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Panel on Public Service

Meeting on 16 November 2015

**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) ("EO") 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 2014, almost all such positions (3 995 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 2014, B/Ds separately identified about 2 960 NCSC positions which involved work with permanent service needs that should appropriately be carried out by civil servants. As at 30 June 2014, 2 335 positions have been phased out and replaced by civil service posts. According to the Administration, the remaining 620 odd positions will be phased out as and when the corresponding civil service posts are created and filled.

Statistics on the employment of NCSC staff

6. According to the Administration, there were 12 147 full-time NCSC staff employed by B/Ds as at 30 June 2014 as compared with 12 900 as at 30 June 2013. Whilst the overall size of NCSC staff had been reducing upon the lapse of time-limited or project-based NCSC positions, individual B/Ds might have to engage new NCSC staff for meeting new ad hoc service needs.

7. Statistics on the employment of full-time NCSC staff by B/Ds from 2001 to 2014, employment of full-time and part-time NCSC staff in B/Ds as at 30 June 2014 and a breakdown of full-time NCSC staff employed by B/Ds by years of continuous service as at 30 June 2014 are in **Appendices I to III** respectively.

Discussions of the Panel

8. 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

9. Some members were of the view that the main reason why the number of full-time NCSC staff had only dropped from 16 488 as at 31 March 2006 to 12 147 as at 30 June 2014 was that many NCSC positions, which should have been replaced by civil service posts because the work involved was of a permanent nature, had not been replaced. They pointed out that the numbers of full-time NCSC staff employed by Hongkong Post ("PO"), Leisure and Cultural Services Department ("LCSD"), Education Bureau ("EDB") and Electrical and Mechanical Service Department ("EMSD") to meet service needs that were time-limited or seasonal in nature or subject to market fluctuation consistently stood at a high level ranging from some 500 to some 900. CSB was urged not to turn a blind eye to the exploitation of NCSC staff by allowing B/Ds not to convert those NCSC positions with established long-term service needs to civil service posts.

10. The Administration responded that it was necessary for B/Ds to employ NCSC staff for a longer period of time to meet service needs which were time-limited, such as in the case of the Continuing Education Fund for which the service need would lapse upon the depletion of the Fund, or seasonal in nature, such as seasonal lifeguards. 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. The Administration further advised that as PO and EMSD were trading fund departments responsible for their own finances, it was necessary to provide PO and EMSD with greater flexibility than other government departments in the employment of NCSC staff to better cope with rapid market changes.

11. Members opined that the criteria for employing NCSC staff as set out in paragraph 2 above did not mention that trading fund departments should be accorded greater flexibility in the employment of NCSC staff. They called on the Administration to review the policy on trading funds.

12. 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. 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.

13. 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. Those NCSC staff with suitable working experience in the Government in general had an edge 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 16%, whereas the success rate for other applicants was only about 2%.

Terms and conditions of service for NCSC staff

14. 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.

15. 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 EO 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.

Offsetting of severance and long service payments

16. Members noted that under the current arrangement, the accrued benefits arising from 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 accrued benefits arising from the employer's MPF contributions payable to their NCSC staff to set a good example for other employers.

17. The Administration responded that the Government had been acting in accordance with the EO for relevant arrangement. The Government would continue to listen to views from different sectors and consider the matter in a holistic manner. Before the community could reach any consensus on this

issue with corresponding changes in relevant legislation, the Government would not change the current arrangement.

End-of-contract gratuities

18. 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

19. Members noted that PO, 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.

20. 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 PO to engage a mix of civil servants and NCSC staff in order to maintain flexibility in manpower deployment. NCSC staff in PO 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 PO were engaged to meet service needs that required them to work less than the conditioned hours required of civil servants.

21. 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.

22. 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.

23. Concern was also raised as to why the NCSC positions created by Efficiency Unit ("EU") to provide 24-hour one-stop service to handle public enquiries on behalf of 22 departments and public complaints against the Government had not been phased out and replaced by civil service posts, as such service was a continuous one.

24. The Administration explained that the reason EU employed NCSC staff to man the 1823 hotline was because there was no comparable civil service rank in the Government performing this type of work. Although the service of the 1823 hotline was a continuous one, CSB and EU, after careful consideration, came to a view that it was not appropriate to create a civil service rank to solely man the 1823 hotline and which the rank did not have potential for development. Another reason was that NCSC staff employed to man the 1823 hotline generally did not intend to stay in the job on a long-term basis.

25. Members opined that if the lack of a comparable civil service rank in the civil service was one of the acceptable reasons for employment of NCSC staff, the scope of the NCSC Staff Scheme should be expanded.

Retention of NCSC staff

26. Whilst recognizing the needs of B/Ds to employ NCSC staff, members opined that the unfair situation of B/Ds engaging NCSC staff to perform the same type of work carried out by civil servants should be avoided as far as possible so as not to undermine the morale of those NCSC staff.

