

立法會
Legislative Council

LC Paper No. CB(4)235/14-15(04)

Ref: CB4/PL/PS

Panel on Public Service

Meeting on 15 December 2014

**Updated background brief on
employment situation of non-civil service contract staff**

Purpose

This paper provides background information on the employment situation of non-civil service contract ("NCSC") staff and summarizes the major views and concerns expressed by members when the subject was discussed by the Panel on Public Service ("the Panel").

The NCSC Staff Scheme

Scope of the Scheme

2. The NCSC Staff Scheme, introduced in 1999, aims at providing Permanent Secretaries and Heads of Departments ("HoDs") with a flexible means of employment to respond more promptly to changing operational and service needs of Bureaux/Departments/Offices ("B/Ds") -

- (a) which may be time-limited, seasonal, or subject to market fluctuations;
- (b) which require staff to work less than conditioned hours;
- (c) which require tapping the latest expertise in a particular area; or
- (d) where the mode of service delivery is under review or likely to be changed.

3. The terms of employment of NCSC staff are separate and different from those of civil servants. HoDs may determine the appropriate employment package for their NCSC staff having regard to the work involved, the labour

market and other relevant considerations, provided that the terms offered are overall speaking no less favourable than those prescribed under the Employment Ordinance (Cap. 57) and no more favourable than those applicable to civil servants in comparable civil service ranks or with comparable levels of responsibilities where they exist.

Replacement of NCSC positions by civil service posts

4. In 2006, the Civil Service Bureau ("CSB"), in conjunction with B/Ds, conducted a special review on the employment situation of NCSC staff. The number of full-time NCSC staff employed by B/Ds was 16 488 as at 31 March 2006. The Administration advised the Panel in December 2006 that the review had identified some 4 000 NCSC positions as suitable for replacement by civil service posts. As at 30 June 2013, about 3 920 such positions have been phased out upon expiry of the employment contracts of the concerned NCSC staff and the recruitment of replacement civil servants.

5. Between March 2006 and June 2013, B/Ds separately identified about 2 280 NCSC positions which involved work with permanent service needs that should appropriately be carried out by civil servants. As at 30 June 2013, 1 975 positions have been phased out and replaced by civil service posts. According to the Administration, the remaining 300 odd positions will be phased out as and when the corresponding civil service posts are created and filled. Statistics on the employment of full-time NCSC staff by B/Ds from 2001 to 2013 are in **Appendix I**.

Discussions of the Panel

6. The major concerns and views expressed by Panel members and the Administration's responses are summarized in the ensuing paragraphs.

Replacement of NCSC positions by civil service posts

7. Members noted that as at 30 June 2013, 4 746 of the 12 900 NCSC staff (36.8%) were employed for five years or more. Members further noted that 8 557 of these 12 900 NCSC staff (66%) were employed by eight B/Ds, namely, Hong Kong Post ("HKP"), Leisure and Cultural Services Department ("LCSD"), Electrical and Mechanical Services Department ("EMSD"), Education Bureau, Department of Health, Student Financial Assistance Agency, Buildings Department, and Home Affairs Department. Members considered the situation unacceptable as the use of NCSC staff would give rise to the problem of "different pay for the same job". The Administration was urged to speed up the pace of replacing NCSC positions by civil service posts.

8. The Administration advised that review on the employment of NCSC staff was an ongoing process and the conversion to civil service posts had been carried out progressively. The duration of the NCSC positions was not the most important consideration for conversion. The Administration needed to consider other factors such as the stability and long-term need of the service. For those NCSC positions which were suitable to be replaced by civil service posts, the pace of conversion was subject to the availability of resources to the relevant B/Ds as determined in the resources allocation exercise conducted each year.

9. The Administration further advised that it was necessary to employ NCSC staff for a relatively long period of time to cope with certain time-limited work, as in the case of the Continuing Education Fund for which the service need could last for 10 years but would lapse upon the depletion of the Fund. The Administration also pointed out that of the 4 746 NCSC staff who had worked for five years or more, about 1 400 of them had served in different NCSC positions.

10. Concern was raised that the complicated procedures to create civil service posts might encourage B/Ds to take an easy way out by creating NCSC positions to solve the problem of manpower shortage.

