

社會福利署的信頭

Letterhead of Social Welfare Department

14 April 1999

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URGENT BY FAX

The Secretary General
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
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Hong Kong

(Attn: Miss Erica Wong)

Dear Miss Wong

**Objection against SWD's adoption
of a 70% salary measure to recruit contract staff**

I refer to your letter dated 9.4.1999. With regard to the above complaint lodged by the Hong Kong Social Workers Association, I enclose an information sheet for your reference.

Yours sincerely

(Mrs Marion Lai)
for Director of Social Welfare

Out of the 365 additional posts provided in 1999-2000, about 300 are CSSA posts and posts in general grades, while only about 60 are social work posts.

Under the general freeze on recruiting civil servants, these employees will have to be recruited as non-civil service contract staff under terms different from those in the civil service. SWD intends to employ them at most on a one-year contract basis at 70% of basic salary. They are not civil servants within the establishment, but will work under supervision to ensure quality of service.

Because of the urgent need to implement the Active Employment Assistance Scheme scheduled to commence on 1 June 1999, and to meet the increasing demand for CSSA, SWD has started to recruit the required staff on temporary terms described above.

The SWD's 70% salary measure will be reviewed in the context of the recommendations of the Review of Starting Salaries in the Civil Service to be undertaken by the Standing Commission on Civil Service Salaries and Conditions of Service.

The "70% Salary" measure will not be imposed upon the subvented NGOs. They are free to choose whether to adopt such a measure.

Extract from minutes of LegCo Panel on Public Service meeting on 18 January 1999

V. Employment of non-civil service contract staff

(LC Paper No. CB(2) 924/98-99 issued on 21 December 1998)

22. Deputy Secretary for the Civil Service(1) (Dep SCS(1)) briefed members on the Administration's proposal to introduce the non-civil service contract terms for HoDs or Heads of Grades (HoGs) to employ non-civil service contract staff at non-directorate equivalent level set out in the paper. She said that the proposal was the result of the review on the temporary appointment system in the civil service. The proposal would provide HoDs and HoGs with greater autonomy in employing and deploying staff so that they could be more responsive to the demand on their services. For instance, departments were no longer required to seek the agreement of CSB to employ temporary staff for fixed-terms project of two to three years on each and every occasion. The proposal would also provide departments with the necessary tools to take forward initiatives to achieve productivity gains under the EPP.

23. Dep SCS(1) further said that non-civil service staff would not be remunerated on the civil service pay and condition package, and their level of pay would not be more than the minimum salary of comparable civil service ranks. To ensure a degree of check and balance in the temporary appointment system, the employment of non-civil service staff would be authorized by directorate officers in departments and would be overseen by officers at an appropriate level of seniority.

24. Mr LEE Cheuk-yan expressed concern that the introduction of the non-civil service contract terms would affect the morale of frontline junior staff. He said that some government departments and publicly-funded bodies had already adopted the pattern of employing temporary staff to perform non-skill jobs such as cleaning and security work which were not of a short-term or project-based nature. He was of the view that these people had been exploited by such an appointment system, as they were not remunerated on the civil service pay and condition package, even though the work they performed was long-term in nature. He further said that he had received complaints from staff employed on short-term basis that some government departments failed to pay them wages within the seven days' time period stipulated in section 23 of the Employment Ordinance.

25. In response, Dep SCS(1) said that she could not envisage a situation where the Government failed to pay wages to its staff in breach of the Employment Ordinance. Nevertheless, she agreed to look into the matter. As regards the hiring of temporary staff for work of a long-term or permanent nature, Dep SCS(1) explained that this was mainly due to the fact that those temporary staff who had performed well were often taken on to undertake another short-term job. Given that these staff were employed to meet service or operational need that was short-term or project-based in nature lasting several months to as long as two years in some cases, it was not cost effective to appoint them on permanent terms of service.

26. Mr LEE requested the Administration to provide a comparison of the number of temporary staff employed by government departments prior to and after the introduction of the new non-civil service contract terms. In response, Dep SCS(1) said that there was no available figure on the number of temporary staff employed by government departments since the implementation of the proposal on 1 January 1999. Nevertheless, she would consider how to obtain the information requested by Mr LEE.

