

# **立法會**

## ***Legislative Council***

LC Paper No. CB(4)1622/16-17

(These minutes have been seen  
by the Administration)

Ref : CB4/PL/PS

### **Panel on Public Service**

**Minutes of meeting held on  
Monday, 17 July 2017, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon KWOK Wai-keung, JP (Chairman)  
Hon Jeremy TAM Man-ho (Deputy Chairman)  
Hon WONG Kwok-kin, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Charles Peter MOK, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon IP Kin-yuen  
Hon POON Siu-ping, BBS, MH  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan  
Hon Jimmy NG Wing-ka, JP  
Hon HO Kai-ming  
Hon LAM Cheuk-ting  
Hon SHIU Ka-fai  
Hon Wilson OR Chong-shing, MH  
Dr Hon Pierre CHAN
- Members absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon CHU Hoi-dick  
Hon YUNG Hoi-yan

**Public Officers  
attending**

**: Agenda item III**

Mr Joshua LAW, GBS, JP  
Secretary for the Civil Service

Mr Eddie MAK, JP  
Acting Permanent Secretary for the Civil  
Service

Miss Katharine CHOI  
Principal Assistant Secretary for the Civil  
Service (Manpower)

**Agenda item IV**

Mr Joshua LAW, GBS, JP  
Secretary for the Civil Service

Mr Eddie MAK, JP  
Acting Permanent Secretary for the Civil  
Service

Mr Eric CHAN  
Deputy Secretary for the Civil Service 3

**Clerk in attendance**

**: Mr Anthony CHU  
Chief Council Secretary (4)1**

**Staff in attendance**

**: Ms Wendy JAN  
Senior Council Secretary (4)7**

Miss Maggie CHUNG  
Council Secretary (4)1

Ms Cynthia TAM  
Legislative Assistant (4)9

Mr Terry HON  
Clerical Assistant (4)1

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**I. Confirmation of minutes**

(LC Paper No. CB(4)1382/16-17 -- Minutes of meeting held on 15 May 2017)

The minutes of the meeting held on 15 May 2017 were confirmed.

**II. Information papers issued since the last regular meeting on 19 June 2017**

(LC Paper No. CB(4)1373/16-17(01) -- Administration's response to the letter dated 12 June 2017 from Hon Mrs Regina IP LAU Suk-yee concerning the shortage of manpower in the Occupational Safety Officer grade of the Labour Department

LC Paper No. CB(4)1400/16-17(01) Administration's information paper on the duties and manpower situation of the Occupational Safety Officer grade of the Labour Department)

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

3. The Chairman welcomed Mr Joshua LAW, Secretary for the Civil Service ("SCS"), who attended the meeting of the Panel for the first time.

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4. Regarding Mrs Regina IP LAU Suk-yee's letter dated 12 June 2017 (LC Paper No. CB(4)1238/16-17(01)) requesting the Panel to discuss the shortage of manpower in the Occupational Safety Officer ("OSO") grade of the Labour Department, the Chairman informed members that the Administration had provided the Panel with a reply (LC Paper No. CB(4)1373/16-17(01)) and an information paper (LC Paper No. CB(4)1400/16-17(01)), and the issue had also been included in the "List of outstanding items for discussion".

5. The Chairman stressed that members were gravely concerned about the occupational safety of workers in the construction industry. As the key duty of OSOs was to safeguard employees' occupational safety and health through inspection and enforcement, members agreed that the Panel should discuss the manpower situation of the OSO grade as early as possible in the next legislative session. SCS replied that he would take into account members' views when drawing up the Panel's work plan on items to be discussed for the next legislative session.

### **III. Updated overview of post-service outside work by directorate civil servants**

(LC Paper No. CB(4)1384/16-17(01) -- Administration's paper on updated overview of post-service outside work by directorate civil servants

LC Paper No. CB(4)1384/16-17(02) -- Paper on the policy on post-service outside work by directorate civil servants prepared by the Legislative Council Secretariat (updated background brief))

6. At the invitation of the Chairman, SCS briefed members on the updated overview of post-service outside work by directorate civil servants as set out in the Administration's paper (LC Paper No. CB(4)1384/16-17(01)).

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### Control period and sanitization period

7. Observing that some former directorate civil servants were engaged in outside work that were related to their former government duties or took up work with companies which had close working relationship with the Government, the Chairman, Dr Fernando CHEUNG and Mr IP Kin-yuen were worried that the public might have suspicion of "deferred reward" and this would affect the Government's credibility. The Chairman, Mr IP and Mr LAM Cheuk-ting also asked whether there were any guidelines to prevent former directorate civil servants from taking advantage of their relationship with their former colleagues in the Administration. Mr LAM further enquired whether former directorate civil servants could take up post-service outside work without Administration's approval.