11. The Administration explained that in order to ensure the proper operation of the NCSC Staff Scheme, a ceiling had been set for the employment of NCSC staff for each B/D, except the trading fund departments, and approval for employment of NCSC staff over and above the prescribed ceiling would only be granted to well-justified cases.

12. On the suggestion of offering civil service posts to those NCSC staff who had been working for the Government for more than five years, the Administration replied that the Government's recruitment policy was fair competition and meritocracy. NCSC staff would need to make application and compete with other applicants (including the civil servants who wished to apply for other civil service posts) if they wished to be considered for civil service posts. In general, those NCSC staff with suitable working experience in the Government would have advantage over other applicants in applying for the civil service posts. The success rate of former NCSC staff in applying for civil service posts was around 15%, whereas the success rate for other applicants was only about 2%.

Terms and conditions of service for NCSC staff

13. Members expressed concern that NCSC staff were receiving less favourable terms and conditions of service than their civil service counterparts doing the same job. They requested the Administration to improve the

remuneration packages for NCSC staff and consider relaxing the existing rule that the salaries of NCSC staff should not exceed the salary mid-point of comparable civil service ranks. A member suggested that CSB should take over the management of NCSC staff from individual B/Ds so as to better safeguard the rights of NCSC staff.

14. The Administration responded that it was not appropriate to compare the terms and conditions of employment of NCSC staff with that of civil servants, as they were two distinct types of employment. Apart from complying with the Employment Ordinance (Cap. 57) and the guiding principles for employing NCSC staff, B/Ds were also required to ensure the competitiveness of the terms and conditions of service of the NCSC positions so as to be able to recruit persons of suitable calibre and to retain suitable NCSC staff. Since each B/D had its own specific operational needs, it would be more appropriate for B/Ds to manage their own NCSC staff.

15. Members noted that under the current arrangement, the employer's contributions made by B/Ds to the Mandatory Provident Fund ("MPF") schemes of their NCSC staff were used for offsetting the severance and long service payments to NCSC staff. The Administration was urged to take the lead in abolishing the offsetting arrangement of the severance and long service payments against the employer's MPF contributions to set a good example for other employers.

16. The Administration advised that offsetting arrangement in the Government aligned with the provisions of the Employment Ordinance. As the issue of offsetting arrangement of long service and severance payments under MPF would have wide policy and resource implications, it should be considered in a wider context. The Panel on Manpower or the Panel on Financial Affairs should be a more appropriate forum for deliberation of the matter, as the offsetting arrangement of long service and severance payments under MPF and the MPF were under the policy purview of the Labour and Welfare Bureau and the Financial Services and the Treasury Bureau.

17. On the suggestion of offering all NCSC staff end-of-contract gratuities equal to 15% of the total amount of their basic salaries, the Administration advised that B/Ds had the full discretion to determine the appropriate employment package of their NCSC staff, having regard to factors such as the recruitment situation and employment market, and to decide whether to offer end-of-contract gratuity and the percentage rate of gratuity. In accordance with the prevailing guidelines, the end-of-contract gratuities plus the Government's MPF contributions in respect of the NCSC staff should not be more than 15% of the total basic salaries drawn during the contract period if the staff were required to perform skilled jobs. If the staff were required to perform non-skilled jobs, the percentage rate should not be more than 10%.

Employment of NCSC staff by certain B/Ds

18. Members noted that HKP, LCSD and EMSD were the three departments which had the largest numbers of NCSC staff. Question was raised about the Administration's plans to reduce the number of NCSC staff in these departments.

19. The Administration explained that due to the particular work pattern in mail processing, seasonal and daily fluctuations in mail traffic against the need to meet performance pledges, as well as uncertainty in the longer term changes in the posting behaviours of mailers, there was a practical need for HKP to engage a mix of civil servants and NCSC staff in order to maintain flexibility in manpower deployment. NCSC staff in HKP typically took up specified tasks rather than the full range of duties normally assigned to civil service posts. About half of the NCSC staff in HKP were engaged to meet service needs that required them to work less than the conditioned hours required of civil servants.

