration had drawn up clear guidelines for the disciplinary authorities to consider applications for legal representation.

Legislative amendments

41. The Deputy Chairman enquired about the progress of refining the proposed amendments to the subsidiary legislation on discipline made under the disciplined services legislation. SCS advised that the Administration had been working with the management and staff sides on the proposed amendments, and aimed to report this matter to the Panel in the second quarter of 2014.

Process of disciplinary proceedings

42. Regarding the process of disciplinary proceedings, the Chairman, said that being an ex-civil servant, she understood that the Administration used to consult the Department of Justice to determine whether there was a prima facie case of misconduct by a civil servant. If there was, the Administration would appoint officers from various departments, who were senior in rank to the accused civil servant, to conduct disciplinary hearings. Those officers would then make a conclusion as to whether there had been misconduct and a recommendation to the Civil Service Bureau as to the level of punishment to be imposed on the accused civil servant. For civil servants of certain grades/ranks, the Administration would also seek the Public Service Commission's independent advice on the level of punishment. The Chairman remarked that the aforesaid arrangements reflected that there were checks and balances in the civil service disciplinary mechanism to ensure fairness and impartiality. She asked if the aforesaid arrangements were still being adopted.

43. SCS said that while the disciplinary proceedings were similar to what was mentioned by the Chairman, the Administration had established in 2000 the Secretariat on Civil Service Discipline to centrally process formal disciplinary cases under PS(A)O. If a civil servant was convicted of a criminal offence, the Administration would consider taking disciplinary action against him after the completion of the criminal proceedings. DSCS3 supplemented that a pool had been formed comprising officers of different background to serve as inquiry officers, or chairmen and members of the inquiry committee at disciplinary hearings. With the experience gained by the Secretariat on Civil Service Discipline from processing disciplinary cases, the processing time for disciplinary cases had been shortened.

V. Any other business

44. There being no other business, the meeting ended at 12:17 pm.

Council Business Division 4
Legislative Council Secretariat
13 December 2013