8. SCS stressed that compared to other overseas jurisdictions, the control regime on post-service outside work by directorate civil servants in Hong Kong ("the control regime") was more stringent. In accordance with the control regime, directorate civil servants must obtain permission from SCS before they could take up any work, save for unpaid work with specified non-commercial organizations during the final leave period (i.e. the period of leave they took after their cessation of active duty and before they left the civil service), sanitization period and control period (which was set in general at two or three years from the date of departure from the civil service). In general, they were not allowed to take up outside work of commercial nature or full-time remunerated work within the final leave period. The sanitization period was set at six or 12 months from cessation of active duty, and applications for outside work of commercial nature would normally not be approved during this period.

9. SCS further said that to prevent applicants' taking up of post-service outside work which might give rise to conflict of interest, "deferred reward" or other impropriety, applicants were requested to provide detailed information, including their contacts/dealings with the prospective employers during their last three to six years of government service to the Civil Service Bureau ("CSB") in their applications. CSB would invite relevant parties to provide assessments on the applications and submit the applications together with the views from relevant parties to the Advisory Committee on Post-service Employment of Civil Servants ("ACPE") for advice. SCS would make the final decision upon receipt of ACPE's advice.

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10. On the issuance of guidelines for retired directorate civil servants taking up post-service outside work, SCS said that specific work restrictions might be imposed in his approval for post-service outside work application as appropriate. On the other hand, retired directorate civil servants should be well aware of the standards of conduct expected of them when they contacted their former colleagues in the Government after they had taken up post-service outside work.

11. In response to Mr POON Siu-ping's question about the duration of the sanitization period and control period, SCS and Acting Permanent Secretary for the Civil Service ("Acting PSCS") replied that for those directorate civil servants who left the Administration on retirement ground, the minimum sanitization period would be six months (for those below Directorate Pay Scale Point 4 ("D4") or equivalent) or 12 months (for those at D4 or above or equivalent), and the control period would be two years (for those below D8 or equivalent) or three years (for those at D8 or equivalent). As regards directorate civil servants who left the Government on non-retirement ground, a sanitization period on an application-specific basis might be imposed. Those who left the Government on non-retirement ground with less than six years of continuous service were subject to half of the control period of their peers who retired from the Government.

12. Mr POON Siu-ping further inquired about the reasons for a shorter control period for those who served the Government for less than six continuous years and left on non-retirement ground. Acting PSCS said that according to the legal advice sought in 2011, the duration of the control period should be set to meet the proportionality test (i.e. whether it was no more than necessary to achieve the objective). Therefore, the control period had to be reasonable and commensurate to the duration of the service of the directorate civil servants.

13. To better understand whether the taking up of post-service outside work by directorate civil servants would involve "deferred reward", Dr CHIANG Lai-wan considered that the Administration should collate statistics on retired directorate civil servants who worked for companies with which they used to have a working relationship in a period, say, three years, after the lapse of their control period.

14. Dr Fernando CHEUNG suggested that the Administration should extend the control/sanitization period to restrict former directorate civil servants from post-service employments that were directly related to their last five years of government service. Mr IP Kin-yuen shared a similar view.

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15. SCS advised that the Administration did not collect information as suggested by Dr CHIANG Lai-wan. However, he informed the meeting that the Administration had reviewed and improved the control regime in 2011. The control regime was underpinned by the principles of protection of the public interests and protection of an individual's right to work. As the current control regime was serving the aforesaid purposes well, collection of employment information from former directorate civil servants after their control period might not be necessary. Regarding the suggestions of restricting former directorate civil servants from certain types of post-service employment and extending their sanitization/control period, legal advice sought in 2011 indicated that the lawfulness of any restriction depended on whether it was rationally connected to the pursuit of a legitimate objective, and that it should be no more than necessary to achieve the set policy objective. Hence the suggestions would be vulnerable to legal challenges.

### Taking up of non-civil service contract positions by retired directorate civil servants

16. The Deputy Chairman called for improvement of the control regime. He quoted a case in which a former directorate staff ("the Officer") of the Civil Aviation Department was engaged by the department as a contract staff to work on a tender exercise for the new Air Traffic Management System ("ATMS") and was subsequently employed by the successful contractor of the new ATMS upon the completion of his contract. Although the control period for the Officer had lapsed when he joined the abovementioned contractor, the Deputy Chairman pointed out that there was a strong perception of "deferred reward", and the work restrictions for post-service outside work were not applicable to the Officer as a contract staff. To prevent reoccurrence of similar cases in future, the Deputy Chairman suggested the Administration imposed post-contract work restrictions on former directorate civil servants employed on contract terms. The restrictions should be set with reference to their previous government duties and listed in the contracts. The Chairman also wondered if ACPE had been consulted on the above case, and whether former directorate civil servants who were engaged as Government contract staff were also subject to the control regime.