20. As to the case of LCSD, the Administration advised that it had a relatively high proportion of NCSC staff due to the nature of the services provided by the Department. Around 67% of the NCSC staff were employed by LCSD mainly to meet service needs which were time-limited or seasonal in nature. For some grades such as lifeguards, problems might arise from recruiting civil servants to meet service needs that were seasonal in nature because the number of lifeguards required during the summer season far exceeded that during winter. The remaining NCSC staff were mainly employed to provide services where the mode of service delivery was, at the time when the employment contracts were entered into, under review or likely to be changed, such as public libraries and public museums. With the recent completion of the reviews on the mode of service delivery of public libraries and public museums, LCSD had been gradually replacing the relevant NCSC positions in public libraries and public museums by civil service posts.

21. In respect of EMSD, the Administration advised that around 78% of its NCSC staff were employed to deliver services under the Department's trading fund arm which fluctuated according to changes in market demand. Such services were ad hoc or time-limited in nature. The remaining NCSC staff were employed mainly as apprentices for training purposes on a time-limited basis in collaboration with the Vocational Training Council.

22. Some members pointed out that B/Ds operating as trading funds, such as HKP and EMSD, had to operate in a commercial manner and thus had employed a large number of NCSC staff in order to save costs. They called on the Administration to review the policy on trading funds.

23. The Administration advised that trading fund departments were subject to the same monitoring control as other B/Ds, save the absence of a cap on the number of NCSC staff to be employed having regard to the fact that trading fund departments required more flexibility in staff engagement to cater for business fluctuations. Nonetheless, same as other B/Ds, they were required to review their engagement of NCSC staff to ensure that the engagement fitted the ambit of the NCSC Staff Scheme.

Provision of incremental credits to NCSC staff

24. Whilst recognizing the need to uphold the principle of fairness and openness in the recruitment process, some members considered it unreasonable not to take into account the years of service of NCSC staff for the provision of incremental credits when they successfully applied for civil service posts. The Administration explained that under existing policy, incremental credits for experience might be granted to newly recruited civil servants (including former NCSC staff) only when there was difficulty in recruiting the required qualified candidate or when there was a specific need to recruit person with relevant working experience. Incremental credits would not be granted simply on the basis of their years of service in the Government as NCSC staff.

Latest position

25. The Administration will update the Panel on the employment situation of NCSC staff at the Panel meeting on 15 December 2014.

Relevant papers

26. A list of relevant papers is in **Appendix II**.

Appendix I

Statistics on the employment of non-civil service contract ("NCSC") staff

The total numbers of full-time NCSC staff employed by Bureaux/Departments/Offices in the years from 2001 to 2013 are as follows:

<u>Year</u>	<u>Number of full-time NCSC staff</u>
<i>(as at 1 November)</i>	
2001	11 244
2002	13 701
2003	16 147
2004	14 807
2005	15 687
2006	16 488
2007	16 960
<i>(as at 31 December)</i>	
2008	14 608
<i>(as at 30 June)</i>	
2009	16 186
2010	15 867
2011	14 818
2012	14 535
2013	12 900

Source: Civil Service Bureau

Appendix II

Employment situation of non-civil service contract staff

List of relevant papers

Date	Meeting/Event	References
16 December 2013	Panel on Public Service	<p>Administration's paper on "Employment situation of non-civil service contract staff" LC paper No. CB(4)222/13-14(03)</p> <p>Updated background brief on "Employment situation of non-civil service contract staff" prepared by the Legislative Council Secretariat LC paper No. CB(4)222/13-14(04)</p> <p>Minutes of meeting LC paper No. CB(4)316/13-14</p> <p>Administration's response to issues raised at the meeting on 16 December 2013 LC Paper No. CB(4)432/13-14(01)</p> <p>Administration's response to the letter from Hon TANG Ka-piu and Hon KWOK Wai-keung dated 18 December 2013 regarding the employment of non-civil service contract staff LC Paper No. CB(4)452/13-14(01)</p>
6 February 2013	Council meeting	<p>Oral question raised by Hon Mrs Regina IP Official Record of Proceedings: pages 55 – 70</p>

Date	Meeting/Event	References
19 June 2013	Council meeting	Written question raised by Hon TANG Ka-piu Official Record of Proceedings: pages 182 – 190
19 March 2014	Council meeting	Written question raised by Hon Mrs Regina IP Official Record of Proceedings: pages 92 – 94

Council Business Division 4
Legislative Council Secretariat
9 December 2014