27. Mr LEE enquired whether the Administration would consult the Panel before allowing certain government departments to contract out some of their services to the private sector. In reply, Dep SCS(1) said that the Government's policy was to give more autonomy to departments to employ and deploy staff so that they could be more responsive to the demand on their services and be more efficient in the use of resources. She assured members that full consultation would be conducted at the Departmental Consultative Committees in the event that a large scale contracting out exercise was contemplated.

28. Noting that the duration of employment of temporary staff at non-directorate equivalent level had now been increased from not more than 12 months to up to three years, Mr CHAN Wing-chan enquired whether this indicated that there would be a growing trend of recruiting temporary staff in order to save cost. In reply, Dep SCS(1) reiterated that the intention behind the introduction of the new arrangement was to provide HoDs and HoGs with greater flexibility to make non-civil service appointments to meet their short-term service and operational needs in a most cost effective way. She cited the example of departments employing contract staff on computerization projects which were of a short-term or project-based nature.

29. Mr Howard YOUNG enquired whether the provision of end-of-contract gratuity was intended to compensate for the lack of pension offered to contract staff, and if so, how the anticipated implementation of the Mandatory provident Fund (MPF) Scheme would impact the gratuity of contract staff.

30. In reply, Dep SCS(1) said that the end-of-contract gratuity included the pension element. She further said that as stipulated by the MPF Schemes Ordinance, the Government, as an employer, would be required to make contributions in respect of staff members who were employed for not less than 60 days and between the age of 18 and 64. The Ordinance also provided that an employer's statutory contribution was 5% of the employee's monthly income or \$1,000, whichever was the less. In offering appointment to contract staff with gratuity-bearing terms or upon renewal of agreement in respect of serving contract staff, the Government would include a clause in the agreement specifying that the gratuity payable for the period of service starting from the commencement of the MPF Scheme would be the sum which, when added to the Government's contributions, would equal to 25% of the total basic salary drawn during that period. For those contract staff who would be serving the remainder of their current agreements, there would be no adjustments to the end-of-contract gratuity.

31. In reply to Mr YOUNG's further enquiry as to why there was no scientific formula to calculate the gratuity payment, Dep SCS(1) said that the determination of the level of gratuity payment was not based on a scientific formula. The gratuity payment arrangement had developed over time and incorporated various factors such as the market demand for the job in question.

32. The Chairman asked why the end-of-contract gratuity varied between 10% to 25% of the basic salary. In reply, Dep SCS(1) said that under the new non-civil service contract terms, the end-of-contract gratuity would be 10% and 15% of basic salary for non-skill and skill work jobs respectively. She further said that the higher rate of 25% of basic salary was the maximum level of gratuity payable before the introduction of the new non-civil service contract terms.

33. Mr CHAN Kwok-keung enquired whether long service payment would be made to a group of temporary staff who had been employed by the Urban Services Department for more than 10 years and had recently been appointed to permanent posts in the Department. In response, Dep SCS(1) said that she would look into the matter.

34. Mr LEE Kai-ming enquired whether there was any mechanism put in place to supervise the employment of non-civil service staff at the departmental level.

35. In reply, Dep SCS(1) said that the paper set out the guidelines which HoDs/HoGs had to follow in the employment of non-civil service staff. Apart from these guidelines, other employment terms and benefits would follow the provisions of the Employment Ordinance and the Employees' Compensation Ordinance. When in doubt, HoDs/HoGs or their delegated staff at directorate level should seek the advice of CSB. If the problems involved complex legal issues, legal advice could also be sought. There was therefore adequate check and balance in the system to prevent any abuse of power. She further said that prior to the implementation of the proposal, CSB representatives had visited departments to explain the details of the proposal to the departmental management and staff representatives. Visits had also been made to departments following the implementation of the proposal to see if departments encountered any difficulty in employing non-civil service contract staff.

36. In reply to Mr LEE's further enquiry, Dep SCS(1) said that there were adequate channels for staff to lodge complaints if they felt that they had not been fairly treated as a result of the implementation of the new non-civil service contract terms.

37. Mr LEE Cheuk-yan opined that the Government as a good employer should offer employment terms for non-civil service staff better than those prescribed in the labour legislation. Dep SCS(1) replied that it should be left to the HoDs/HoGs to determine the employment package offered to such staff within the prescribed guidelines and in accordance with the provisions of the relevant labour legislation.