17. SCS said that he would not comment on individual cases. However, he emphasized that each application would be thoroughly assessed against considerations such as whether the duties and responsibilities of the applicants during a specified period of time (three

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years or more) immediately before cessation of active duty in the civil service involved the prospective employers or the applied-for outside works; whether the applicants, in the above-mentioned specified period of time, had been involved in the formulation of any policies or decisions, the effects of which directly or indirectly benefited or could directly or indirectly benefit the prospective employers; whether the prospective employers might gain an unfair advantage over competitors concerned because of the applicants' access to information during the above-mentioned specified period of time, and whether the applicants' taking up of the applied-for work would give rise to conflict of interest, "deferred reward" or other impropriety, or relevant public suspicion. As for former civil servants employed by the Administration as contract staff, they were usually engaged to perform tasks that required specific civil service expertise or experience, and they were bound by the relevant contract terms and conditions. Acting PSCS supplemented that all directorate civil servants leaving the civil service were subject to the control regime. If departments concerned engaged them as contract staff, they could, on top of the control regime, impose conditions on post-contract employment control where considered appropriate.

### Applications processed between 2012 and 2016 and vetting process

18. Dr Fernando CHEUNG and Mr IP Kin-yuen noted from Annex to the Administration's paper that only a few applications of post-service outside work by directorate civil servants were rejected between 2012 and 2016, and they were worried that the public might cast doubt on the effectiveness of the control regime. In this connection, Mr LAM Cheuk-ting asked whether the Administration would consider tightening the vetting process. Mr Wilson OR further enquired about the reasons for rejection and the appeal channels.

19. SCS replied that in general the Administration would reject an application if it might give rise to potential conflict of interest, "deferred reward" or other improprieties. The concerned applicant could request for a review by SCS, failing which the applicant might appeal to the Chief Executive and seek for judicial review if the rejection was upheld by the Chief Executive.

20. Dr CHIANG Lai-wan enquired about the number of applicants for post-service outside work who had reached their retirement ages. SCS advised that the Administration did not have such information but some civil servants might opt for early retirement, and the retirement ages for civil servants appointed before or after 1 June 2015 were different. Dr CHIANG was of the view that the Administration should compile the



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above information, as well as the reasons for directorate civil servants to apply for post-service outside work, so as to understand whether the retirement protection for civil servants was insufficient. Mr IP Kin-yuen also queried the reasons for the applicants to apply for post-service work as their retirement lives should be well protected by the pension schemes.

21. SCS said that pension for civil servants was part of the benefits entitlement earned from their long-term service, and it should not be used as a reason to deprive directorate civil servants of their right to work after they left the civil service. At the requests of the Chairman and Dr CHIANG Lai-wan, the Administration would provide the Panel with a breakdown of the directorate civil servants who applied for post-service outside work between 2012 and 2016 by rank, and the number of applications between 2012 and 2016 from officers who left the service on grounds other than retirement.

*[Post-meeting note: The Administration's written response was circulated to members vide LC Paper No. CB(4)1493/16-17(01) on 3 August 2017.]*

22. As the number of retirements in the civil service would peak in the coming years, the Chairman was worried that with the increase in the applications for post-service work, CSB and ACPE would take a much longer time to process each application.

23. SCS replied that if adequate information was provided, the Administration would generally take 17 and 28 working days respectively to process application for work of non-commercial nature and commercial nature. However, the processing time depended on the nature and complexity of each case, and that the time taken by ACPE for processing an application was not included in the abovementioned timeline. ACPE might convene meetings to consider the applications if necessary.

## Review of the control regime

24. Mr Wilson OR pointed out that the public had grave concern on the transparency of the control regime, in particular the vetting criteria and procedures. He asked whether the Administration would further review and improve the control regime to address public concern. Mr POON Siu-ping echoed the view and asked about the timetable for a review.