27. The Administration advised that B/Ds were required to ensure the competitiveness and attractiveness of the terms and conditions of employment of the NCSC positions. Hence, when determining the terms and conditions of service for NCSC staff, HoDs would take into account a host of considerations, such as condition of the employment market, recruitment results and cost of living. Also, B/Ds would conduct periodic reviews on the pay of their NCSC staff to ensure that it remained competitive with the prevailing pay levels in the market, and enabled them to recruit and retain NCSC staff. Reviews could be

conducted at different times of a year as and when HoDs consider appropriate. Where justified, pay revisions were implemented on a prospective date after the conclusion of pay reviews and/or upon contract renewal of serving NCSC staff.

Review on employment situation of NCSC staff

28. Responding to the enquiry as to whether the Administration would consider conducting another special review on the employment situation of NCSC staff to identify more NCSC positions for replacement by civil service posts, the Administration advised that CSB had been reviewing with B/Ds from time to time to identify NCSC positions for replacement by civil service posts.

Latest position

29. The Administration will update the Panel on the employment situation of NCSC staff at the Panel meeting on 16 November 2015.

Relevant papers

30. A list of relevant papers is in **Appendix IV**.

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 2014 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
2014	12 147

Appendix II

Employment of full-time and part-time Non-Civil Service Contract ("NCSC") staff in Bureaux / Departments / Offices ("B/Ds") (as at 30 June 2014)

Bureau / Department / Office	No. of full-time ^{Note 1} NCSC staff	No. of part-time ^{Note 2} NCSC staff
Agriculture, Fisheries and Conservation Department	252	116
Architectural Services Department	46	23
Buildings Department	358	-
Census and Statistics Department	178	-
Chief Executive's Office	7	-
Chief Secretary and Financial Secretary's Offices	42	2
Civil Aviation Department	20	60
Civil Engineering and Development Department	71	-
Civil Service Bureau	-	6
Commerce and Economic Development Bureau	33	5
Companies Registry	64	-
Constitutional and Mainland Affairs Bureau	8	1
Correctional Services Department	2	37
Customs and Excise Department	127	19
Department of Health	581	230
Department of Justice	60	2
Development Bureau	43	3
Drainage Services Department	63	-
Education Bureau	1 178	79
Efficiency Unit	436	63
Electrical and Mechanical Services Department	1 009	-
Environment Bureau	6	-
Environmental Protection Department	100	117

Bureau / Department / Office	No. of full-time^{Note 1} NCSC staff	No. of part-time^{Note 2} NCSC staff
Financial Services and the Treasury Bureau	78	2
Fire Services Department	31	188
Food and Environmental Hygiene Department	273	-
Food and Health Bureau	18	-
Government Flying Service	10	2
Government Laboratory	26	1
Government Logistics Department	42	-
Government Property Agency	1	-
Highways Department	55	-
Home Affairs Bureau	52	1
Home Affairs Department	499	165
Hong Kong Observatory	15	-
Hong Kong Police Force	73	6
Hongkong Post	1 971	-
Immigration Department	36	-
Information Services Department	19	1
Inland Revenue Department	176	5
Innovation and Technology Commission	34	2
Intellectual Property Department	13	5
Invest Hong Kong	59	-
Judiciary	74	7
Labour and Welfare Bureau	30	1
Labour Department	179	-
Land Registry	127	-
Lands Department	243	-
Legal Aid Department	7	-

Bureau / Department / Office	No. of full-time^{Note 1} NCSC staff	No. of part-time^{Note 2} NCSC staff
Leisure and Cultural Services Department	1 776	5 622
Marine Department	11	17
Office of the Communications Authority	131	-
Office of the Government Chief Information Officer	19	-
Official Receiver's Office	40	-
Planning Department	30	1
Radio Television Hong Kong	287	370
Rating and Valuation Department	62	-
Registration and Electoral Office	75	-
Security Bureau	17	-
Social Welfare Department	137	156
Student Financial Assistance Agency	403	-
Trade and Industry Department	91	-
Transport and Housing Bureau	3	1
Transport Department	73	35
Treasury	30	-
University Grants Committee Secretariat	26	-
Water Supplies Department	111	-
Total	12 147	7 351

Note 1: "Full-time" means the employment is on a "continuous contract" as defined by the Employment Ordinance ("EO"), namely an employee who works continuously for the same employer for four weeks or more, with at least 18 hours in each week.

Note 2: "Part-time" NCSC staff refers to those NCSC staff whose number of working hours is less than the "continuous contract" as defined by the EO. The number of part-time NCSC staff set out at the above table refers to those with employment contractual relations with the user B/Ds as at 30 June 2014 and only some of them were called upon to perform duty on that date.

(Source: *Annex to Examination of Estimates of Expenditure 2015-16 by the Finance Committee - Reply Serial No. CSB013.*)

Appendix III

Breakdown of full-time Non-Civil Service Contract ("NCSC") staff by years of continuous service (position as at 30 June 2014)

Bureau / Department / Office	No. of NCSC staff with less than three years of continuous service	No. of NCSC staff with three years to less than five years of continuous service	No. of NCSC staff with five years to less than ten years of continuous service	No. of NCSC staff with ten years or more of continuous service	Total
Agriculture, Fisheries and Conservation Department	178	22	13	39	252
Architectural Services Department	40	5	1	-	46
Buildings Department	225	5	77	51	358
Census and Statistics Department	157	10	11	-	178
Chief Executive's Office	3	1	1	2	7
Chief Secretary and Financial Secretary's Offices	29	10	1	2	42
Civil Aviation Department	9	8	2	1	20
Civil Engineering and Development Department	50	8	3	10	71
Commerce and Economic Development Bureau	19	9	5	-	33
Companies Registry	46	11	7	-	64
Constitutional and Mainland Affairs Bureau	5	1	2	-	8
Correctional Services Department	2	-	-	-	2
Customs and Excise Department	127	-	-	-	127
Department of Health	109	69	381	22	581
Department of Justice	49	9	2	-	60

Bureau / Department / Office	No. of NCSC staff with less than three years of continuous service	No. of NCSC staff with three years to less than five years of continuous service	No. of NCSC staff with five years to less than ten years of continuous service	No. of NCSC staff with ten years or more of continuous service	Total
Development Bureau	33	9	1	-	43
Drainage Services Department	42	7	11	3	63
Education Bureau	789	136	196	57	1 178
Efficiency Unit	239	59	99	39	436
Electrical and Mechanical Services Department	86	235	435	253	1 009
Environment Bureau	3	2	1	-	6
Environmental Protection Department	80	6	14	-	100
Financial Services and the Treasury Bureau	53	17	6	2	78
Fire Services Department	21	-	9	1	31
Food and Environmental Hygiene Department	139	52	46	36	273
Food and Health Bureau	12	4	2	-	18
Government Flying Service	6	-	4	-	10
Government Laboratory	14	7	4	1	26
Government Logistics Department	24	5	13	-	42
Government Property Agency	1	-	-	-	1
Highways Department	51	-	1	3	55
Home Affairs Bureau	43	4	5	-	52
Home Affairs Department	390	43	57	9	499
Hong Kong Observatory	14	1	-	-	15
Hong Kong Police Force	37	3	18	15	73

Bureau / Department / Office	No. of NCSC staff with less than three years of continuous service	No. of NCSC staff with three years to less than five years of continuous service	No. of NCSC staff with five years to less than ten years of continuous service	No. of NCSC staff with ten years or more of continuous service	Total
Hongkong Post	580	114	706	571	1 971
Immigration Department	4	3	22	7	36
Information Services Department	8	2	4	5	19
Inland Revenue Department	157	1	17	1	176
Innovation and Technology Commission	10	9	11	4	34
Intellectual Property Department	10	1	-	2	13
Invest Hong Kong	13	6	18	22	59
Judiciary	26	13	29	6	74
Labour and Welfare Bureau	24	3	3	-	30
Labour Department	94	10	52	23	179
Land Registry	51	10	46	20	127
Lands Department	209	33	1	-	243
Legal Aid Department	6	1	-	-	7
Leisure and Cultural Services Department	1 244	86	158	288	1 776
Marine Department	8	3	-	-	11
Office of the Communications Authority	51	25	22	33	131
Office of the Government Chief Information Officer	11	5	3	-	19
Official Receiver's Office	20	6	10	4	40
Planning Department	22	2	4	2	30
Radio Television Hong Kong	152	28	62	45	287

Bureau / Department / Office	No. of NCSC staff with less than three years of continuous service	No. of NCSC staff with three years to less than five years of continuous service	No. of NCSC staff with five years to less than ten years of continuous service	No. of NCSC staff with ten years or more of continuous service	Total
Rating and Valuation Department	43	3	13	3	62
Registration and Electoral Office	53	8	5	9	75
Security Bureau	8	3	6	-	17
Social Welfare Department	89	10	21	17	137
Student Financial Assistance Agency	165	68	120	50	403
Trade and Industry Department	48	16	19	8	91
Transport and Housing Bureau	2	-	1	-	3
Transport Department	28	12	26	7	73
Treasury	15	7	5	3	30
University Grants Committee Secretariat	15	3	7	1	26
Water Supplies Department	47	27	12	25	111
Total	6 338	1 276	2 831	1 702	12 147

(Source: Annex to Examination of Estimates of Expenditure 2015-16 by the Finance Committee - Reply Serial No. CSB037.)

Appendix IV

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>

Date	Meeting/Event	References
15 December 2014	Panel on Public Service	<p>Administration's paper on "Employment situation of non-civil service contract staff" LC paper No. CB(4)235/14-15(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)235/14-15(04)</p> <p>Minutes of meeting LC paper No. CB(4)454/14-15</p> <p>Administration's response to issues raised at the meeting on 15 December 2014 LC Paper No. CB(4)1382/14-15(01)</p>
6 February 2013	Council meeting	<p>Oral question raised by Hon Mrs Regina IP Official Record of Proceedings: pages 55 – 70</p>
19 June 2013		<p>Written question raised by Hon TANG Ka-piu Official Record of Proceedings: pages 182 – 190</p>
19 March 2014		<p>Written question raised by Hon Mrs Regina IP Official Record of Proceedings: pages 92 – 94</p>