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25. SCS explained that the improved control regime was formulated in 2011 after detailed consideration of the recommendations made by the Committee on Review of Post-Service Outside Work for Directorate Civil Servants appointed by the Chief Executive and the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man formed by the Legislative Council ("LegCo"). Currently, ACPE would table its annual report which covered the applications that it processed in the previous year at LegCo. ACPE's advice together with the Administration's decisions on every approved and taken-up outside work application were also included in a public register uploaded onto CSB's website for public inspection. The Administration would also directly inform the prospective employers concerned of the work restrictions and other conditions imposed by the authority on the approved work, require the applicants to seek prior approval from the authority regarding any material change to his/her work and obtain regular updates from applicants who had taken up approved post-service outside work for monitoring purpose. Since the control regime had been functioning effectively, the Administration had no plan at this stage to conduct further review on it. However, SCS assured members that their views would be taken into account as appropriate in any future review.

26. At the request of Mr Wilson OR, SCS undertook to provide information on the measures to further enhance the transparency of the vetting and approval process of the post-service outside work applications from directorate civil servants.

*[Post-meeting note: The Administration's written response was circulated to members vide LC Paper No. CB(4)1493/16-17(01) on 3 August 2017.]*

27. Dr CHIANG Lai-wan remarked that the knowledge and expertise of many retired directorate civil servants were valuable assets to the society. Yet their post-service work applications might easily arouse public suspicion of conflict of interest. She suggested that the Administration should review the control regime with a view to protecting their right to work and enabling them to continue to contribute to the society.

28. In closing, the Chairman urged the Administration to consider reviewing the control regime making reference to views expressed by members at the meeting.

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**IV. Managing work-related stress in the civil service**

(LC Paper No. CB(4)1384/16-17(03) -- Administration's paper on managing work-related stress in the civil service)

29. At the invitation of the Chairman, SCS briefed members on the assistance provided to civil servants for managing stress at work with details as set out in the Administration's paper (LC Paper No. CB(4)1384/16-17(03)).

Counselling services

30. In reply to the enquiries of the Chairman, Deputy Chairman and Mr POON Siu-ping about the provision of counselling services by the CSB to civil servants, SCS explained that CSB had engaged the Christian Family Service Centre through open tender to provide counselling services to about 85 000 staff of some 60 bureaux/departments ("B/Ds") under the hotline counseling service scheme ("the Scheme") since 2006. In 2016, about 500 telephone calls were received under the Scheme from about 290 staff. Around 490 telephone counselling sessions and 300 face-to-face counselling interviews, and about 30 clinical psychology appointments were conducted for the staff. Deputy Secretary for the Civil Service 3 supplemented that the duration of each telephone counselling session would depend on complexity of individual cases. Generally speaking, most counseling sessions lasted for about 45 minutes to one hour.

31. SCS further explained that to strengthen the provision of counselling services to civil servants, the Department of Health had employed a professional clinical psychologist to provide clinical psychology services to civil service eligible persons ("CSEPs") on referral by doctors at Families Clinics since March 2016. The services would be enhanced with the addition of two more clinical psychologists, who were expected to report duty by the end of 2017.

32. Mr POON Siu-ping enquired about the workload of the clinical psychologist of Families Clinics and the progress of recruiting the two additional clinical psychologists. Dr CHIANG Lai-wan urged the Administration to further enhance the service by recruiting more clinical psychologists, having regard to the increasing pressure faced by civil servants.

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33. SCS advised that clinical psychology services provided by Families Clinics included professional counselling and advice, as well as educational activities, such as seminars/talks on related subjects. From March 2016 to April 2017, the number of attendances for individual counselling was around 900, and 38 educational activities had been organized. The recruitment exercise of the two additional clinical psychologists was underway. When the posts were filled by the end of 2017, the number of individual consultation for CSEPs would be increased to 4 500 attendances per year and more educational activities would be provided by the clinical psychologists for CSEPs.

34. Noting that only 30 clinical psychology appointments were made under the Scheme, the Chairman was concerned that the small number of referrals to clinical psychology service might be due to the high costs of such service. He further enquired about the dedicated counselling services provided by government departments to their staff. SCS advised that apart from the Scheme, 11 departments also provided dedicated counselling services to their some 100 000 staff. For example, the number of attendances for individual counselling provided by the counselling team of the Hong Kong Police Force was around 2 820 in 2016.

35. The Deputy Chairman expressed support for the provision of counselling services by the Administration to civil servants for managing stress at work but was concerned that work-related stress might lead to resignation. He requested the Administration to provide the annual number of Administrative Officer grade staff and Executive Officer grade staff respectively who had resigned for the past five years. SCS undertook to provide the information after the meeting.

*[Post-meeting note: The Administration's written response was circulated to members vide LC Paper No. CB(4)1493/16-17(01) on 3 August 2017.]*

## Complaint handling and disciplinary mechanism

36. Referring to a complaint case in which a civil servant was given a verbal warning by his/her department for an anonymous complaint lodged against him/her, which was found to be unsubstantiated, Mr POON Siu-ping was concerned that the way B/Ds handled complaint cases, in particular anonymous complaints, might put undue stress on civil servants. He asked whether CSB would review the complaint handling and disciplinary mechanisms of individual B/Ds, in particular the way anonymous complaints were handled, with a view to reducing

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stress on civil servants. Sharing a similar concern, the Chairman further asked whether the Administration had formulated guidelines on handling unsubstantiated complaints against civil servants to ensure that their morale and workplace harmony would not be adversely affected.

37. In reply, SCS said that during his recent visits to B/Ds and meetings with departmental management and staff representatives, departmental management was encouraged to get to understand and care more about the problems faced by their staff in their daily work, and provide timely assistance to them. He further advised that in formulating the complaint handling mechanism, the Administration had to strike a balance between facilitating the public to monitor the work of the Government and protecting staff from unsubstantiated complaints. As the existing complaint handling mechanism was found to be effective in handling complaints against civil servants, the Administration would focus on strengthening the training on complaint handling to equip staff with the necessary skills for handling complaints in a systematic manner.

### Legislation to protect public officers from being arbitrarily insulted

38. Citing some incidents in which public officers were insulted or provoked by members of the public with abusive language, Dr CHIANG Lai-wan was gravely concerned about the heavy pressure faced by public officers arising from these incidents and urged the Panel to discuss the enactment of dedicated legislation to prohibit acts of insulting public officers, which was one of the items in the Panel's "List of outstanding items for discussion", as early as possible during the next legislative session.

39. SCS pointed out that, as advised by the Secretary for Security in his reply to a question raised by a Member at the LegCo meeting on 22 March 2017, public views on the issue of whether it was necessary to legislate for the "offence of insulting public officers enforcing the laws" were divergent. Although the Administration at this stage had no plan to legislate against the act of insulting public officers enforcing the laws, it would continue to listen to the views of all parties.

40. Dr CHIANG Lai-wan further referred to a question raised by her and replied by the then SCS at the LegCo meeting on 14 June 2017 regarding a case where a member of the public had made an audio recording of a conversation between him/her and a public officer without the latter's knowledge. She asked under what circumstances the video recording of a conversation by a party thereto using a smartphone without the knowledge of the other party would constitute the offence of "access

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to computer with criminal or dishonest intent" under section 161 of the Crimes Ordinance (Cap. 200). SCS responded that whether video and audio recording by a smartphone of a discussion between two parties without the knowledge of the other party might amount to commission of the offence of "access to computer with criminal or dishonest intent" would depend on a host of factors, such as the reasons and intent of the recording.

### Traditional Chinese medicine service

41. Dr CHIANG Lai-wan pointed out that traditional Chinese medicine ("TCM") might also be effective in relieving stress, but TCM service was currently not included in the civil service medical benefits under the prevailing policy. As the Elderly Health Care Voucher Scheme also covered TCM service, she urged the Administration to include TCM service in the civil service medical benefits as soon as possible and enquired about the Administration's progress in this regard. The Chairman urged the Administration to take the opportunity of developing a new Chinese Medicine Hospital in Tseung Kwan O to provide dedicated TCM service for CSEPs.

42. SCS advised that at present TCM service was not available in Families Clinics and not regarded as part of the standard services of the Hospital Authority or the Department of Health. He would follow up this matter and report the progress to the Panel as appropriate.

### Promotion of healthy lifestyle

43. Whilst welcoming the organization of recreational activities by B/Ds to promote balanced and healthy lifestyle amongst their staff, the Deputy Chairman said that B/Ds should invite their staff members as well as their families to join the recreational activities. Consideration should be given to using more attractive and interesting names for the activities, such as "Laughter Yoga", to boost participation rate.

44. SCS acknowledged that inviting staff members and their families to join the recreational activities arranged by the Administration was an effective way to improve communication between staff and management. For example, the Security Bureau had invited its staff, including some staff in eight departments under its purview and had previously worked in the Bureau, and their families to participate in its annual Sports Day, with a view to enhancing communication among its staff and reducing stress.

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**V. Any other business**

45. The Chairman said that this meeting would be the last Panel meeting of the current legislative session. He expressed gratitude to members for their support and the Administration for attending the meetings of the Panel and answering members' questions.

46. There being no other business, the meeting ended at 12:34 pm.

Council Business Division 4  
Legislative Council Secretariat  
26 September 2017